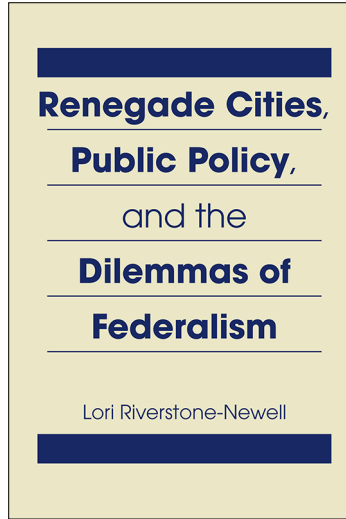


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Renegade Cities,
Public Policy, and the
Dilemmas of Federalism

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1

When Local Activism Challenges Higher Authority

In March 2011, the town of Sedgwick, Maine, population 1,196, became the first in the nation to declare itself to be “food sovereign”—fully capable and within its rights to grow and sell food without state or federal inspections, among other regulations.¹ “The primary goal of the ordinance is to exempt local farm products from [state and federal] licensure and inspection if the products are only going to be sold by the producer directly to a willing consumer.”² The ordinance, voted into law at a town meeting, proclaims the town to be “duty bound under the Constitution of the State of Maine to protect and promote unimpeded access to local foods” and that it is “unlawful for any law or regulation adopted by the state or federal government to interfere with the rights recognized by this Ordinance.”³ Notably, since 2011, at least thirteen towns in nine states, from Maine to California, have since passed similar ordinances. Bills like that passed in Sedgwick have been unsuccessfully introduced in several states.⁴

Congress’s Food Safety Modernization Act of 2010, known among some local food sovereignty supporters as “the Patriot Act for food” generated this activism.⁵ Many small farmers believe that the Act, meant to “enhance the safety of food produced in America and imported from overseas, and to prevent food-borne illness”⁶ threatens their livelihood by potentially subjecting them to expensive regulations. They are particularly worried about sections that may prevent the sale or gifting of locally grown foods and meat and dairy products. Says Deborah Evans, one of the crafters of Sedgwick’s ordinance,

There’s a possibility that the homemade church pies and baked beans brought and shared to church outings and firemen’s picnics could be banned by the federal government’s rules. They say such items would

be “grandfathered” but could we really take them seriously? Or is it an effort to ensure that such items would need to be purchased at Wal-Mart or wherever to be brought to such events? By fighting to preserve the right to purchase and consume the local food we’ve enjoyed for 200 years, we can begin to take back our other rights as well!⁷

Local autonomy and power within the American intergovernmental system has evolved over the past three hundred years. Localities have shifted from autonomous, relatively isolated governments to subordinate units, subject to state and federal demands and interference. At the same time, they are “mini-sovereigns,” semi-autonomous units that are legally and politically responsible to their local constituents for an array of services and functions.⁸ This “contradictory status”⁹ of localities—administrative unit and mini-sovereign—looms large, affecting local capacity, decision-making, and implementation plans. Nevertheless, they are not powerless. Local leaders, like other governments within the intergovernmental system, strategize and act politically in order to protect their interests and influence other governments, even higher governments, to their liking. When diplomatic strategies—bargaining, negotiating, and so forth—fail to generate the desired response, local leaders sometimes engage in activism by using their positions of authority to purposefully—pointedly—challenge the authority of higher governments.

Local activism has the potential to stimulate policy change by engaging the public and the media. In this book, we define local activism as *official* acts of defiance that can reasonably be understood as deliberate attempts to spotlight unfavorable higher laws and policies in order to engage the media and “expand the scope of conflict” to the public.¹⁰ With sufficient exposure, higher government leaders are pressured to reconsider, or at least defend, their policy positions.

Activism has been used to influence a variety of foreign and domestic policies since the early 1980s. Several high-profile cases of local activism have captured national attention; indeed, some of these cases have successfully generated a favorable response from higher governments or the courts. Recall, for example, San Francisco’s licensing of same-sex marriage in 2004. Gavin Newsom, the city and county’s former mayor, issued an executive order permitting same-sex couples to legally marry. This order defied state law, which defined marriage as a union between one man and one woman. As a result, the constitutionality of same-sex marriage bans was presented to federal courts. With a recent decision in favor of same-sex marriage recognition

by the Ninth Circuit Court of Appeals, the issue is currently before the United States Supreme Court.¹¹

While the San Francisco gay marriage case is unusual in its impact and visibility, it is not an isolated event. Across the nation, localities large and small have attempted to signal their preferences and provoke policy movement by enacting thousands of ordinances, resolutions, and executive orders in policy areas reserved to state and/or federal purview.

The range of issues targeted for activism is wide. Some of the earliest cases involve national foreign policy: The nuclear-free zone movement, divestment of local funds from firms conducting business with or in South Africa, and the sanctuary city movement of the 1980s—a response to the Reagan administration’s support of Central American authoritarian regimes and the Contra rebels in Nicaragua—involved more than 1,000 localities across the nation.¹² More recently, local governments have generated over 400 resolutions opposing the USA PATRIOT Act (Patriot Act); several localities have enacted ordinances criminalizing participation with the Act’s enforcement.¹³ In addition, at the close of 2007, over 270 localities had passed resolutions protesting the war in Iraq.¹⁴

Controversial social matters have been targeted for local activism as well. For example, local gun control efforts produced more than 50 ordinances leading up to the U.S. Supreme Court decision *District of Columbia v. Heller*. Also, in contrast to the estimated 100 local policies meant to deter undocumented immigrants that were active in 2010,¹⁵ 120 policies in other communities restrained city employees—including police—from ascertaining and/or reporting an individual’s immigration status to the federal government.¹⁶ An estimated 100 resolutions, executive orders, and ordinances—both supportive and unsupportive—have addressed same-sex couples’ rights since 1980.¹⁷ Examples of other policy areas targeted by local activists include medical marijuana, living wages, the placement of cellular towers, Kyoto environmental protocols, and corporate personhood. Food sovereignty is the most recent effort.

What compels local leaders to activism? Why choose activism to stimulate policy change rather than a less confrontational, more diplomatic, approach? The limited legal status of localities in the United States sets the stage: As Iowa Judge John F. Dillon put it in 1868, localities are “mere tenets at the will of the legislature,” unable to exercise any powers not specifically granted by their states.¹⁸ As “creatures of the states,” localities are devoid of the sovereignty and protections that state and national governments enjoy. They are,

according to David Berman, legally “no better off than conquered provinces.”¹⁹

Because of their legal subordination, localities are highly disadvantaged in the intergovernmental arena. They are on the “asking side,” unable to impose their will upon state or national governments. This subordination is “an invisible force operating in the background,”²⁰ a force that compels local governments to maintain vigilance and to strategically defend and promote their interests against the actions of other governments. As a consequence of this political weakness, dissenting localities have only a few means with which to attempt to promote policy changes at the national and state level. Local activism is one.

While this book focuses primarily on the actions of municipalities, it is important to note that some counties are involved in local activism, as well. Counties are local governments by definition, although their historical purpose and behavior has generally reflected their original purpose—to serve as an arm of the state. The recent use of activism by a number of U.S. counties suggests a changed relationship between the states and their “arms,” or perhaps a change in the function and responsibilities of counties, generally.²¹ Indeed, recent budget cuts, mandates, and the devolution of responsibilities to localities have often affected counties in similar ways as cities. As a result, counties have become more entrepreneurial, professional, and fiscally independent. With these changes and improvements, it follows that some county leaders have pushed back against higher government action and inaction. Again, we focus primarily on municipalities in this work, but it is important to note that a growing number of counties may be facing similar circumstances as cities—particularly economic— and, because of this, resistance to their states and to the national government may be rising, as well.

The remainder of this chapter argues that while localities are limited units of government, they are also energetic and self-interested political actors.²² They are open systems, vulnerable to external forces, but they also turn to external forces—including their higher intergovernmental “partners”—for necessary resources, autonomy, and authority. Activism is introduced within the context of recent changes to the intergovernmental arrangement wherein localities remain subordinate, yet the benefits of partnership have all but disappeared.

Localities as Political Actors

All governments within the intergovernmental system are political actors. They act politically—in both diplomatic and undiplomatic ways—in order to promote and defend their interests against the actions and inactions of other governments that possess equal or greater power. Much of the political space within which these transactions occur is created by the ambiguity of functional assignments and responsibilities within the federal system.

The division of power and responsibilities among governments in the American federal system has long interested scholars from a variety of disciplines including political science, law, public administration, economics, and public policy. Ann Bowman and Richard Kearney remind us that the balance of power debate dates to the earliest days of the nation. Despite more than two centuries of consideration, however, there is no consensus regarding which level of government should do what “aside from, perhaps ... that the lowest capable level of government should be responsible for any given function or service.”²³ The absence of agreed-upon functional assignments among the nation’s more than 89,000 governments fosters competition that is often aggressive and tense.

Lacking clear assignments of authority and responsibilities, “governments regularly bump into each other. ‘With each bump...an opportunity is provided to challenge or affirm existing understandings regarding who should do what, on whose budget.’”²⁴ This bumping about is frequently viewed in zero-sum terms: power and other resources are often won, and responsibilities shed, at the expense of another governmental unit. Localities are the most vulnerable in these interactions. Higher-level governments are guilty of shifting costly and politically charged responsibilities to the local level while reserving more desirable functions and powers to themselves. Conversely, localities sometimes attempt to shift undesirable responsibilities to higher governments by, for example, proclaiming their own lack of authority for the unwanted task. While misbehavior influences future relationships and transactions by creating tension among governments, this eventuality is not sufficient to prevent the continual shifting of blame, responsibilities, and costs.

Nevertheless, most intergovernmental relations have “more of the flavor of interest group politics and low visibility dealings than...of a boisterous family squabble or a grand battle among governments.”²⁵ Representing individual, self-interested units of government, national, state, and local leaders typically attempt to achieve their goals

diplomatically: They “bargain with each other as well as lobby, confront, ignore, threaten, circumvent, and sue one another”—political behaviors that are more commonly associated with politically active private individuals and groups.²⁶ Diplomacy is much less costly than conflict—both politically and economically—thus, governmental leaders may fight, but they carefully pick their battles.

When diplomacy fails, state and national governments can—and frequently do—rely on mandates, preemptions, economic disincentives, threats, or even alterations to local authority to accomplish their goals. Lacking these tools, localities must continue their “hat in hand” approach, lobbying in hope of finding a receptive audience. When that fails, local governments may stall, dodge, or sue other governments. These strategies, while not obviously cooperative, are nonetheless diplomatic because they fall within the acceptable, expected bounds of intergovernmental negotiation. Diplomatic political behaviors presume that stakeholders are still at the table, willing to at least consider accommodation—albeit perhaps with the application of legal pressure. The use of local activism, on the other hand, suggests that local leaders have little or no confidence that accommodation can be achieved through diplomatic means. Without the power to force other governments to consider local interests, local leaders may turn to pressure or protest strategies.

Although branded “arrogant,” “lawless,” “silly,” and even “charlatans”²⁷ by their critics, local officials often defend their activism as civil disobedience—acts of conscience made necessary by the persistent policy failures of state and federal legislatures.²⁸ Others claim that they are forced to act due to degrading local conditions caused by state or federal actions or inaction, or a perceived “distant”²⁹ condition that is incompatible with local values. The many political, economic, and social developments that have likely played a part include policy conservatism and centralization at the national level; a changed, more aggressive leadership style at the local level; increased interest group activity in localities, and all levels of government; economic recession(s); heightened party polarization and legislative gridlock; and rising popular discontent with higher, especially national, government.

Local governments are not alone in their activism. A growing body of literature has documented the recent growth of state activism against federal policy. Dale Krane writes that there has been a centralizing “trend toward coercive federalism...since the 1980s.” The states, particularly during the Bush administration, responded to federal interference with: “(i) resistance to many of the Bush policy positions and (ii) heightened independent policy activity.”³⁰ Some states have

simply refused to cooperate with certain aspects of federal policy. For example, the “Food and Drug Administration’s (FDA) ban on the importation of prescription drugs was defied by several states.”³¹ Others passed resolutions opposing, for instance, the REAL ID Act and the Patriot Act.³² We see similar behavior today as states respond to the Patient Protection and Affordable Care Act.

State frustration with federal inaction has contributed to this aggression. The ongoing inability of federal legislators to work together burdens the states by preventing policy remedies in matters reserved to federal control: “the difficulty of enacting federal legislation, the frequent existence of partisan polarization at the federal level, and the multiplicity of veto points that can impede policy action”³³ prevents timely and sufficient federal policy responses, leaving the states with little choice but to act, despite their lack of authority to do so.

Localities have also suffered from legislative gridlock and higher government inaction.³⁴ Further, the absence of gridlock does not guarantee issue resolution; policies adopted by higher governments may be mismatched to local conditions or desires, failing to satisfactorily resolve, or even reflect, local issues.³⁵ Some localities have confronted state and federal inertia by becoming innovative policy laboratories,³⁶ taking it upon themselves to, for example, enforce living wages, mandate local healthcare, require same-sex benefits for city employees, and pass “labor-friendly ordinances.”³⁷ According to legal scholar Richard Schragger, these and other progressive policy innovations are a “function of a growing dissatisfaction with national responses to... problems and a renewed energy and aggressiveness at the local level.”³⁸

Local activism is a symbolic expression of disapproval, a “performance”³⁹ designed to “expand the scope of conflict”⁴⁰ and force open the public debate. With sufficient media attention and public support, local activism has the capacity to compel state and/or national leaders to defend, and potentially reconsider, their unfavorable policies or behaviors. The history of intergovernmental competition has only recently begun to regularly include local activism, thus, in this book we will explore the evolving relationship between localities and higher governments and the conditions that may have prompted this change.

The End of the Intergovernmental Partnership

Central to this book are recent changes to the intergovernmental arrangement that has characterized American federalism from the 1930s until recently. In the 1930s, American federalism was permanently altered by the inclusion of localities as “third partners”⁴¹ in the nation’s

“complicated business of governing.”⁴² The new intergovernmental arrangement emphasized partnership, interdependence, and pragmatism—with cooperation rendering “each partner more effective, so that sharing power was not a zero-sum game.”⁴³ While the language of partnership has survived, few local leaders would agree that it is the reality today.

Over the past three decades, the intergovernmental arrangement that was forged during the Great Depression has unraveled. To be sure, real partnership has not been the intergovernmental reality since the 1950s, but local governments of all sizes were, until 1980, recipients of tremendous federal aid. In turn, the policies and programs that supported aid to cities created linkages between national and local leaders—potential pathways for communication and negotiation. These pathways eroded throughout the 1970s as popular support for urban programs declined. As national leaders shifted their attention to the new suburban majority, aid to cities became increasingly difficult to defend. Beginning in the early 1980s, localities were, in effect, told to “fend for yourself,” even while terrific responsibilities, and often extraordinary costs, of state and national programs were devolved to them.⁴⁴ To put it mildly, the transition from partner to policy implementer was painful. Pushback was inevitable.

While the historical intergovernmental arrangement has changed, the legal status of localities has not. As subordinate units, localities assume that resistance exposes them to one or more of several negative consequences. They may lose local autonomy or power. They may damage their relations with state-level leaders, damage that can include a reduced capacity to negotiate with state leaders, as well as lost access to state revenues, or even to their own revenues. Activist localities may bear the cost of litigation when localities are found to have acted beyond their authority. For example, the American Civil Liberties Union reports that immigrant-related local policies passed since 1980 have cost local taxpayers millions in court-assigned legal fees.⁴⁵ In addition, some cities have lost population and businesses and associated revenue, most frequently due to the perception of wasted taxpayer dollars or the demonstration of governmental intolerance, such as when local activism targets specific groups of people.⁴⁶ Finally, activist elected officials invite personal risk, such as reputational damage and even electoral defeat.

Mitigating these risks is higher government dependence upon local program implementation, recent gains in local self-sufficiency, and the rising political and popular status of cities. Regarding dependence, heavy state and federal intertwining with localities is responsible for a

great part of the roles and responsibilities that localities have accumulated in recent years. Since 1980, “transfers of program responsibilities from state and federal government, as well as the imposition of state and federal mandates, [have] increase[d] the roles and responsibilities of municipal governments.”⁴⁷ Today, “much of what city governments do...is influenced by public officials and institutions at higher levels of government. Also, the opportunities for the exercise of that influence have increased, both in number and type.”⁴⁸ With each new function that local governments perform on behalf of state and national governments, the system becomes increasingly dependent upon local expertise and cooperation for its functional well-being. As a result, localities enjoy a measure of discretion and leverage despite state or federal authority. Jessica Bulman-Pozen and Heather K. Gerken have described this phenomenon in association with state-level defiance, calling it “the power of the servant.”⁴⁹

Importantly, while higher governments are increasingly dependent upon localities, local governments are less dependent upon state and federal resources than they once were. In 1980, for example, federal aid accounted for “26.5 percent of spending by states and localities, in 1987 it was 19.1 percent...[a decline of] 34 percent in real terms.”⁵⁰ Federal aid to urban places declined by 47 percent during the same period.⁵¹ In the mid-1980s, facing their own budgetary shortfalls and the negative effects of federal mandates and conditions of aid, state governments began to push administrative—and often financial—responsibility for numerous federal and state programs down to localities. “This ‘second-order’ devolution, according to the National League of Cities, has meant that ‘transfers of program responsibilities from state and federal government, as well as the imposition of state and federal mandates, [has] increase[d] the roles and responsibilities of municipal governments, often without corresponding fiscal capacity or authority.’”⁵²

Left to sink, most local governments have learned to swim, becoming fiscally self-reliant, competent managers, and creative advocates for the jurisdictions that they serve. They actively sought private investment, domestically and abroad. They have attempted to get ahead of emerging trends, drawing new technologies and demands into their economic development plans. They have done much more. To be sure, success in these endeavors has been uneven. Nevertheless, some “cities have become economic titans again. Other cities have at least seen their fortunes stabilize.”⁵³

Finally, the rising status and visibility of cities, especially central cities, has made resistance to higher authority less risky. Cities are not the less-than-desirable places that they used to be and, as a result, many have enjoyed an urban resurgence. After decades of population loss and decline, many cities, beginning in the late 1970s, began to focus on revitalization and restoration of their infrastructure, built environment, and economic base. This coincided with new economic opportunities brought by the globalizing economy, as well as the nation's associated shift away from manufacturing to knowledge- and service-based jobs. The new interrelated employment sectors have found revitalized and revitalizing localities eager to accommodate the unique needs of today's agglomerating industries and the people who work within them.

Richard Schragger points to new economic stability, local policy experimentation, the educational level of city residents (compared to other areas), and urban diversity as reasons for urban resurgence—a condition in which cities are no longer losing population even as they have renewed economic clout.⁵⁴ Today's localities enjoy higher levels of professionalism, economic vitality, self-sufficiency, and even national and international visibility and prestige than ever before. Entrepreneurial, strong, charismatic mayors, reinforced by a general sense among the population that state and federal leaders are no longer “tuned in” to the people, have created conditions in which cities sense greater autonomy and independence than was once the case.

Although formally weak, intergovernmental interdependence, public distrust for higher governments, and improved self-sufficiency permits today's frustrated localities—whether invited or uninvited—to participate in the “dialog” that is federalism,⁵⁵ with its exchanges that span the “polite conversations and collaborative discussions that cooperative federalism champions...to restrained disagreement to fighting words.”⁵⁶ Localities interject all along the continuum, sometimes winning a seat at the table, particularly when state or federal officials believe that there is more to be gained than lost by including them. Local leaders have also found that when their accommodation cannot be negotiated, other means of pressure exist. They may be legally subordinate but they appear fully aware that “autonomy is not a necessary precondition for effective state contestation.”⁵⁷

The political strategy chosen by a locality in any given instance depends upon a number of factors. In addition to the external forces mentioned above, historical decisions inform current local conditions and choices, as do greater—even global—economic, cultural, and political forces. Local leaders also take into account the level and quality of input they have in shaping the policies that directly affect them, the

urgency for action, and whether more powerful governments appear to be committed to a relationship of compromise and accommodation—as opposed to resistance—when presented with local requests. Finally, because local leaders are also self-interested political actors, personal ambition is almost certainly a factor when considering political strategy. Personal ambition and local expectations will constrain some to diplomatic, traditional political behaviors, while others may opt for more aggressive, often highly visible, action in hopes of furthering their careers.

Open, Exposed Cities

In this book, local units of government are viewed as open systems, vulnerable to external forces that may positively or negatively affect local capacity and authority. Certainly, local capacity and decisions are affected by local conditions and demands, but the actual scope of the city's political environment extends far beyond its jurisdiction lines into areas where localities have no formal power. Described extensively elsewhere,⁵⁸ examples of external forces include direct state and national interference, global economic trends, extra-local politics, international trade policies, war, natural disaster, the policies and actions of other localities, and even academic research and technological innovations. Localities are also affected by state and national governments' responses to shifting conditions and citizen demands; changing conditions frequently precipitate higher action that results in the contraction of local autonomy or authority and/or the expansion of local responsibilities.⁵⁹

A particularly important external force is the need to compete for finite economic opportunities. Because localities are unable to compel residents and businesses to come and stay—but need both to survive—they are forced into interlocal competition. A city that offers lower taxes or more attractive zoning policies may attract new or existing regional residents and businesses. Nearby localities may attempt to even the field with similar policies, even when reduced tax revenue, for example, further threatens local economic well-being. Others may be forced to raise taxes on their current residents and businesses to continue an acceptable level of services—a move that may ultimately contribute to further local decline.

Of course, internal forces also condition local choices and capacity. These include citizens' expectations and demands as well as what is permissible—and possible—given local culture and political values, historical choices, and the socioeconomic, natural, and built

environments of the locality. These internal and external forces interact, forming the arena within which local political strategies are formed, and policies and implementing actions are decided.

Localities that are unresponsive to internal and external changes have suffered many fates: population loss, local regime change, federal and state preemptions and mandates, or state assumption of local finances or other traditionally local domains. Less common, although not unheard of, are local dissolutions, voluntary consolidation of struggling localities with better-off jurisdictions, and state-forced annexations. According to David Easton, the key to avoiding all of this is to stay nimble, evolve, continually adapt. All governments face change and capacity challenges, but local survival depends on the ability to manage stress while continuing to maintain citizen support “within some normal range of operation.”⁶⁰

Local Self-interest

This book views all governments and governmental organizations within the U.S. intergovernmental system as self-interested, individual political actors. Alberta Sbragia argues that most scholars view political activity as “the representation of interests defined in societal terms. Elective officials, neighborhood organizations, and real estate owners, for example, pursue their interests in the political arena. In this view, government is the object of pressure from groups rather than an actor in its own right.”⁶¹ Yet, governments possess their own unique interests and concerns; because they do, they attempt to influence other governments to protect themselves and to achieve their goals. Local governments are not exceptional in this regard. They *are* exceptional, however, in their subordination. However, the intergovernmental arena is not a purely legal realm; it is also a political realm in which localities-as-political-actors often—although certainly not always or predictably—get what they want.⁶²

What interests do localities seek to promote? This book sees the local economic well-being as the primary concern. David Berman writes: “For local governments, [local] interests [include] survival as an independent entity, securing and maintaining authority and economic resources, and securing a degree of autonomy in operation. I see officials as being more focused on financial well-being than on simple autonomy.”⁶³ Paul Peterson argues that the local interest is to “maintain or enhance the economic position, social prestige, or political power of the city, taken as a whole.”⁶⁴ To improve any one of these interests is to “enhance the city’s standing in the other two,” nonetheless, economic

standing is the central preoccupation of most cities.⁶⁵ The point is, whatever else they may be, cities large and small are economic actors, continually in competition for “as much capital and as high a quality labor force as possible.”⁶⁶ The significance of local dependence upon private capital is key to understanding much of local behavior. As one legal scholar put it, “cities in the real world are a product of—and exist only because of—the presence of economy-producing firms and the residents who choose to live there.”⁶⁷

Having recently found intergovernmental revenue unreliable, local governments must cultivate their own-source revenues for their economic well-being, a condition that raises the stakes in the endless interlocal competition for “high value” residents, and for the “private investment, employment, and production, and capital and labor [that can] move easily across city lines.”⁶⁸ In this competitive environment, winning localities quickly and skillfully adapt to the preferences of their existing residents and businesses as well as to those they desire to attract. To ensure the survival of the political system, “It is the existence of a capacity to respond...that is of paramount importance.”⁶⁹ Unfortunately, it is not enough for local leaders to want to be responsive; they must also *be able* to respond.

The local capacity needed to respond—sufficient authority, access to resources, and operational autonomy—is often vulnerable to external forces. Specifically, there are

four primary sets of policy tools through which [higher-government] external influence is brought to bear on city governments: (1) authority/discretion regarding issues of local governmental organization and structure; (2) authority/discretion regarding the powers of local governments to tax, spend, and borrow; (3) federal and state mandates; and (4) federal and state court rulings and judicial interventions in the operation of local agencies.⁷⁰

Localities are affected by the extent to which higher governments make use of these policy tools. Importantly, they have been used frequently over the past century, and rather harshly since 1980. The resulting loss of agility, combined with the growing complexity of local conditions and demands, has made aggressive political strategy increasingly important to promoting and defending local interests.

To summarize, this book argues that economic well-being is the primary interest of localities and that the attraction and retention of residents and businesses is critical to local survival. To attract and retain businesses and residents, local governments must produce acceptable

policy outputs in response to internal and external demands. External forces, including state and federal actions and inaction, can enable or limit local responsiveness. Where demands/needs converge with capacity/authority is the political space wherein local political strategies are decided. When capacity and authority are sufficient to generate an acceptable and appropriate response, policy outputs and implementing actions are negotiated locally, as expected. However, when local capacity and/or authority is insufficient to generate an acceptable response, local governments—as self-interested actors—may resort to political strategies—diplomatic or undiplomatic—intended to influence other governments in order to close the demand/resource gap.

A Note about Terminology

For many, the word “urban” conjures competing images of downtown skylines, aging and crime-ridden central cities, building-dense cores, and, perhaps, great cultural venues. While big cities preoccupy, this perception neglects the reality of our larger, economically and socially interdependent urban regions, and the variety of local governments, also classified as “urban,” that exist within them. Rather than focus solely on the central city, most of today’s urban scholars study the city—and even the county—within a regional context; with this wider perspective the central city becomes a piece in the patchwork of local governments that surround it. Nationwide, this patchwork involves 361 metropolitan and 573 micropolitan areas. These metropolitan and micropolitan areas are comprised of a complex assortment of counties, municipalities, towns, townships, and villages, and a variety of single-purpose special districts. Nearly 2,000 of the nation’s 3,141 counties lie within these metropolitan and micropolitan areas, and more than 90 percent of the U.S. population lives in them.⁷¹ Tucked into these metropolitan counties are the majority of the nation’s 36,011 municipalities, towns, villages, and townships; 13,051 school districts; and 37,381 non-school related special districts.⁷²

Similar to the faulty perception of “urban as central city,” the word “city” brings images of large, loud, noisy, and crowded areas—yet most U.S. cities are small. In 2007, of the nearly 19,500 incorporated municipalities in the U.S., only 103 had a population of 200,000 or greater, 263 had a population greater than 100,000, and only 690 had a population of 50,000 or more.⁷³ The remaining 18,444 units had a population of less than 50,000. Many of these cities and towns are located in the suburbs that satellite larger core cities. Although small in comparison to New York, Chicago, or Los Angeles, many are highly

participant in the social and economic fabric of their larger metropolitan areas.

The terms that are used most often in this book are “localities” and “local governments.” They are used interchangeably to refer to an urbanized area that is served by a general purpose government. Thus, these terms may refer to, for example, my small hometown or the city of Chicago, a tourist city in the desert or a suburban enclave at the edge of New York’s metropolitan area. Conversely, these terms do not signify unincorporated county property, single-purpose governments, or entire regions. If greater distinction is necessary—such as “county,” “central city,” or “core city”—I provide it. In addition, this study includes cases of activism undertaken by county governments. Sixty-eight counties and two consolidated city-counties have been involved. They are included within the scope of the term “locality” unless otherwise noted.

Plan for the Book

We will approach local activism as a product of the evolving intergovernmental system, external economic, political, and social conditions, and changing needs, capacity, and self-perception of local governments. Our historical approach is intended to demonstrate the maturation of cities as they have become less autonomous but increasingly important to, and intertwined with, higher governments. Their increasingly limited authority and autonomy has made adaptation difficult and, thus, aggressive behaviors may have become more attractive.

This book is organized into two parts. The first part is devoted to the evolution and adaptation of local governments from their founding to today. These chapters, Two through Four, are intended to demonstrate the gradual loss of local autonomy over time and the ways in which localities have, nonetheless, responded to local needs and demands. The second part explores local activism within the context of the literature on protest and policy diffusion before turning to the three most visible areas of local activism for examination and discussion.

In Chapter Two, we explore how local governments gradually lost autonomy and power from their founding to 1930. From their founding, cities have been challenged, stressed—constantly forced to adapt. The historian Jon C. Teaford explains that the same forces that transformed the nation’s “social, economic, and intellectual environment” also transformed the “habits, customs and beliefs” of the citizenry. Localities had to adapt to these “fresh realities” in order to survive.⁷⁴ The artisan and local market of the colonial era gave way to urbanization, machine-

production, and the new industrial economy. With these changes, localities lost their isolated, protected status, finding themselves under ever-increasing state scrutiny and control. How localities managed to bridge the gaps between their needs and resources differed over time according to their capacity, autonomy, leadership, and the urgency for action. Each historical shift is a layer that informs localities' changing self-perception and intergovernmental status.

Chapter Three continues our discussion of local adaptation, focusing on the years 1930 to 1980. During this period, the American system of federalism underwent revolutionary change as localities were brought into partnership with the federal government. From 1932 to 1980, the federal government grew increasingly involved in urban policy and, as a result, localities became dependent upon federal aid. Their dependence provided channels of communication and influence upon higher governments that, for a time, exceeded their legal status. Yet, lacking constitutional protections, dependence upon intergovernmental revenue made localities increasingly vulnerable. The political shifts of the 1970s would catch up to localities in the 1980s as popular will for federal urban programs waned and localities, with the end of partnership, were left to "fend for themselves." As a result, local needs grew in urgency. To meet these needs a new type of leader emerged to pilot cities through deindustrialization and federal disinvestment of urban programs.

Chapter Four explores today's urban environment. Today's localities benefit from the efforts of new leadership that emerged in the late 1970s-1990s. Many localities, because of these leaders' efforts, were prepared for the nation's shift to a knowledge-based economy, intensified globalization, and the bevy of new demands and responsibilities that followed. Local leaders began to focus their attention on aggressive economic development, competing for the information- and service-related jobs that are vital to the postindustrial, global marketplace. Successful efforts have brought new populations to urban areas, increasingly from other nation-states, and renewed political clout and international visibility to many larger cities. Many of today's localities enjoy these sources of informal power and consequent confidence. Their changed, perhaps elevated, self-perception has manifest in local policy experimentation, increased self-sufficiency, and a new aggressiveness at the local level.

With Chapter Five we transition to the second part of the book, discussing the phenomenon of local activism within the context of the protest literature. A continuum of local activism is offered and factors that may inform a locality's decision to act in more or less aggressive ways are discussed. The political, economic, and personal risks and

potential rewards of local activism are reviewed. Finally, the field of local activism is surveyed. An overview of the main policy areas that have been targeted is provided, as well as the geographic information related to these cases of local activism.

Three chapters are then devoted to individual policy areas that have been targeted for local activism. Chapter Six is concerned with the rights of lesbian, gay, bisexual, and transgendered individuals, with a particular focus on same-sex marriage. Chapter Seven focuses on undocumented immigrants and the local activist policies that both protect and exclude them. Chapter Eight is concerned with local foreign policy activism in the 1980s as well as the recent movement protesting the war in Iraq. In each of these chapters, brief cases are offered, followed by a discussion of points of interest relative to each issue area that emerged in the course of my research. Chapter Nine concludes the book.

Notes

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³ Ordinance, "Local Food and Community Self-Governance Ordinance of 2011."

⁴ Staff writer, "Interactive Food Sovereignty Map."

⁵ Nestmann, "A PATRIOT Act for Food?"

⁶ Staff writer, "Food Safety Act."

⁷ Curtis, "Keeping the Church Potluck Legal and Free."

⁸ Schragger, "Can Strong Mayors?" p. 2556.

⁹ Ibid.

¹⁰ Schattschneider, *The Semi-Sovereign People*.

¹¹ Dolan, "Cities with peace resolutions."

¹² Shuman, "Dateline main street," pp. 158-177; Hobbs. *City hall goes abroad*.

¹³ Bill of Rights Defense Committee, "Resolutions passed and efforts underway."

¹⁴ Dolan, "Foreign policy goes local."

¹⁵ O'Neil, "Hazleton and beyond."

¹⁶ Ohio Jobs and Justice Political Action Committee, "Sanctuary cities, USA."

¹⁷ Human Rights Campaign Foundation, "Equality from state to state (series)."

¹⁸ *City of Clinton v. Cedar Rapids and Missouri Railroad Company*, 475.

¹⁹ Berman, *Local Government and the States*, p. 2.

²⁰ Easton, *The Analysis of Political Structure*, pp. 3-4.

²¹ See, for example, Benton, "State-City and State County Fiscal Relations" in *Networked Governance*.

²² Sbragia, *Debt Wish*, pp. 5-9.

²³ Bowman and Kearney, "Second-Order Devolution," p. 563.

²⁴ Berman, *Local Government and the States*, p. 7.

²⁵ *Ibid.*

²⁶ Sbragia, *Debt Wish*, p. 8.

²⁷ Law, "Multnomah officials will issue licenses"; Lithwick, "Bad City"; Richtel, "San Francisco gun vote"; Ford, "Civil Disobedience."

²⁸ Riverstone-Newell, Personal communication with Mayor Michael Nutter.

²⁹ Rucht, "Distant Issue Movements in Germany" in *Globalizations and Social Movements*.

³⁰ Krane, "The Middle Tier in American Federalism," p. 469.

³¹ *Ibid.*, pp. 453-477.

³² *Ibid.*; see also the Bill of Rights Defense Committee' "Resolutions Passed and Efforts Underway."

³³ Ferraiolo, "State policy innovation and the federalism implications of direct democracy," p. 488. See also: Krane, "The Middle Tier in American Federalism," pp. 453-477; Dinan, and Krane, "The State of American Federalism, 2005," pp. 327-374; Karch, "National Intervention and the Diffusion of Policy Innovations," pp. 403-426.

³⁴ Schragger, "The Progressive City," p. 39.

³⁵ Fiorina, *Disconnect*.

³⁶ Teske and Schneider, "The Bureaucratic Entrepreneur"; Osborne and Gaebler, *Reinventing Government*.

³⁷ Schragger, "The Progressive City," p. 39.

³⁸ *Ibid.*

³⁹ Meyer, *The Politics of Protest*, p. 12

⁴⁰ Schattschneider, *The Semi-Sovereign People*, p. 3.

⁴¹ Hodos, "Against Exceptionalism" in Dilworth, ed, *The City in American Political Development*, p. 55.

⁴² Betters, Williams, and Reeder, *Recent Federal-City Relations*, p. 136.

⁴³ Hodos, "Against Exceptionalism" in Dilworth, ed, *The City in American Political Development*, pp. 55-56.

⁴⁴ Pagano and Hoene, "Fend-for Yourself Federalism" and Bowman and Kearney, "Second-Order Devolution."

⁴⁵ See, for example: ACLU: Immigrants' Rights Project, "Anti-Immigrant Ordinances Have Real Economic and Political Costs for Cities that Enact Them."

⁴⁶ *Ibid.*

⁴⁷ National League of Cities. "Cities and the future of public finance."

⁴⁸ Rich, "The Intergovernmental Environment" in John P. Pelissero, Ed., *Cities, Politics, and Policy*, p. 62.

⁴⁹ Bulman-Pozen and Gerken, "Uncooperative Federalism," pp. 1256-1310.

⁵⁰ Krane, Ebdon, and Bartle, "Devolution, Fiscal Federalism, and Changing Patterns of Municipal Revenues," p. 515.

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⁵³ Schragger, "The Progressive City," p. 44.

⁵⁴ *Ibid.*, p. 39.

⁵⁵ Shapiro, *Federalism: A Dialogue*, p. 108.

⁵⁶ Bulman-Pozen and Gerken, "Uncooperative Federalism," p. 1271.

⁵⁷ *Ibid.*, p. 1260.

⁵⁸ Pelissero, ed., *Cities, Politics, and Policy*.

⁵⁹ Berman, *Local Government and the States*, pp. 19-35.

⁶⁰ Easton, *A Systems Analysis*, p. 24.

⁶¹ Sbragia, *Debt Wish*, p. 7.

⁶² Briffault, "Our Localism: Part I," p. 112.

⁶³ Berman, *Local Government and the States*, p. 13.

⁶⁴ Peterson, *City Limits*, p. 20.

⁶⁵ *Ibid.*, p. 22.

⁶⁶ *Ibid.*, p. 29.

⁶⁷ Schragger, "Mobile Capital," p. 496.

⁶⁸ Schragger, "Can Strong Mayors," p. 2559.

⁶⁹ Easton, *A Systems Analysis*, p. 24.

⁷⁰ Rich, "The Intergovernmental Environment" in Pelissero, ed., *Cities, Politics, and Policy*, p. 36.

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⁷³ U.S. Census Bureau, "IP: Resident Population Estimates of Incorporated Places Only: April 1, 2000 to July 1, 2008."

⁷⁴ Teaford, *The Municipal Revolution in America*, p. vi.