# Critical Dialogue

**Responsive States: Federalism and American Public Policy**. By Andrew Karch and Shanna Rose. New York: Cambridge University Press, 2019. 252p. $99.99 cloth, $29.99 paper.
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Don't be misled by the title of this book. Andrew Karch and Shanna Rose do not mean to suggest that the states are naturally open and receptive to the national polices directed at them from Washington. Nor do they think the states are merely reactive. Federalism's many pieces present themselves here as major players in all aspects of national policy making. Their influence is felt on both the formulation and the implementation of federal initiatives, and they are as significant for their indifference and hostility to federal action as they are for their enthusiasm and support for it. In no small measure, the individual American states in *Responsive States* determine the fate of the initiatives that come their way. At issue is how they respond.

The contribution of the book lies in bringing federalism into the larger, ongoing discussion of the politics of public policy in political science. To achieve this, Karch and Rose follow Herbert Wechsler's classic assessment of "The Political Safeguards of Federalism" (*Columbia Law Review*, 54, 1954). Writing in the era of *Brown v. Board of Education*, Wechsler found the significance of the states less in the rights and powers formally reserved to them by the Tenth Amendment than in the way they themselves structure government and politics at the national level. National elites are attentive to the states, because local political interests are engrained in the organization of the institutions they inhabit. Federalism is a pervasive, inescapable influence, because the states are the foundation on which various modes of national representation are built. As interests are transmitted back and forth across these boundaries, parchment barriers take a back seat to the complexities of intergovernmental relations. Even as American politics becomes more national over time, the states maintain their influence on national decision making.

Although *Responsive States* is fully attuned to the relatively recent appearance of powerful intergovernmental lobbies like the National Governors Association, the book's conceptual framework opens up the study of the states' relationship to national policy across a wide swath of American political development. Anchoring the states' influence in the structure of national representation implies that they have always been major players in national policy making. This reorientation pushes the analysis of federalism beyond the standard progression of historical periods and categories (dual federalism, cooperative federalism, coercive federalism) and timeworn clichés like states as "laboratories" of experimentation for potential national action. The states' interests are, rather, omnipresent in politics at the center, and because their interests change from time to time depending on the circumstances, national support for policies affecting them remains contingent on their ever-evolving assessments. The upshot is a decidedly policy-based approach to political development. At any given time, one policy formulated at the top may produce positive feedback from below and "lock in," whereas another policy produces indifference or hostility and fails to take hold. Sustainability will vary across policies, so wherever we break into the story of federal–state relations, we are likely to find a highly varied and seemingly inconsistent pattern of interactions.

This is, to say the least, a densely textured picture of intergovernmental relations. The hard part, analytically speaking, is to bring some order to these "extraordinarily fluid" (p. 16) boundaries and changeable relationships. Karch and Rose point out that one of the limitations of the literature on policy feedback to date has been its reliance on single case studies or paired comparisons, and they are to be commended here for braving a much wider assessment. They peg the fate of national policies to two sets of factors and the interactions between them. First are factors related to policy design: fiscal generosity, administrative controls and constraints, program duration, and coalition potential. Second are factors related to timing—changes in the political mood, in partisan configurations, in economic cycles, and in the institutional capacities of the states themselves. The interaction between these two sets of factors is especially significant for policies designed for periodic renewal, because the conditions that initially gave rise to the policy may have changed dramatically by the time it is up for reauthorization.

Karch and Rose examine the significance of these variables through eight in-depth case studies: the Sheppard-Towner Act (1921), Unemployment Insurance (1935), Medicaid (1965), General Revenue Sharing (1972), Superfund (1980), No Child Left Behind (2002), ACA Medicaid Expansion (2010), and ACA Health Insurance Exchanges (2010). The cases seem to be chosen to illustrate the range of possibilities, and to that end, they show the basic explanatory elements combining in different ways for a wide variety of outcomes. We see plainly just how difficult it is to generalize: no two cases are exactly alike. The authors are appropriately modest in their claims. What we learn is that, although the presence of a certain variable (e.g., generosity, duration, interest support) "favors" a certain outcome (e.g., sustainability), there are no sure tickets. The case studies "neither conclusively demonstrate that a particular condition was necessary to the outcome," nor do they "uncover the frequency with which specific conditions and outcomes arise" (p. 36). We are left then with a vivid picture of a very messy state of affairs. Whether there is something of a more general nature yet to be discovered about these interactions or whether this finding is itself an insight into the essential character of a "policy state" is just one of the important questions this study brings to the fore.

Researchers should read *Responsive States* as a challenge. The book outlines an ambitious agenda, and there are several tacks that might be taken in carrying the project forward. Those uncomfortable with messiness and prone to seek patterns might want to start with a more systematic selection of cases. There is, to be sure, a social-policy tilt to the cases the book examines, which itself raises the question of whether the fickle effects of federalism might be domain specific. The book leaves the impression that self-reinforcing dynamics rarely take hold, but that implication is left hanging. On its face at least, it is difficult to square with the penetration of the states by national power on so many different fronts.

One can imagine this book spawning a cottage industry of scholarship that holds some variables constant to show the role of others. One might select for cases by presidential administrations, by matching parties—state and national—or by a given stage in the economic cycle. Or one might pick cases in the same policy area but over different eras; for instance, public works, farm subsidies, or medical assistance. Applications like those might help narrow the field of likely suspects in the way of interest groups and state-level administrators. Depending on the number of cases studied, it might then be possible to assess the effects on feedback of remaining elements, perhaps holding additional variables constant within smaller sets. Without some effort in this direction, it is hard to see why or how one should expect the Sheppard-Towner Act to line up with Superfund. In contrast, if the idea is to continue the emphasis on policy variation, it might be interesting to see how much institutional factors—configurations of state authority, political parties—"matter" as opposed to, say, interest groups or economic cycles and to select cases with that end in mind.

At a more conceptual level, more attention might be given to federalism as such, with regard to policy implementation and feedback effects in particular, as opposed to decentralization more generally. As an example from *Responsive States,* consider No Child Left Behind, rolled out with great fanfare by President George W. Bush in 2002 and supported by a wide coalition in Congress. Karch and Rose refer repeatedly to state officials and the complexity of the task at hand, but the question arises whether the most important obstacles to enforcement of standards did not occur at the local, school-board level, which left states with weak enforcement levers more or less at their mercy. Here, comparisons with similar efforts elsewhere without federalism, but with a strong tradition of localism—for instance, in Britain—come to mind. Or perhaps a comparison of American states with differing degrees of central or local government control might underscore the impact of what the authors propose as a distinctive structural form.

Finally, there would seem to be much more to be said about policy design. Karch and Rose tell us more about the importance of design than about the designers themselves. The reader wants to know about those who are making these design choices, especially the choices that seem to prepare for obvious footfalls going in. Are these decisions based on strategic calculation, or are they simply expedients? Do they represent actual compromises in the design process, or are they based on anticipated responses in execution? How fully do the designers of policy understand the diverse environments as they plan? Do those who design policies learn anything from previous successes and failures? Do they take into account the possibility of policy overload on limited administrative capacities in different states through an awareness of other demands? Are such issues even on their mind? Do they compete with the political pressures of the moment? We realize that these are questions that stray pretty far from the purposes of *Responsive States,* but they are nonetheless stimulated by its rich content.

## Response to Karen Orren and Stephen Skowronek's Review of *Responsive States: Federalism and American Public Policy*

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— Andrew Karch
— Shanna Rose

We thank Karen Orren and Stephen Skowronek for their insightful comments regarding our book and its "densely

layered picture of intergovernmental relations." Although it is rarely treated as such, federalism is indeed "a pervasive, inescapable influence" on the politics of public policy. By treating state officials as impactful stakeholders with an interest in both the design and the implementation of government programs, we hope to reorient the study of intergovernmental relations and "spawn a cottage industry of scholarship." We would be tremendously gratified if future research takes up just a fraction of the thought-provoking questions raised in the preceding review.

For instance, we share Orren and Skowronek's interest in "those who are making these [policy] design choices, especially the choices that seem to prepare for obvious footfalls going in." In documenting each policy's origins and enactment, our case studies highlight the role of these policy entrepreneurs and examine the rationale for their design choices. Our analysis reveals that national policy makers are sometimes acutely aware of how the states are likely to respond. For example, President Franklin Delano Roosevelt's Committee on Economic Security acknowledged the risk that a state-administered unemployment insurance system would create vested state-level interests that would stand in the way of modification or repeal. The evolution of the program validated their concerns. In other cases, policy makers are caught off guard by the states' response. House Ways and Means Committee chairman Wilbur Mills famously called Medicaid the most expensive mistake of his career, and we argue that his miscalculation resulted from the rapidly shifting political, economic, and administrative environment in which Medicaid was introduced. We agree that there is "much more to be said about policy design" and the extent to which policy entrepreneurs incorporate feedback-related calculations into their decision making.

In selecting which cases to feature in the book, we deliberately chose to showcase "the states' relationship to national policy across a wide swath of American political development." Examining intergovernmental programs across historical eras enables us to both move beyond the "standard progression of historical periods and categories" often associated with the study of American federalism and identify the common design features and contextual factors associated with different types of feedback effects. Policy making *is* a messy process, and it *is* difficult to generalize, but we *can* identify patterns. Orren and Skowronek offer several constructive case selection strategies that would build on our findings. Indeed, our analysis of the Affordable Care Act—where the Medicaid expansion and health insurance exchanges generated different intergovernmental dynamics because of their distinctive design features—puts one of their recommendations into practice. Studies of a single policy area over different historical eras, or of different programs within a single policy area, represent two promising paths forward. Education policy provides a good example. The relationship between state and local governments varies across early childhood, K–12, and higher education and offers an opportunity to examine what we label "coalition potential" in more detail.

We sincerely hope that researchers will heed Orren and Skowronek's counsel to "read *Responsive States* as a challenge" and will pursue the "ambitious agenda" it outlines. Federalism deserves a central place in the study of the politics of public policy, both in the United States and around the globe.

**The Policy State: An American Predicament**. By Karen Orren and Stephen Skowronek. Cambridge, MA: Harvard University Press, 2017. 272p. $26.50 cloth, $17.95 paper.
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Studies of American public policy tend to be highly specialized, with scholars focusing on individual programs such as Social Security, Medicare, or the G.I. Bill. Much has been gained from this approach, especially in terms of carefully documenting how policies create their own politics. In *The Policy State: An American Predicament*, Karen Orren and Stephen Skowronek demonstrate the benefits of employing a more expansive perspective. The authors "elaborate a view of the whole" (p. 4), offering an ambitious assessment of how the policy state in its entirety has reshaped American politics—sometimes for the better, but often for the worse.

*The Policy State* begins with the observation that the early American state was "a very different state from the one we know today" (p. 16). Although the book is neither a chronological treatment of American policy making nor a comprehensive summary of the expansive range of activities undertaken by the government, its primary objective is to document "a historical reconfiguration of…government's driving motives" in the United States (p. 36). The authors argue that early American government was primarily concerned with upholding a traditional set of rights—of slaveholders over slaves, husbands over wives, and employers over employees—and accompanying structures. Their point is not that government did less but rather that what it did "represented an opposite set of governing principles" (p. 6).

Indeed, the contrast with the contemporary American state is stark. Today, government and policy are largely synonymous, so much so that the forward-looking policy motive—with its commitment to designated goals or courses of action and the articulation of guidelines for their achievement—is sometimes viewed as the raison

d'être of government. Orren and Skowronek contend that this policy orientation is only possible because state formation in the modern United States features the "dilution of rights and the erosion of structure," both of which "entail a relaxation of constraints on the policy motive" (p. 34). They trace the growth of the policy state to a series of seismic events that began during the second half of the nineteenth century and accelerated during the twentieth century, including the emancipation of four million slaves following the Civil War, the Progressive Era, the New Deal, and the Rights Revolution. These events had the collective effect of "eroding the boundaries and dissolving the distinctions that once constrained policy's reach" (p. 6). As a result, the dominant motive of governance shifted from defending rights to creating policy.

With traditional rights destabilized and long-standing structures hollowed out, the policy state has broadened the government's range of options. The enhanced administrative capacity of state governments and the extended policy reach of the American presidency epitomize this institutional reformulation; similarly, the growing number of executive branch agencies facilitated the "infusion of additional stakeholders into the policy calculus" (p. 111). The constitutional framework once served as a containment structure, but now—with American government "stretched every which way" (p. 90)—it has become an opportunity structure. With more and more institutional pathways to policy, "incumbents in every office have become policy entrepreneurs, advancing programs to secure their positions and enhance their power" (p. 17).

The authors' analysis of contemporary American politics describes a government that is more inclusive, on the one hand, but also more dysfunctional and volatile, on the other. Orren and Skowronek identify a perpetual churning in which the proliferation of available options "makes achievements provisional, protections unreliable, and commitments dependent on who is next in charge" (p. 6). One need look no further than the transition from the Obama to the Trump administration to see how, in such an environment, electoral change can lead to attempts at policy rollback, reversal, and retrenchment.

With its emphasis on volatility and its description of an increasingly unmoored polity, *The Policy State* poses a stark intellectual challenge to canonical theories of the policy process. One leading analytical framework invokes policy feedback or path dependence, emphasizing the difficulty of dislodging existing policy arrangements because of their impacts on mass publics, interest groups, and government elites. In contrast, Orren and Skowronek portray the emergence of the policy state as a process of "path clearance" whereby "pivotal events toppled fixed relations of authority and pried the door open to programmatic solutions" (p. 13). Similarly, punctuated equilibrium theory focuses on patterns of stability and change in the making of public policy, attributing periods of stability to the existence of policy monopolies that combine dominant political understandings with institutional arrangements that reinforce those understandings. Scholars working within this second tradition must grapple with the possibility that punctuations are more frequent and durable policy monopolies rarer in the contemporary United States.

At the same time, however, these well-established theories of the policy process suggest that it may be necessary to qualify some of the sweeping claims advanced in *The Policy State*. The Trump administration has experienced mixed success in its attempts to unravel the accomplishments of its predecessor, with some policies proving more durable and sustainable than others. Indeed, the proliferation of institutional pathways implies that a growing number of policy entrepreneurs can mobilize to defend existing arrangements. Recent experience suggests that they will. One constructive way to extend the analysis in *The Policy State* would be to identify and attempt to explain this variation in policy volatility.

One of the book's few noteworthy omissions highlights the possible intellectual payoff that such an effort might provide. Government spending is an obvious metric of the policy state's contemporary magnitude, and—as Orren and Skowronek acknowledge—total government spending in the United States skyrocketed during the twentieth century. Entitlement programs like Social Security, Medicare, and Medicaid represent the bulk of this massive expansion. However, the authors devote virtually no attention to the role such programs have played in the emergence and ramifications of the policy state. This omission is especially striking in light of the "entitlement" label that is applied to these programs. One of the key insights of *The Policy State* is the recognition that the dominant motive of governance shifted from rights to policy, yet entitlement programs seem to blur this distinction: they are widely perceived to confer a set of rights, albeit of a very different sort from the rights that the authors argue typify earlier eras in U.S. history. Indeed, the battle over whether entitlements should be understood as individual rights has been one of the argumentative fault lines in American politics for decades. Moreover, these entitlement programs represent some of the most politically resilient public policies in the contemporary United States.

Another topic that merits greater attention is the relationship between the policy state and partisan polarization. An important consequence of the policy state,



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according to Orren and Skowronek, is the erosion of localism. Social divisions were "scattered and submerged" in early America, and decentralization created a "cushion for consensus" (p. 178). By the second half of the twentieth century, however, the policy state had thrust contentious issues like civil rights, abortion, and religion onto the national stage. The authors advance the "rather modest claim" that the "expansion of the policy space at the national level, encompassing potentially all issues of economy and society, is an important enabler of polarization today, and likely also one of its several causes" (p. 173). To be sure, a significant number of Americans are disillusioned with the shortfalls of the policy state. However, recent studies of affective polarization and the identity-based sources of the current partisan divide raise questions about the relative importance of policy concerns.

Having documented several negative repercussions of the policy state—dysfunction, instability, gridlock, and polarization—the authors do acknowledge its positive contributions. In early America, "rights were trumps when some people did not have them; structure was a more dependable constraint when it locked certain issues out. Recovering that lost ground is neither possible nor desirable" (p. 196). These and other gains should be celebrated, but they cannot dislodge a sense that American democracy is not healthy in the early twenty-first century. It has never been easy to identify a nationally cohesive public interest in the United States, but "polarization in the context of a fully developed policy state poses more than a challenge. It is more an existential threat, potentially denying authority to every state action" (p. 196). Yet for those disheartened by the current state of affairs, *The Policy State* does not offer even a partial remedy for the broken state of our union. The authors refuse to endorse alternatives such as deliberative democracy or juridical democracy, concluding instead with the observation that the Trump presidency "has accelerated a crisis of authority that has been building for decades" (p. 198). This pessimistic and uncomfortable assessment is sure to resonate with both scholars and casual observers of American politics alike.

In sum, Orren and Skowronek provide a wide-ranging and illuminating assessment of contemporary American governance. In an era of academic specialization, the book demonstrates the value of stepping back to offer a general appraisal of the current state of affairs. The subfield of American politics would be stronger if more scholars adopted the approach exhibited in *The Policy State.*

## Response to Andrew Karch and Shanna Rose's Review of *The Policy State: An American Predicament*

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— Karen Orren
— Stephen Skowronek

Karch and Rose commend the "expansive perspective" of *The Policy State.* But the ambition of the book misfires if key pieces remain blurred. Based on their account, one of these seems to be our treatment of rights. Clearly, entitlement programs like Social Security and Medicare create rights, of a sort. Our point was to chart how rights have fundamentally changed not only these programs' character but also their corresponding function. We referenced a point in time when rights, both of citizens and public officers, tightly encircled and contained government activities. In contrast, rights that galvanize new programs empower government, with the overall effect of undermining their distinctive disposition and prior force. If examples are required, we might point to recent inroads on public education, where it is increasingly unclear who has rights to what, or to the perceived fragility of abortion rights.

Similarly, the structures of government: any explanation of the depredations of the "deep state" must include the contemporary culture of office holding—enterprising, outwardly directed, impervious to institutional boundaries at all levels. Here again, with the expansion of government by policy, containment gives way to opportunity, and arrangements once firm turn plastic. The range of possibilities widens, but the achievements become less secure.

Our admittedly modest wave at the causes of polarization draws out an implication of these larger, more systemic changes: the elimination of safe space. As all politics becomes national and policy initiative moves to Washington, the localism that supported representatives' outlier status has shriveled apace. In this setting, proposals for juridical democracy and deliberative democracy are more symptoms than likely "alternatives." Our intent in any case was not to dismiss the values they affirm but to point out how quickly the new state is pushing them out of reach.

In the end, we doubt that there are serious disagreements among the pairs of authors. As one of our current political leaders might say, "That is a good thing, not a bad thing."