Residual State Sovereignty: the American Case
How Sovereignty Claims Affect the U.S. State-Federal Partnership

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Introduction

• The American system of federalism is “inherently unstable,” swinging from centralization to devolution.
• State sovereignty is a balance of “self-rule and shared-rule,” a constitutional principle of federalism.
• Sovereignty is also a continuously evolving paradigm, a growing subject of claims within polities around the world.
• A matter of constitutional law, “sovereignty studies” must not underestimate ideological & socio-economic factors.

Aim

Our study was designed to assess the degree of state autonomy within the American state-federal partnership by researching how elected officials’ perceptions of state powers impact the contemporary doctrine of sovereignty.

Hypotheses

1) Strong state legislatures & governments have significant impacts upon the doctrine of sovereignty.

2) Post-Civil War social, political and constitutional legacy could be a potential variable in modern political cultures: perceptions of sovereignty could divide the “North” from a new “bloc” made of the old “Solid South” and new conservative states where state sovereignty may be used as a form of partisan resistance.

3) History may offer precedents for contemporary state sovereignty claims.

Test Method

• Preliminary groundwork on bill extraction via keywords run across the fifty state legislatures over the time period of 2009-2015 revealed that the scope of pro-sovereignty legislations ranges from reaffirming residual powers to declaring a federal law “null and void”, and is therefore virtually unlimited, suggesting a ubiquitous topic.

• Search results were therefore narrowed down to two selected criteria: resolutions claiming state sovereignty and bills creating a reviewing, nullifying authority.

Findings

• Since 2009, at least 152 resolutions & 36 bills have been filed in any one or both chambers of 40 State General Assemblies, which is relatively small in scope. Most legislatures are controlled by the Republican Party (fig. 1).

  Fig. 1: Sample of Filed Legislations Reported According to Party Control

  - Among GOP-controlled legislatures, over half of legislations (50.7%) have been filed in the Southern states of former “Solid South”. Nationwide, most resolutions and bills are strongly partisan in authorship (96% Republican).
  - Nonetheless, a vast majority (90% of resolutions; over 95% of bills) have not passed for lack of enough support, suggesting a marginal, politically-oriented maneuver.

Conclusions

• The ideological conflict appears to be exclusively vertical: overall legislative initiatives remain sympathetic to a partnership between the “sister-states”. Adherence to a unique American political community is perceptibly strong.

• Draft legislations do not represent an elected majority. Moreover, the gap between state and national elections in terms of party winning calls for deeper field investigation in order to correlate state sovereignty with political cultures.

• State sovereignty is part of American political history. In the years of the Creative Federalism (1960s), many legislatures adopted “Convention” resolutions, forcing the Johnson Administration to reflect upon the phenomenon.