

# STATES & FEDERALISM

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## STATES CP - SHELL

**TEXT – the 50 states should increase alternative energy incentives by, (insert plan specifics).**

**The states are capable of adequately providing effective alternative energy incentives.**

### **Kaplan, Lawyer @ Nixon & Peabody, 04**

[Carolyn S., *COASTAL WIND ENERGY GENERATION: CONFLICT AND CAPACITIE: SYMPOSIUM ARTICLE: Congress, the Courts, and the Army Corps: Siting the First Offshore Wind Farm in the United States*, Boston College Environmental Affairs Law Review, #177, 2004, lexis]

In addition to RPSs, **a number of states provide other incentives designed to spur the generation of renewable energy, including wind power, and to help renewable energy compete with traditional fossil fuels.** 57 Examples **include tax credits and exemptions, rebates, grants, loans, green-labeling requirements, green power purchasing programs, and tradable renewable certificates, in the form of green tags or renewable energy credits.** 58

## STATES CP – 2NC O/V

**The counter plan solves all the case and captures our federalism net benefit. Our Kaplan evidence provides a laundry list of different incentives states can provide to help increase alternative energy use without any involvement from the federal government. Any permutation will link to our net benefits making the counter plan the best policy option.**

## FEDERALISM DA – SHELL

### **A. Uniqueness & Link – The Supreme Court’s interpretation of cooperative federalism regarding the environment rejects national uniformity. The plan would eviscerate this principal.**

#### **Glicksman, Prof. of Law @ University of Kansas, 06**

[Robert L., *FROM COOPERATIVE TO INOPERATIVE FEDERALISM: THE PERVERSE MUTATION OF ENVIRONMENTAL LAW AND POLICY*, Wake Forest Law Review, Vol. 41, 9/1/2006]

The **Supreme Court’s multifarious exposure to cooperative federalism ventures has provided it with the occasion to describe what it thinks cooperative federalism entails.** In a recent opinion, Justice **Breyer identified some of the attributes of a typical cooperative federalism program, regarding it as one that rejects a nationally uniform approach to problem solving in which Congress preempts state authority.** and that instead allows state and local authorities to make at least some decisions, subject to minimum federal standards.

### **B. Impact – First, American federalism is the lynchpin of global security**

#### **Calebresi, 95**

[Stephen, Associate Professor, Northwestern University School of Law. B.A. 1980, J.D. 1983, Yale, “Reflections on United States v. Lopez: “A GOVERNMENT OF LIMITED AND ENUMERATED POWERS”: IN DEFENSE OF UNITED STATES v. LOPEZ,” 94 Mich. L. Rev. 752, Michigan Law Review, December, 1995]

Small state federalism is a big part of what keeps the peace in countries like the United States and Switzerland. It is a big part of the reason why we do not have a Bosnia or a Northern Ireland or a Basque country or a Chechnya or a Corsica or a Quebec problem. n51 American federalism in the end is not a trivial matter or a quaint historical anachronism.

**American-style federalism is a thriving and vital institutional arrangement** - partly planned by the Framers, partly the accident of history - and **it prevents violence and war. It prevents religious warfare, it prevents secessionist warfare, and it prevents racial warfare. It is part of the reason why democratic majoritarianism in the United States has not produced violence or secession for 130 years,** unlike the situation for example, in England, France, Germany, Russia, Czechoslovakia, Yugoslavia, Cyprus, or Spain. There is nothing in the U.S. Constitution that is more important or that has done more to promote peace, prosperity, and freedom than the federal structure of that great document. There is nothing in the U.S. Constitution that should absorb more completely the attention of the U.S. Supreme Court.

### **C. Finally, modeled U.S. federalism prevents war**

#### **Howard, 03**

[Dick, White Burkett Miller Professor of Law and Public Affairs, University of Virginia, “TOWARD CONSTITUTIONAL DEMOCRACY IN IRAQ: AN AMERICAN PERSPECTIVE,” 6/25, [http://judiciary.senate.gov/testimony.cfm?id=826&wit\\_id=2344](http://judiciary.senate.gov/testimony.cfm?id=826&wit_id=2344)]

Federalism. Formal federalism, as charted by the U.S. Constitution, may or may not be appropriate in other countries. **Federalism, however, is a system which has many variants and is found in one form or another around the world. Federalism and its cousins (such as devolution) is associated with values of pluralism, diversity, and local choices about local problems. Such arrangements may be especially important to defuse conflicts of nationality or ethnicity.**

## **FEDERALISM DA – 2NC O/V**

The disad out weighs the case – extend our Calabresi evidence from the 1nc. It proves that a break down in the federal-state balance will gut American democracy and result in multiple scenarios of conflict. Extend our Howard evidence. Conflicts that result from the plan will spread and result in ethnic and nationality based wars.

Also, the Disad turns the case. In a world of conflict, the plan will not be enforceable, eliminating any residual benefit of doing the plan.

## STATES SOLVE – GENERAL

States can successfully pursue alternative energy.

### Pierce, 06

[Neil, 'Energy Federalism' -- *Has Its Time Come?*, 2-14-06,

<http://www.stateline.org/live/ViewPage.action?siteNodeId=136&languageId=1&contentId=88768>]

First, push a strong switch to such renewable energy sources as wind, solar, biomass, geothermal and other “clean” energy alternatives. **By 2017, the renewable energy requirements that 20 states and the District of Columbia have already passed will save enough fossil fuel to provide electricity for 20 million homes.**

**The Western Governors’ Association has set a goal of 30,000 megawatts of new clean energy in its region by 2015 from such sources as renewables and advanced natural-gas technologies. California has leapt to national leadership on solar energy** in particular with Gov. Arnold Schwarzenegger’s initiatives to reach “a million solar roofs” by 2017, the \$3 billion cost covered by a modest surcharge on energy bills.

## STATES SOLVE – RPS

State RPS policies are best.

### **Kaplan, Lawyer @ Nixon & Peabody, 04**

[Carolyn S., *COASTAL WIND ENERGY GENERATION: CONFLICT AND CAPACITIE: SYMPOSIUM ARTICLE: Congress, the Courts, and the Army Corps: Siting the First Offshore Wind Farm in the United States*, Boston College Environmental Affairs Law Review, #177, 2004, lexis]

**While** members of **Congress may disagree whether to enact a national RPS, over twenty-five percent of the states have established their own.** 54 A **state mandated RPS creates an immediate demand for renewable energy and helps to establish a marketplace by ensuring a steady increase of installed capacity.** In doing so, state-based RPSs are thought to be one of the most important factors driving the development of new renewable energy sources in the United States, and are essential for the industry's long-term stability. 55 **RPS requirements vary widely from state to state.** 56

## STATES SOLVE – RPS

**State based RPS is better than federal mandates. A Federal RPS would create a one-size-fits-all solution that fails.**

### Schimmoller, 02

[Brian, Managing Editor of Power Engineering Magazine, *Regional Renewable Solutions Might Trump National Mandate*, May 2002,

[http://pepei.pennnet.com/Articles/Article\\_Display.cfm?Section=Articles&SubSection=CurrentIssue&ARTICLE\\_ID=144778&VERSION\\_NUM=1](http://pepei.pennnet.com/Articles/Article_Display.cfm?Section=Articles&SubSection=CurrentIssue&ARTICLE_ID=144778&VERSION_NUM=1)]

I must admit, however, that mandates can and have been effective. **Texas**, for example, included a **renewable portfolio standard** in the bill passed in 1999 that **restructured the power industry in the state and initiated retail electric choice**. Many consumers are now paying extra each month - voluntarily - to purchase energy generated at one of the many wind farms built in West Texas. **Texas**, in fact, **may pass California as the top-ranking state in use of wind power in the next few years**.

The **success in Texas**, however, **does not necessarily justify the enactment of a "national" renewable portfolio standard**. Several factors made a renewable portfolio standard an easier sell in Texas. Persistent air quality problems in certain metropolitan regions afforded an opportunity to demonstrate environmental progress via the RPS. The development and construction of many new gas-fired power plants promised to increase the state's reserve margin, reducing concerns about the dependability of renewable generation, which may not always be able to generate power when called upon. The state also set reasonable program goals (an additional 2,000 MW by 2009) designed to minimize economic impacts. And finally, research indicated that consumer demand for renewable energy existed.

My question is this: Do we even need a national RPS? True, it would provide an arrow in the quiver when dealing with the countries that oppose the U.S. stance on the Kyoto Protocol. But does it achieve more than could be accomplished on a state or regional level through mandates, credits, tax credits and other incentives? **Texas may have accomplished more with respect to renewable energy development in a few short years than the Federal government has in the last 30.**

I'd prefer to **leave it to the states to assess their need for, and access to, economic renewable energy resources**. In all likelihood, public and political pressures will lead to significant development. Perhaps not according the rigid timetable spelled out in national RPS proposals, but I wouldn't be surprised if 10 percent by 2020 were achieved even without such legislation.



## STATES SOLVE – RPS

**State RPS programs reduce greenhouse gas emissions.**

### Anchorage Daily News, ,04

[Chris Rose, *State should tap geothermal resources*, 9-8-04, lexis]

Alaskans can also learn plenty from other states. Nevada expects the development of its geothermal resources to stimulate billions of dollars of investment and create thousands of new jobs. Even a fraction of that would be good for Alaska's economy. **Fourteen other states have established their own renewable portfolio standards to spur renewable energy development. Various assessments of those policies agree they will reduce electric rates, decrease greenhouse gas emissions, ease pressure on natural gas prices and diversify the electricity mix.** Our lawmakers need to start considering the economic and social benefits of a similar policy in Alaska.

**Whoosh you were here!**

## STATES SOLVE – RPS

State RPS solves by stimulating new clean energy markets

### UCS, 07

[Union of Concerned Scientists, *Renewable Electricity Standards at Work in the States*,  
[http://www.ucsusa.org/clean\\_energy/clean\\_energy\\_policies/res-at-work-in-the-states.html](http://www.ucsusa.org/clean_energy/clean_energy_policies/res-at-work-in-the-states.html)]

**In a growing number of states**, renewable electricity standards—also called **renewable portfolio standards**—**have emerged as an effective and popular tool for promoting a cleaner, renewable power supply. A renewable electricity standard requires electric utilities to gradually increase the amount of renewable energy sources**—such as wind, solar, and bioenergy—**in their power supplies. State leadership has demonstrated that renewable standards can reduce market barriers and stimulate new clean energy markets.** Because renewable energy can help meet critical goals for fuel diversity, price stability, economic development, our environment, and energy security, a renewable standard should play a vital role in America’s national energy policy.

## STATES SOLVE – RPS

States solve - their RPS requirements decrease fossil fuel consumption

### Community Rights Counsel, No Date

[Redefining Federalism, *Top 10 State and Local Environmental Solutions*, <http://www.redefiningfederalism.org/SLES/Sol4.asp>]

According to the Pew Center on Global Climate Change, **more than twenty states have adopted renewable portfolio standards, requiring or encouraging utilities to produce up to 25% of their power from renewable sources over the next ten to fifteen years. Arizona state officials recently approved a dramatic increase in the state's RPS requirements, from 1.1% by 2007 to 15% by 2025.** New Mexico, Maryland, Rhode Island, and Pennsylvania's RPS laws are available by clicking on the state's name. Colorado voters instituted their RPS by ballot initiative in 2004, and the amendment language is available here. (These links were gathered by the Pew Center on Global Climate Change.)

Whoosh you were here!

## STATES SOLVE – CAP & TRADE

States can implement progressive cap and trade programs that reduce carbon emissions.

### Pierce, 06

[Neil, 'Energy Federalism' -- Has Its Time Come?, 2-14-06,

<http://www.stateline.org/live/ViewPage.action?siteNodeId=136&languageId=1&contentId=88768>]

Third potential: major cuts in greenhouse gas emissions from power plants. Led by New York's Gov. George Pataki, **eight Northeastern states** (Maine to Maryland, Massachusetts excepted) **have adopted a cap on carbon releases into the atmosphere, allowing for trading to find the least-cost ways to reduce emissions. Schwarzenegger has set a goal to cut California's emissions to less than 2000 levels in the next five years. Oregon and Washington are moving in the same direction.** Govs. Janet Napolitano (Arizona) and Bill Richardson (N.M.) have agreed to a parallel regional accord.

## FEDERALISM LINKS – RPS

National RPS would throw federalism out the window.

### Lewis, 03

[Marlo, Senior Fellow @ Competitive Enterprise Institute, *Killing energy: beware the "soft Kyoto" strategy*, 8-17-03, <http://www.renewamerica.us/columns/mlewis/030817>]

Second, **a nationwide RPS is an unfunded, one-size-fits-all federal mandate**. What is the point of requiring states to devise implementation plans to meet federal clean air standards if Congress is going to dictate the details of those plans? **States are already free to subsidize and mandate the use of renewables if they wish, and many do. A nationwide RPS tosses federalism out the window.**

## FEDERALISM LINKS – RPS

National RPS is allows the federal government to overrule the states programs, crushing our federal system.

### Lewis, 02

[Marlo, Senior Fellow @ Competitive Enterprise Institute, *Deviant Standard*, 9-23-02, <http://cei.org/gencon/019,03215.cfm>]

More importantly, a national RPS will make a mockery of the Clean Air Act and our federal system. What is the point of states devising "state implementation plans" if the Senate can mandate one-size-fits-all "solutions" that take no account of local economic and environmental circumstances? Indeed, why pretend we have a system of dual sovereignty if the Senate can overrule the 34 state governments that have not enacted renewable portfolio standards?

Because the Senate bill's RPS is a floor, not a ceiling, its potential to exploit consumers, distort energy markets, and supplant state policy regimes is vast. Better to have no energy bill this year than one that incorporates a renewable portfolio standard.

## FEDERALISM LINKS – RPS

**Federal RPS is a direct infringement on states rights.**

### **Moeller, 04**

[James W., Public Utilities Fortnightly, *Leave Green-Power; Quotas to the States*, August 2004, lexis]

**A federal RPS would require that a specified percentage of electric power sold by electric utilities into retail markets be derived from renewable resources. A federal RPS is predicated, therefore, on the assumption that the federal government regulates retail markets for electric power.**

Congress could, of course, authorize the Federal Energy Regulatory Commission (FERC) to regulate wholesale as well as retail electric power sales and services. However, in the Federal Power Act of 1935, the organic statute for federal regulation of electric utilities, Congress authorized FERC to regulate just wholesale electric power. The regulation of retail electric power was left to the states and to the state public service commissions.

**The regulation of retail sales and services also was left to the states under PURPA, Title I, which established numerous retail policies for electric utilities.** The policies were intended to promote the conservation of electric power and the efficient use of generation facilities and fuels.

The retail policies were not imposed on electric utilities. Indeed, **PURPA left the adoption and implementation of the retail policies to state public service commissions, which could choose to adopt or reject each standard. The statute guaranteed that nothing therein precluded the adoption of state policies different from the retail policies of PURPA.**

In this regard, **PURPA reinforces the traditional jurisdictional divide between federal regulation of wholesale sales and services and state regulation of retail sales and services.** This jurisdictional formula has worked well for almost 70 years. **There is no compelling need now for Congress to interfere with the traditional state prerogative to regulate the retail rates and services of public utilities.**

**The experiment with green-power quotas began with state legislatures and state public service commissions. The experiment should continue not on the federal level but on the state level. Congress should not impose a federal RPS.** Instead, PURPA should be amended to include an RPS among the retail policies that can be adopted or rejected by state public service commission.

**Leave the green-power quotas to the states.**

## FEDERALISM GOOD IMPACTS – ECON 1/2

### **A. Federalism is at the heart of the United States' position as economic superpower – the fate of economic growth rests in its prosperity**

**McGinnis**, Professor of Law at Yeshiva University, 96 [“THE DECLINE OF THE NATION STATE AND ITS EFFECT ON CONSTITUTIONAL AND INTERNATIONAL ECONOMIC LAW: CONTRIBUTION: THE DECLINE OF THE WESTERN NATION STATE AND THE RISE OF THE REGIME OF INTERNATIONAL FEDERALISM,” December, Cardozo Law Review, p. Lexis]

Economists today have explained that the **original Constitutional design of a federalist free trading system was at the heart of the United States' steady rise in becoming an economic superpower by the beginning of the twentieth century.**<sup>47</sup> However, **federalism was** more than just **a political engine of economic expansion**; it was perhaps the Framers' most important contribution to solving the greatest dilemma of political theory: although a government needs to be powerful enough to protect property rights, a government sufficiently powerful to accomplish this end is also powerful enough to expropriate the wealth of its citizens.<sup>48</sup> As both Professors Barry Weingast and Friedrich von Hayek have suggested, federalism provides a structural solution to this dilemma.<sup>49</sup> **Forcing state governments to compete for the capital and skills of a national citizenry imposes substantial limits on a state government's ability to expropriate.** [\*916]

**Like the federal government in the original constitutional order, the international structures** arising from GATT and Bretton Woods **perform the important but essentially limited function of maintaining a free trade zone. The resulting competition for trade and capital among nation states imposes limitations on their regulatory power not unlike the limitations imposed on the power of states in nineteenth-century America.** Government's ability to redistribute wealth and hamper enterprise is again restrained--this time on a global scale.

Viewed as a new political order, **the regime of international federalism is an important impetus behind the program of regulatory relief** and the dismantling of government agencies occurring in the West, particularly in the United States.<sup>50</sup> Over the last several decades, the free trade regime has silently strengthened antiregulatory interest groups because businesses in the global marketplace have become acutely aware of regulations that disadvantage them at home and of the greater opportunities that they now have to exit if they do not receive relief.<sup>51</sup> Free trade and open markets simultaneously raise the cost of producer group inaction with respect to burdensome regulations, and give such groups more leverage to force changes in the regime's rules.



## FEDERALISM GOOD IMPACTS – ECON 2/2

### B. Growth is key to prevent a US-China war

#### Mead 04

[Walter Russell, – Senior Fellow at Council on Foreign Relations, “America's STICKY Power,” Foreign Policy, Mar/Apr, Proquest]

Similarly, in the last 60 years, as foreigners have acquired a greater value in the United States-government and private bonds, direct and portfolio private investments-more and more of them have acquired an interest in maintaining the strength of the U.S.-led system. **A collapse of the U.S. economy and the ruin of the dollar would do more than dent the prosperity of the United States. Without their best customer,** countries including **China** and Japan **would fall into depressions.** The financial strength of every country would be severely shaken should the United States collapse. Under those circumstances, debt becomes a strength, not a weakness, and other countries fear to break with the United States because they need its market and own its securities. Of course, pressed too far, a large national debt can turn from a source of strength to a crippling liability, and the United States must continue to justify other countries' faith by maintaining its long-term record of meeting its financial obligations.

But, like Samson in the temple of the Philistines, **a collapsing U.S. economy would inflict enormous, unacceptable damage on the rest of the world.** That is sticky power with a vengeance. The United States' global economic might is therefore not simply, to use Nye's formulations, hard power that compels others or soft power that attracts the rest of the world. Certainly, the U.S. economic system provides the United States with the prosperity needed to underwrite its security strategy, but it also encourages other countries to accept U.S. leadership. U.S. economic might is sticky power. How will sticky power help the United States address today's challenges? One pressing need is to ensure that Iraq's economic reconstruction integrates the nation more firmly in the global economy. Countries with open economies develop powerful trade-oriented businesses; the leaders of these businesses can promote economic policies that respect property rights, democracy, and the rule of law. Such leaders also lobby governments to avoid the isolation that characterized Iraq and Libya under economic sanctions. And looking beyond Iraq, the allure of access to Western capital and global markets is one of the few forces protecting the rule of law from even further erosion in Russia. China's rise to global prominence will offer a key test case for sticky power. As China develops economically, it should gain wealth that could support a military rivaling that of the United States; China is also gaining political influence in the world. Some analysts in both China and the United States believe that the laws of history mean that Chinese power will someday clash with the reigning U.S. power. Sticky power offers a way out. China benefits from participating in the U.S. economic system and integrating itself into the global economy. Between 1970 and 2003, China's gross domestic product grew from an estimated \$106 billion to more than \$1.3 trillion. By 2003, an estimated \$450 billion of foreign money had flowed into the Chinese economy. Moreover, China is becoming increasingly dependent on both imports and exports to keep its economy (and its military machine) going. **Hostilities between the United States and China would cripple China's industry,** and cut off supplies of oil and other key commodities. Sticky power works both ways, though. If China cannot afford war with the United States, the United States will have an increasingly hard time breaking off commercial relations with China. **In an era of weapons of mass destruction, this mutual dependence is probably good for both sides.** Sticky power did not prevent World War I, but **economic interdependence runs deeper now; as a result, the "inevitable" U.S.-Chinese conflict is less likely to occur.**

Whoosh you were here!

## **FEDERALISM GOOD IMPACTS – HUMAN RIGHTS**

### **A. Federalism is key to government responsivity which is vital for protection of human rights**

#### **Calebresi in 95**

[Stephen, Associate Professor, Northwestern University School of Law. B.A. 1980, J.D. 1983, Yale, "Reflections on United States v. Lopez: "A GOVERNMENT OF LIMITED AND ENUMERATED POWERS": IN DEFENSE OF UNITED STATES v. LOPEZ," 94 Mich. L. Rev. 752, Michigan Law Review, December, 1995]

Sixth and finally, n56 **an advantage to international federation is that it may facilitate the protection of individual human rights.** For reasons Madison explained in the Federalist Ten, n57 **large governmental structures may be more sensitive than smaller governmental structures to the problems of abuse of individual and minority rights.** n58 **Remote federal legislatures or courts, like the U.S. Congress and Supreme Court, sometimes can protect important individual rights when national or local entities might be unable to do so.** n59 As I have explained elsewhere, this argument remains a persuasive part of the case for augmented federal powers. n60

### **B. International protection of rights is key to preventing racism and genocide**

#### **Hoffman in 2004**

[Paul, Chair of the International Executive Committee of Amnesty International. He is a civil rights and human rights lawyer with the Venice-based law firm of Schonbrun, DeSimone, Seplow, Harris & Hoffman LLP, Human Rights Quarterly, Nov 2004, p. 932-955]

**History shows that when societies trade human rights for security, most often they get neither. Instead, minorities and other marginalized groups pay the price through violation of their human rights. Sometimes this trade-off comes in the form of mass murder or genocide, other times in the form of arbitrary arrest and imprisonment, or the suppression of speech or religion. Indeed, millions of lives have been destroyed in the last sixty years when human rights norms have not been observed.**" Undermining the strength of international human rights law and institutions will only facilitate such human rights violations in the future and confound efforts to bring violators to justice.'

## FEDERALISM GOOD IMPACTS – KASHMIR

### A. Indian federalism is critical to end the Kashmir conflict

#### **The Hindu '01**

(7-14, Lexis)

It is unfortunate that the BJP has never really understood Indian federalism except as a means to grab power and public attention for itself and its allies. The BJP's stance on abolishing Article 370 which confers a special status on Kashmir reveals its malunderstanding of India's federal structure. Again, the Nagaland ceasefire which has exercised Manipur, Arunachal Pradesh and Assam shows an inability to recognise the distinctness of each State. Indian federalism is quite unique - even more so than the Chinese's after Hong Kong and Macao joined their Union. **What is at issue in the Indo-Pakistan talks is Indian federalism.** India is as, if not more, varied as Europe. But, **India has chosen federalism as its vehicle for pulling the subcontinent together. Pakistan and some of the Kashmiri groups are threatening the "balkanisation" of Kashmir.** This is not an idle threat. We have witnessed a balkanisation process in the former Yugoslavia regions. A similar gameplan is being pushed for Kashmir by Pakistan and its contrived allies. If this is accepted for Kashmir, it will apply to other regions to put the very concept of India at risk. India's stance at these talks has to be founded on the twin principles of secularism and federalism. The BJP seems to understand both imperfectly. **To each group and part of India, India offers autonomy,** its sense of uniqueness, democracy, the rule of law and a sensitive and equitable federalism. The fundamental principle is Delhi does not rule India. India rules India. **This is the key which unlocks the secret of Indian democracy and governance.**

### B. The impact is extinction

#### **Fai '01**

(Ghulam Nabi, Executive Director, Kashmiri American Council, Washington Times, 7-8)

The foreign policy of the United States in South Asia should move from the lackadaisical and distant (with India crowned with a unilateral veto power) to aggressive involvement at the vortex. **The most dangerous place on the planet is Kashmir,** a disputed territory convulsed and illegally occupied for more than 53 years and **sandwiched between nuclear-capable India and Pakistan. It has ignited two wars** between the estranged South Asian rivals in 1948 and 1965, **and a third could trigger nuclear volleys and a nuclear winter threatening the entire globe.**

# FEDERALISM GOOD IMPACTS – INTERNATIONAL LAW

## A. Federalism is key to international agency consolidation and international law

### Calebresi in 95

[Stephen, Associate Professor, Northwestern University School of Law. B.A. 1980, J.D. 1983, Yale, "Reflections on United States v. Lopez: "A GOVERNMENT OF LIMITED AND ENUMERATED POWERS": IN DEFENSE OF UNITED STATES v. LOPEZ," 94 Mich. L. Rev. 752, Michigan Law Review, December, 1995]

**These old geostrategic arguments for federalist consolidation obviously hold true today and played a role in the forming of the European Union, the United Nations, and almost every other multinational federation or alliance that has been created since 1945.** Sometimes the geostrategic argument is expanded to become an argument for a multinational defensive alliance, like NATO, against a destabilizing power, like the former Soviet Union. In this variation, **international federalism is partly a means of providing for the common defense and partly a means of reducing the likelihood of intra-alliance warfare in order to produce a united front against the prime military threat.** Providing for the common defense, though, is itself a second and independent reason for forming international federations. It was a motivation for the formation of the U.S. federation in 1787 and, more recently, the European Union.

## B. International law is key to averting extinction

### Malaysian Medical Association, 2002

[[http://www.mma.org.my/current\\_topic/sept.htm](http://www.mma.org.my/current_topic/sept.htm)]

We call on all governments to place their foreign and domestic policies and their behaviour under the scrutiny of international law and international institutions. Each government must take primary responsibility for ending its own contribution to the cycle of violence. As citizens, we are expected to abide by the law. We expect no less from governments. This is a necessary part of honouring the lives of so many men, women and children whose deaths are commemorate.

**At a time when global problems should be solved by cooperating and complying with multilateral legally-binding treaties, and by embracing the rule of law as valuable instruments for building common security and safeguarding the long-term, collective interests of humanity,** there are unmistakable signs that powerful states are taking unilateral action, setting aside international treaties, and undermining international law. The principle of the rule of law implies that even the most powerful must comply with the law, even if it is difficult or costly or when superior economic, military and diplomatic power may seem to make compliance unnecessary.

The destruction of the symbols of American economic power and military might on 11th September is a salutary reminder that military power, including the possession of nuclear weapons, does not deter terrorists or confer security or invulnerability. It has prompted the Bush administration to declare "war on terror" and convinced it that a military response is the best way to fight terrorism on a global scale, without considering alternative, more effective ways of combating terrorism, such as addressing the root causes of terrorism. The greatest betrayal of those who died on 11th September 2001 would be to not recognise that there are non-violent ways of resolving conflict. This is a difficult, uncertain path to take, whereas violence and war are easy, predictable options. **The lesson of 11th September is that our collective survival depends upon forging cooperative, just and equitable relationships with each other; in rejecting violence and war; and in pursuing non-violent resolutions to conflict. The alternative is a world perpetually divided, continually at war, and possibly destroying itself through environmental degradation or the use of weapons of mass destruction.**

## FEDERALISM GOOD IMPACTS – FREE TRADE

### A. Federalism is key to establish bonds that create free trade

#### Calebresi in 95

[Stephen, Associate Professor, Northwestern University School of Law. B.A. 1980, J.D. 1983, Yale, "Reflections on United States v. Lopez: "A GOVERNMENT OF LIMITED AND ENUMERATED POWERS": IN DEFENSE OF UNITED STATES v. LOPEZ," 94 Mich. L. Rev. 752, Michigan Law Review, December, 1995]

A fourth and vital advantage to international federations is that they can promote the free movement of goods and labor both among the components of the federation by reducing internal transaction costs and internationally by providing a unified front that reduces the costs of collective action when bargaining with other federations and nations. This reduces the barriers to an enormous range of utility-maximizing transactions thereby producing an enormous increase in social wealth. Many federations have been formed in part for this reason, including the United States, the European Union, and the British Commonwealth, as well as all the trade-specific "federations" like the GATT and NAFTA.

### B. Free trade is key to avert nuclear annihilation

#### Copley News Service 99 [Dec 1, LN]

For decades, many children in America and other countries went to bed fearing annihilation by nuclear war. The specter of nuclear winter freezing the life out of planet Earth seemed very real. Activists protesting the World Trade Organization's meeting in Seattle apparently have forgotten that threat. The truth is that nations join together in groups like the WTO not just to further their own prosperity, but also to forestall conflict with other nations. In a way, our planet has traded in the threat of a worldwide nuclear war for the benefit of cooperative global economics. Some Seattle protesters clearly fancy themselves to be in the mold of nuclear disarmament or anti-Vietnam War protesters of decades past. But they're not. They're special-interest activists, whether the cause is environmental, labor or paranoia about global government.

Actually, most of the demonstrators in Seattle are very much unlike yesterday's peace activists, such as Beatle John Lennon or philosopher Bertrand Russell, the father of the nuclear disarmament movement, both of whom urged people and nations to work together rather than strive against each other. These and other war protesters would probably approve of 135 WTO nations sitting down peacefully to discuss economic issues that in the past might have been settled by bullets and bombs. As long as nations are trading peacefully, and their economies are built on exports to other countries, they have a major disincentive to wage war. That's why bringing China, a budding superpower, into the WTO is so important. As exports to the United States and the rest of the world feed Chinese prosperity, and that prosperity increases demand for the goods we produce, the threat of hostility diminishes. Many anti-trade protesters in Seattle claim that only multinational corporations benefit from global trade, and that it's the everyday wage earners who get hurt. That's just plain wrong. First of all, it's not the military-industrial complex benefiting. It's U.S. companies that make high-tech goods. And those companies provide a growing number of jobs for Americans. In San Diego, many people have good jobs at Qualcomm, Solar Turbines and other companies for whom overseas markets are essential. In Seattle, many of the 100,000 people who work at Boeing would lose their livelihoods without world trade. Foreign trade today accounts for 30 percent of our gross domestic product. That's a lot of jobs for everyday workers. Growing global prosperity has helped counter the specter of nuclear winter. Nations of the world are learning to live and work together, like the singers of anti-war songs once imagined. Those who care about world peace shouldn't be protesting world trade. They should be celebrating it.

Whoosh you were here!

## FEDERALISM GOOD IMPACTS – NATO 1/2

### A. First, the success of American federalism is key to NATO success

#### Calebresi in 95

[Stephen, Associate Professor, Northwestern University School of Law. B.A. 1980, J.D. 1983, Yale, "Reflections on United States v. Lopez: "A GOVERNMENT OF LIMITED AND ENUMERATED POWERS": IN DEFENSE OF UNITED STATES v. LOPEZ," 94 Mich. L. Rev. 752, Michigan Law Review, December, 1995]

The bitter harvest of the nationalist revolution was gathered in this century with the slaughter of the First and Second World Wars and with the fifty-year Cold War that then followed. These events finally made clear to the great-great-grandchildren of the Enlightenment that celebration of the nation state could lead to Nazism and Stalinism, to war and genocide, and to totalitarianism and the most complete loss of freedom humankind ever experienced. **By 1945, the democratic revolution was still in full flow**, but the nationalist revolution was not. **World leaders scrambled to replace** the still collapsing colonial, imperial **transnational structures with new federal** and confederal transnational **structures**.

**The fifty years since then have seen the birth of** the United Nations, the North Atlantic Treaty Organization (**NATO**), the European Union, the European Convention on Human Rights, the British Commonwealth, the Confederation of Independent States (CIS), the GATT, the NAFTA, **and countless other transnational "federal" entities** of varying degrees of importance. n24 **Many of these were openly inspired by the success story of American federalism**, which, for example, led many Europeans to want to build a Common Market that could become a "United States of Europe." While many of these new democratic transnational entities are very weak, they nonetheless have developed important powers: they have helped to keep the peace, and in some instances, as with the European Union, they show real potential for some day attaining essentially all the attributes of sovereignty commonly associated with a federal nation-state, like the United States. The growth and success of transnational confederal forms since 1945 is truly astonishing and rightly is viewed by many - either with alarm or with hope - as holding out the eventual prospect of a future global federal government or at least the prospect of several continental-sized federal governments.

### b) NATO is critical to rebuild relations between Russia and the U.S.

#### Grant in 2002

[Charles, Director of the Centre for European Reform, RUSSIA WEEKLY, August 8, 2002, p.<http://www.cdi.org/russia/218-9.cfm>].

**So what should Nato do? It should provide a forum for North Americans, Europeans and Russians to talk about matters of common concern**, such as proliferation, missile defence, the Balkans and the modernisation of Russia's armed forces. **There is no other body that can keep the US directly involved** in European affairs. **And no other organisation is so well suited to engaging Russia's security establishment**. In the long run, if Russia becomes a more westernised country, and if the European Union's common foreign and security policy becomes more solid, Nato's political organisation is likely to rest on three pillars: the US, the EU and Russia.

## FEDERALISM GOOD IMPACTS – NATO 2/2

c) US-Russian relations are essential to prevent a Russia-China nuclear war which eliminates all life

Newsweek 95

[Michael Elliott, "Why Russia still matters to America," May 15, LN]

"Russia," says Deputy Secretary of State Strobe Talbott, "is a big country." That it is; lop off the newly independent states born within the old Soviet husk and you've still got a lot left -- a highly educated work force sitting on top of some of the globe's most valuable resources. True, much of that vast territory has an awful climate (climate matters--for different reasons than Russia's, it explains why Australia will never be a great power). But unlike India and China, two other "giant" states, **Russia** will be able to husband its vast resources without the additional strain of feeding -- and employing--more than a billion souls. It also, of course, **is the only country that can launch a devastating nuclear attack on the United States. That kind of power demands respect. And sensitive handling.** Stephen Sestanovich, head Russia watcher at the Carnegie Endowment for International Peace in Washington, argues that present U.S. policy is geared too much to "dismantling Russian military might" -- a policy that, since it breeds Russian resentment of Western meddling, is self-defeating. "We have to reorient Russian power," says Sestanovich, "not eliminate it. Because we can't eliminate it." Indeed, **Washington should prefer a strong Russia. A Russia so weak, for example, that it could not resist a Chinese land grab of its Far East without resorting to nuclear weapons is a 21st-century nightmare. All this implies a close U.S. --Russian relationship stretching into the future.** American officials say it will be a "pragmatic" one, recognizing that Russian and U.S. national interests will sometimes collide. The danger, for the United States, is that a pragmatic relationship could be dominated by security issues. In Western Europe, some futurists say that in the coming decades Russia will talk to the United States about nuclear weapons but to the European Union about everything else--trade, economic development and the rest. Bullish forecasts: Talbott insists that won't happen. America has good reasons for wanting a relationship with Russia based on more than security. For Russia may one day be very rich, and flit is, American investors and exporters will want to share in its wealth. The last month has seen a rash of bullish forecasts on Russian economic growth. (Though be warned: in previous years such optimism has not lasted the fall. If you lived in Moscow, you'd think May was nice, too.)

Whoosh you were here!

## FEDERALISM GOOD IMPACTS – SPACE

### A. Federalism is key to economic growth which is key to the space program

#### Calebresi in 95

[Stephen, Associate Professor, Northwestern University School of Law. B.A. 1980, J.D. 1983, Yale, "Reflections on United States v. Lopez: "A GOVERNMENT OF LIMITED AND ENUMERATED POWERS": IN DEFENSE OF UNITED STATES v. LOPEZ," 94 Mich. L. Rev. 752, Michigan Law Review, December, 1995]

A third related advantage is that **international federations can undertake a host of governmental activities in which there are significant economies of scale.** This is one reason why federations can provide better for the common defense than can their constituent parts. Intercontinental ballistic missiles, nuclear-powered aircraft [\*772] carriers and submarines, and B-2 stealth bombers tend to be expensive. **Economies of scale make it cheaper for fifty states to produce one set of these items than it would be for fifty states to try to produce fifty sets.** This is true even without factoring in the North American regional tensions that would be created if this continent had to endure the presence of fifty nuclear minipowers, assuming that each small state could afford to own at least one Hiroshima-sized nuclear bomb. Important governmental economies of scale obtain in other areas, as well, however, going well beyond national defense. **For example, there are important economies of scale to the governmental provision of space programs, scientific and biomedical research programs, the creation of transportation infrastructure, and even the running of some kinds of income and wealth redistribution programs.**

### B. Extinction is inevitable by 2050 without space colonization

#### Daily Record 2002

[Graham Brough, "WOULD THE LAST PERSON TO LEAVE EARTH PLEASE TURN OUT THE LIGHTS; EXPERTS WARN WE NEED TO MOVE PLANET AS MODERN LIFE KILLS OURS," Jul 8, LN]

**The Earth will be so gutted, wrecked, over-exploited and the barren seas so fished out that we will have to find a new planet – or even two - by 2050.** Environmentalists at the World Wildlife Fund say **we have just another half century of luxury living left before the Earth becomes a spent husk. By that time, we will either have to colonise space or risk human extinction as population and consumption expand.** The worst culprits are Americans, who each consume more food and fuel per year than 25 Africans. With the chances of discovering another habitable planet still in the realms of science fiction, WWF says the only realistic chance for survival is to curb consumption. A new WWF report tomorrow will shame the Americans with a damning league table that shows how much land is needed to support a single American, European or African. It takes just over an acre of land to support a person from Burundi, one of Africa's poorest nations. A European needs 15 acres of land as his "footprint" on the globe. But a US citizen needs a staggering 30 acres, the highest consumer intake of any civilisation in the Earth's history . Critics say **America is so devoted to conspicuous consumption, that space colonisation is more realistic than a lifestyle change**

Whoosh you were here!



**\*\*AFF\*\***

## **FEDERAL ACTION SOLVES – GENERAL**

**Deferring to the states is no longer an option because of the vast geopolitical and environmental impact of fossil fuel consumption.**

### **Greenwald & Gray, 08**

[Steven & Jeffrey, Energy Practice Group, *Departments*, Departments Power Magazine March 2008, lexis]

Federalism. The current 2008 PTC expiration can also be intellectualized as an appropriate exercise of federalism. If certain states (“Green States”) perceive the advantages of renewable power, but certain other states (“Brown States”) question its cost-effectiveness, one might argue, it is appropriate for Congress to defer, allowing each state to make its own economic assessment. Why should a state endowed and content with coal subsidize manure-to-electricity projects in California? If Green States want green power, their ratepayers and taxpayers should pay their own way, without citizens in Brown States subsidizing “this latest passing fancy.”

**The simple response to this isolationist position is that we no longer have the luxury of framing the economic, environmental, and geopolitical challenges of fossil fuel use as local issues. Only an integrated national policy has a chance of succeeding.**

## FEDERAL ACTION SOLVES – CAP & TRADE

**Federal Cap-and-trade solves best and preserves federalism.**

### **Westerfield, 08**

[Bill, *EBA CLIMATE CHANGE PRIMER: CAP AND TRADE*, Foundation of the Energy Law Journal, 2008, lexis]

Okay so now on key issues and I probably have one minute to just flag these. It's worth taking a minute to think about what states are doing differently from some of the approaches debated here in D.C. and one of them is that states are generally taking a much more comprehensive approach to climate change. So they're looking at all sectors. It's not just cap-and-trade; it's not just cap-and-trade plus RPS; not cap-and-trade plus RPS but some energy efficiency; they're looking at agriculture, local land use planning, and the like. They are some legacy issues as I mentioned that may be taken from the cap-and-trade designs that emerge out of the states and then here is this issue of now that the federal government has gotten around to talking seriously about proposals and it seems likely that they're going to adopt some form of climate change legislation, maybe not pre 2009 but shortly thereafter, then what should happen to these state efforts? Should they all be pre-empted? If they're not pre-empted, how do they get rolled up into a federal program? And given that the states have been far more comprehensive about their climate change planning, how do you divide the roles between the federal government and the state government? Surely the states will always be land use regulators for example. Well how can the federal government incorporate that into a federal program? And I'll leave you with one thought since this is a cap-and-trade seminar. One very important thing to remember when you think about these issues and you've seen here that states have been out in front. They've been pushing the policy envelope and as we think about adopting a federal program, it's worth at least considering preserving some ability for states to continue to drive policy after a federal program has been adopted. But with a cap-and-trade, if you have a federal cap-and-trade, and cap-and-trade is one of those examples of something that's definitely better off to do on a national level. **The bigger the cap-and-trade program, the better. The more sources it covers, the more low cost opportunities you'll cover or you'll unearth. So let's say you have a national cap-and-trade and then you have one state like California or New York who wants to go further than a national cap-and-trade. If I'm New York and there is a federal cap-and-trade program in place, any additional action that I take to reduce emissions in New York from sources covered by the federal program, simply frees up federal allowances that can be sold elsewhere in the country.** So bear in mind that it's a numbers game and you can be more aggressive in the states but you don't necessarily see a reduction over all in the country. So in order to address that point, there are a number of things you could do. The federal government could give control of the allowance budgets to the states, similar to what they've done at least partially in the CAIR program that Brian mentioned. You could allow states to retire allowances to buy up allowances or capture allowances somehow and retire them in order to tighten the overall cap. But those are just two examples but if we want states in this federalism construct that we have to be able to drive climate policy within the context of a federal cap-and-trade, we need to be creative about how that's done. So that's all I have.

**Whoosh you were here!**

## **FEDERAL ACTION SOLVE – RPS**

**State RPS will fail unless a national standard is adopted.**

### **UCS, 07**

[Union of Concerned Scientists, *Renewable Electricity Standards at Work in the States*,  
[http://www.ucsusa.org/clean\\_energy/clean\\_energy\\_policies/res-at-work-in-the-states.html](http://www.ucsusa.org/clean_energy/clean_energy_policies/res-at-work-in-the-states.html)]

**States have demonstrated that renewable electricity standards can be effective.** In addition, survey after survey shows that Americans strongly favor clean renewable energy sources and support a national standard. **Because investments in clean energy create important benefits for the entire nation, the renewable electricity standard should now become a cornerstone of America’s national energy policy. A strong national commitment to renewable energy is needed** to:

- \* Diversify our fuel mix and enhance the reliability of fuel supplies
- \* Increase economic development and family-wage jobs
- \* Insulate our economy from fossil fuel price spikes and supply shortages
- \* Create new competition to help restrain fossil fuel price increases
- \* Improve our national security
- \* Reduce a growing reliance on imported fuel and electricity
- \* Reduce renewable energy technology costs by creating economies of scale and a national market for the most cost-effective resources
- \* Protect our environment and public health
- \* Build a strong domestic renewable energy industry, which can serve growing international markets and domestic markets

**Existing state commitments are an excellent start, but a national standard is necessary to satisfy these goals for the entire country.**

## **FEDERAL ACTION SOLVES – RPS**

**Federal RPS can be implemented such that it still allows states room to experiment with their own programs.**

### **Enrud, 08**

[Nathan E., JD Candidate @ Harvard Law, *STATE RENEWABLE PORTFOLIO STANDARDS: THEIR CONTINUED VALIDITY AND RELEVANCE IN LIGHT OF THE DORMANT COMMERCE CLAUSE, THE SUPREMACY CLAUSE, AND POSSIBLE FEDERAL LEGISLATION*, Harvard Journal on Legislation, Vol. 45, 2008]

**In order to remove any possible ambiguity regarding more stringent state RPSs, Congress should put an explicit savings clause into any federal RPS statute to confirm the validity of such standards. Such authorization would permit states to serve as policy laboratories in environmental regulation and would restore to states some of their traditional authority over regulating their local environments.** Further, unlike the case of vehicle emissions regulation, where Congress has explicitly preempted most state standards, **RPS obligations that are more stringent than their federal counterparts are unlikely to create economic inefficiency attributable to non-uniform manufacturing requirements** on industry

## **FEDERAL ACTION SOLVES – RPS**

**State RPS programs are threatened by a dormant Commerce Clause interpretation. Congressional action is essential to preserving current state RPS programs.**

### **Enrud, 08**

[Nathan E., JD Candidate @ Harvard Law, *STATE RENEWABLE PORTFOLIO STANDARDS: THEIR CONTINUED VALIDITY AND RELEVANCE IN LIGHT OF THE DORMANT COMMERCE CLAUSE, THE SUPREMACY CLAUSE, AND POSSIBLE FEDERAL LEGISLATION*, Harvard Journal on Legislation, Vol. 45, 2008]

**Despite the lack of legal challenges, to date, to state RPS statutes that discriminate against interstate commerce, the threat of invalidation under the dormant Commerce Clause to such statutes, and to state agencies discriminatory implementation of even neutral RPS statutes, is clear under established Supreme Court doctrine.** To avoid such challenges, states enacting or amending RPS programs and seeking to retain the resultant economic benefits for themselves should avoid in-state or in-region restrictions on energy eligibility, as well as language that requires or encourages state agencies to implement RPS programs in a discriminatory manner. Instead, states should employ in-state consumption or sales restrictions, or regional power pool or control area delivery requirements. For its part, **Congress should consider explicit authorization of protectionist restrictions in state RPS programs, since the overall utility of such restrictions in providing incentives for states to overcome public choice problems and enact aggressive standards may outweigh the resulting burdens on interstate commerce.**

## PERM SOLVENCY – RPS

**Federal and state actions are complementary – states can set requirements while the federal government provides the incentives.**

### **Community Rights Counsel, No Date**

[Redefining Federalism, *Top 10 State and Local Environmental Solutions*, <http://www.redefiningfederalism.org/SLES/Sol4.asp>]

**Many states have approached RPS as an economic development strategy.** Texas, for example, has committed to increasing wind power so that it can be a net energy exporter and keep the state's energy sector strong. **The state's new RPS law calls for doubling renewal power generation over the next decade.** The Comptroller of the state of New York has estimated that meeting the state's ambitious RPS goal (25% by 2013) will create almost 16,000 direct jobs and 43,000 jobs overall.

Federal role:

**The states and the federal government have complementary roles in encouraging renewable energy. The federal government provides research funds and tax incentives, while the states set deadlines for utilities to start using renewable energy.**

## **FEDERAL ACTION SOLVES – RPS**

**A National RPS is essential to getting all utilities to shift towards renewable energy. States can't provide the same level of incentive.**

**Fershee, Asst. Prof @ University of North Dakota School of Law, 08**

[Joshua, *CHANGING RESOURCES, CHANGING MARKET: THE IMPACT OF A NATIONAL RENEWABLE PORTFOLIO STANDARD ON THE U.S. ENERGY INDUSTRY*, 29 Energy L. J. 49, lexis]

**The mere existence of a national RPS would provide some incentive for all utilities to invest in renewable generation because that investment would have two markets - the market for its electricity and the market for its RECs - instead of just the market for its electricity for a traditional generation facility.** 107 In [\*64] addition, it is likely that power projects will require "more equity, less debt, and shorter debt repayment periods" than in the past. 108 "Developers will probably attempt to sign bilateral contracts with large end users, marketers, aggregators, and utilities, but contract terms are likely to be shorter than in the past." 109 In fact, "corporate balance-sheet financing may also become more common." 110 If a utility buys RECs and energy from another supplier, there is also a risk that purchase agreement would end up showing as a long-term debt on the utility's balance sheet. 111 Thus, how a national RPS would impact such capital-intensive investments is hard to predict.



## FEDERALISM BAD IMPACTS – ENVIRONMENTAL PROTECTION

### A. Federalism undermines biodiversity – resistance from local citizens and governments proves

Tarlock, Professor of Law at Chicago-Kent College of Law, 95 [A. Dan, Md. L. Rev. 1315, Summer, p. Lexis]

**Federalism doctrines may undermine biodiversity for both ethical and practical reasons because they unduly check national authority. Biodiversity protection is more the province of national elites** than local citizens and runs counter to the often expressed preferences for lower-level rather than higher-level political control for the use of private property claims to block environmental regulation. The fact **that biodiversity is frustrated by lower-level resistance** is, of course, not in and of itself a basis for criticizing a constitutionally derived doctrine. However, biodiversity protection may provide a new interest for courts to consider in federalism and constitutional adjudication when no other compelling constitutional values are at stake.

**The root of the problem is the preference for local decision-making that runs through much federalism jurisprudence. This preference can frustrate biodiversity because it concentrates power at the level where opposition to biodiversity protection may be the strongest.** The preference for local decision-making rests on an alternative vision of the virtues of America as a confederation of city-states, coexisting with the Marshallian vision of a strong central government curbing parochial tendencies. Professor Carol **Rose finds the persistence "of stubborn local particularism" a logical "evolution of a kind of Anti-Federalist praxis,** almost invisible in an intellectual environment of overwhelming Federalist theory."<sup>109</sup> Biodiversity protection is especially vulnerable to this form of localism because it is both a novel and thus difficult theoretical, legal, and political problem. [\*1337]

### B. Preservation of biodiversity is crucial to preventing human extinction

**Kaufman**, Chief Scientist at Edgerton Research Lab, 93 (Les, The Last Extinction, p. 4)

**The fourth argument for preserving biological diversity is the simplest: Our lives depend on it. We are part of a common fabric of life. Our survival is dependent on the integrity of this fabric, for the loss of a few critical threads could lead to a quick unraveling of the whole.** We know that there have been previous mass extinctions, through which some life survived. As for our own chances of surviving this mass extinction, there can be no promises. **If the Grim Reaper plays any favorites at all, then it would seem to be a special fondness for striking down dominant organisms in their prime.** David Joblinski examines the fates of rudist bivalves, mammal-like reptiles, dinosaurs, and a host of other scintillating but doomed creatures in his essay. Humans are now the dominant creatures, at least in terms of their influence. So, **lest history bear false witness and barring some serious conservation efforts on our part, this mass extinction could well be the last one that we will ever know about.**

## FEDERALISM BAD IMPACTS – RUSSIA 1/2

### A. Uniqueness – political stability in Russia is leading to all-time economic records

Ermakova, Moscow Correspondent, August 28 **06** [“Russian Stocks Approach \$1 Trillion, First for Emerging Markets,”

<http://www.bloomberg.com/apps/news?pid=20601085&sid=aPVn06MHpCcM&refer=europe>]

Aug. 29 (Bloomberg) -- **Russian stocks are approaching \$1 trillion in value, an emerging-market record, mostly because of the country's burgeoning oil industry.**

“Russia has a great potential,” said Jacob Grapengiesser, who helps manage \$4 billion at East Capital Asset Management AB in Stockholm. “**There has been political stability, the economy is strong, and things are getting better for people, not just the market.**” The firm has about half its holdings in Russia.

### B. Link and internal link – The American model of federalism pits Russia into political anarchy and economic catastrophe

Hadar, Washington Correspondent, **99** [Leon, Business Times, “America America,” December 31, page Nexis]

But **the notion that there is an ideal Western model that can be marketed and adopted worldwide is based on a false reading of the history of this millennium.**

**One doesn't have to be an economic expert to figure out that this formula has failed to produce the expected results in the former Soviet Union, where an attempt to import and absorb the American model into Russia** (as well as to Belarussia and Ukraine), **has created an economic catastrophe and a sense of political anarchy.** Similarly, there are no signs that American-style federalism is going to be set up in Yugoslavia next year, that Jeffersonian democracy will be instituted in China anytime soon, or that the creative chaos of the free market will help create economic miracles in, say, Romania or Pakistan.

## FEDERALISM BAD IMPACTS – RUSSIA 2/2

### C. Impact – Russian economic deterioration leads to civil collapse and unparalleled nuclear risks

David, Professor of Political Science at Johns Hopkins, 99 [Jan/Feb, Foreign Affairs, p. Lexis]

If internal war does strike Russia, economic deterioration will be a prime cause. From 1989 to the present, the gross domestic product has fallen by 50 percent. In a society where, 10 years ago, unemployment scarcely existed, it reached 9.5 percent in 1997 with many economists declaring the true figure to be much higher. Should Russia succumb to internal war, the consequences for the United States and Europe will be severe. A major power like Russia -- even though in decline -- does not suffer civil war quietly or alone. An embattled Russian Federation might provoke opportunistic attacks from enemies such as China. Massive flows of refugees would pour into central and western Europe. Armed struggles in Russia could easily spill into its neighbors. Damage from the fighting, particularly attacks on nuclear plants, would poison the environment of much of Europe and Asia. Within Russia, the consequences would be even worse. Just as the sheer brutality of the last Russian civil war laid the basis for the privations of Soviet communism, a second civil war might produce another horrific regime. The greatest danger Most alarming is the real possibility that the violent disintegration of Russia could lead to loss of control over its nuclear arsenal. No nuclear state has ever fallen victim to civil war, but even without a clear precedent the grim consequences can be foreseen. Russia retains some 20,000 nuclear weapons and the raw material for tens of thousands more, in scores of sites scattered throughout the country. So far, the government has managed to prevent the loss of any weapons or much materiel. If war erupts, however, Moscow's already weak grip on nuclear sites will slacken, making weapons and supplies available to a wide range of anti-American groups and states. Such dispersal of nuclear weapons represents the greatest physical threat America now faces. And it is hard to think of anything that would increase this threat more than the chaos that would follow a Russian civil war.

## FEDERALISM BAD IMPACTS – INDONESIA

### A. Federalism leads to Indonesian fragmentation

#### Asia Week '2K

( 8-4, [http://www.pathfinder.com/asiaweek/magazine/2000/0804/is.asianwars\\_sb1.html](http://www.pathfinder.com/asiaweek/magazine/2000/0804/is.asianwars_sb1.html))

One problem is that **federalism is seen as a panacea for all woes**, regardless of the idiosyncrasies of each state. It has not been particularly effective, for example, in subduing separatist movements in Canada or Nigeria. In Asia, Indonesia, the Philippines and Sri Lanka are all discussing federal possibilities. **But it is wrong to simply assume that anything that worked in the West will work in Asia**. Here's why: **Indonesia**: Although the country was established as a federation of 15 autonomous states in November 1949, this **structure was abandoned less than a year later in favor of a highly centralized system**. **The fear was that a federal organization would facilitate disintegration and weaken the identity of the people as Indonesians**. The Regional Autonomy Bill, which could take effect at the beginning of 2001, promises more power and government funds to the provinces. But will mere autonomy satisfy the Acehnese, who have demanded freedom for years? Maluku declared independence in 1950, only to be taken back forcibly by the military. A form of federalism may be enough for the Malukus, where bloodshed is recent, but it may not be possible. Opponents claim it is against the Constitution. Philippines: To deal with war and development problems in Mindanao, the Senate is examining federalism as a means to resolve provincial disparities. The proposal by political scientist Jose Abueva envisages a two-stage transformation from the decentralized unitary system to a federal system by 2010. The Moro Islamic Liberation Front, however, wants a separate nation, not autonomy. Compromise is needed. Sri Lanka: Previous attempts at devolution, notably in the 1980s, failed mainly because there was no clear delineation of powers to be devolved. Unanimous agreement from Tamil parties also was absent. Last month the Tamil Tigers refused to address a government devolution plan unless Tamil self-determination was examined first. Secession, it seems, is non-negotiable. Present models of federalism presuppose a transparent democratic framework, a strong and independent judiciary to resolve jurisdiction disputes, and parties willing to bargain without resorting to violence. **The fear in such countries as Indonesia is that federalism will simply foster increased regionalism, causing more enmity**. If it is to work, a purely Asian solution must be devised — one not based on experiences in North America and Europe, but on the more complex and violent conflicts of former colonies.

## FEDERALISM BAD IMPACTS – INDONESIA 2/2

### B. Indonesian collapses destroys hegemony and the economy

**Menon '01** (Rajan, Prof International Relations – Lehigh U., The National Interest, June, Lexis)

Indonesia may survive the combined assault of an ailing economy, deepening separatism, and a failing state. Such an outcome is certainly desirable, but it is not likely. American leaders must therefore brace for the possibility that **Indonesia could still collapse in chaos and disintegrate in violence**. Alternatively, the current instability could continue until economic recovery and political compromise give rise to a country of a rather different shape and size. With Wahid gone and Megawati in place, this is now somewhat more likely. **Even the loss of Aceh and West Papua** need not spell national disintegration; without such provinces Indonesia would still retain the critical mass to endure as a state. The second of these denouements is preferable to the first, but both **will create strong shock waves. Indonesia's size and location are the reasons why. The three major straits that slice through it are pivotal passages for the global economy**. Malacca is by far the most important, particularly for energy shipments. Some 450 vessels and about 10 million barrels of oil pass through daily, and East Asian demand, driven by China, is expected to rise from 12 million barrels a day in 2000 to over 20 million barrels in twenty years. **Japan, China, Taiwan and South Korea would suffer severely and soon if fallout from turmoil in Aceh** (at its northern end) **or Riau** (at its southern end) **blocked this passage**. Its narrowness, 1.5 miles in the Phillips Channel in the Singapore Strait, and ten miles between Singapore and the Riau archipelago, adds to the danger. The Lombok Strait, which ships use to sail to northeast Asia through the Strait of Makasar between Borneo and Sulawesi, is next in importance, although it handles a far smaller volume of traffic than Malacca and is of negligible importance for energy shipments. The Lombok-Makasar route is, however, a critical corridor for Australia's coal and iron ore exports to northeast Asia and for manufactured exports moving south from there. It is also the most likely detour were Malacca rendered impassable or hazardous. By comparison, Sunda is a minor shipping channel; the consequences of its closure would be minimal for transcontinental trade. Rerouting Malacca traffic through Lombok would strain the capacity of the world's merchant fleet, increase transportation costs, and create severe bottlenecks. The problems would be even worse if all three straits were unusable and ships had to transit northeast Asia by skirting Australia's northern coast. Market signals would eventually add other carrying capacity but the question is how quickly and smoothly the adjustment occurs, and what the economic and political consequences would be in the meantime. **The ramifications of blocked or delayed maritime traffic, or even just panic over the possibility, would spread speedily throughout globalization's many circuits**. Insurance rates would rise; coverage may even be denied if underwriters deem the risks excessive. The effects of obstructed energy, machinery and manufactured goods would register in capital markets, short-term investors would be scared off, and the flow of much-needed foreign direct investment into a region still convalescing from the blows of 1997 would slow. Piracy in the seas around Indonesia would also worsen if the Jakarta government either ceased functioning or were so busy holding the country together that it could not police its waters. The hijacking of ships has increased since Indonesia's upheavals began. There were 113 incidents in its waters in 1999 compared to 60 the year before, and between January and March of 2001 alone, pirates attacked ships in Indonesian waters 29 times and on nine occasions in the Malacca Strait. The vessels victimized near Malaysia, Singapore and Indonesia included several oil tankers and ships carrying aluminum and palm oil. The three countries began to coordinate operations against the menace in 1992, and in 2000 Japan proposed that its coast guard join the effort along with China and South Korea. Yet how serious piracy becomes, and how effective any joint solution is, depends primarily on the extent of Indonesia's stability. Refugee flows will also accelerate if Indonesia starts to break apart. The refugee population of one million already within its borders will soar, dragging the economy down further and aggravating communal violence. Refugees could also be driven beyond Indonesia into neighboring countries that are neither prepared to receive them nor able to bear the burden of caring for them. Malaysia, which lies across the water from Aceh, has already seen rising illegal immigration from Indonesia, and its officials worry about the social tensions that could result. The refugee problem also figures prominently in Australian and Singaporean discussions of Indonesia. Indonesia's neighbors have other worries, as well, as they watch this wobbly behemoth. For Malaysia, one is that the Malaysian Islamic Party, already powerful in northern Malaysia, could receive a fillip were militant Islam to become more significant in Indonesia's politics as a result of the turmoil-or were it to dominate its successor states. Thailand and the Philippines, which have breakaway Islamist groups in their southern regions, fear that Indonesia's collapse could produce an undesirable demonstration effect. Papua New Guinea, which borders West Papua, could be swamped by refugees and also face an older problem: incursions from the Indonesian military in hot pursuit of Papuan guerrillas. Singapore and Malaysia have invested in pipelines carrying energy from Riau and from Indonesia's Natuna gas fields (located in the South China Sea between peninsular Malaysia and Sarawak) and are watching nervously. ASEAN, whose economic and political clout has fallen short of members' hopes, will be reduced to a salon if Indonesia, its keystone, crumbles.

**Neither is it clear how Japan, China and Australia would react** to various scenarios in Indonesia. Few convergent interests unite them, and history has done much to divide them. This augurs ill for cooperation on economic assistance, refugee relief, piracy, or peacekeeping to stem Indonesia's unraveling or to deal with the consequences if that proves impossible. Indeed, **anarchy in Indonesia could start a scramble among these states that is driven more by fear, uncertainty and worst-case thinking** than by the opportunistic pursuit of advantage. A process leading to sponsorship of competitive proxy proto-statelets that rise from Indonesia's wreckage is an extreme scenario, but cannot be ruled out. Beyond the general tendency of states divided by suspicion to jockey for position when uncertainty or opportunity prevails, there are other specific motives for intervention. **China could be drawn into the fray** if Indonesia's seven-million-strong Chinese population, which has often been a scapegoat in times of trouble, were to be victimized. Beijing's increasing concern for secure energy supplies since becoming a net importer in 1993 has already made it more assertive in the South China Sea, and could provide another motive. Given Indonesia's uncertain future, Chinese maps depicting Beijing's jurisdiction over Indonesia's Natuna gas fields are a worrisome portent, particularly for Malaysia and Singapore, who envision energy pipelines from this site. Japan would move cautiously if Indonesia begins to resemble a lost cause, but it depends on Indonesia's straits and owns most of the ships that ply them. Tokyo cannot remain utterly passive if Indonesia's crisis disrupts the Japanese economy, or if others states assert their interests in ways that could do so. Indonesia's importance for Australia goes beyond the significance of the Lombok-Makasar passage. In a region being shaped by China's growing power, Indonesia, by virtue of its location and size, is central to Australian national security. Its collapse would lay waste to much of Australia's strategic planning. The consequences of Indonesia's breakup would affect American interests, as well. American energy and raw materials companies (Exxon-Mobil, Texaco, Chevron, Newmont Mining, Conoco and Freeport-McMoRan, among others) operate in Indonesia, particularly in Aceh, Riau, and West Papua, and many of the ships that traverse the Strait of Malacca are American-owned. The United States is also a major trader and investor in East Asia and is to some degree hostage to its fate, especially now that the American economy is slowing. Moreover, **if Indonesia fractures, worst-case thinking and preemptive action among its neighbors could upset regional equilibrium and undermine the American strategic canopy in East Asia**. The United States has a network of bases and alliances and 100,000 military personnel in the region, and **is considered the guarantor of stability by most states-a status it will forfeit if it stands aside as Indonesia falls apart**. America's competitors will scrutinize its actions to gauge its resolve and acumen. So will its friends and allies-**Australia, Japan,**

Whoosh you were here!

## FEDERALISM BAD IMPACTS – SECESSION 1/2

### A. Federalism risks global secession

Kelly, Director of Legal Research, Writing & Advocacy at Michigan State University's Detroit College of Law, 99 [47 Drake L. Rev. 209, p. Lexis]

However, as political sovereign entities, **federations are inherently susceptible to fragmentation. Indeed, the fault lines along which a potential break can occur are usually already in place-fixed politically, historically, or both. This flows partially from the inherent internal inequality of their collective constituent parts.**

In the international legal system, individual nation-states are formally accorded equal legal status vis-a-vis each other.<sup>181</sup> The reality, however, is that nation-states are clearly unequal in both power and ability. Likewise, federations generally accord equal legal status among their constituent parts, be they states, provinces, regions, or oblasts. And just as in the international system, the reality is that those constituent parts are often unequal in terms of development, population, and economic power.

For example, just as France and Fiji<sup>182</sup> share equal legal status on the international plane but are vastly unequal in reality, California and Rhode Island<sup>183</sup> enjoy equal legal status under the United States Constitution, but are [\*242] unequal in reality. The same comparisons can be made between many internal regions of almost any federation: Nizhny-Novgorod and Yakutia in Russia, Uttar Pradesh and Manipur in India, Amazonia and Rio in Brazil, or Ontario and Prince Edward Island in Canada. Consequently, inequality is a fundamental feature in almost any federation, whether or not it breeds secessionist ideas on its own.

Just as devolution has been seized upon by nation-states, federal or otherwise, as a way to address the self-deterministic aspirations of communities within their borders, so too has federalism been attempted by non-federal nation-states as a self-preservationist move toward the middle ground between separatists and advocates of stronger centralized government.<sup>184</sup> The examples, however, of Mali, Uganda, Ethiopia, Zaire (now Congo), Nigeria, Kenya, and the Cameroons bear out the conclusion that these efforts, at least in post-colonial Africa, have generally failed,<sup>185</sup> except for the notable recent example of South Africa under its new constitution.

Consequently, while federated systems of government can work in multi-ethnic states, with the appropriate degree of top-down devolution of administration and self-government, it seems that they cannot be universally extrapolated to work in every instance. A. Recent Federated Break-ups

Nonetheless, **when inherent inequality is added to other, seemingly dormant, fragmentary ingredients such as historical, ethnic, religious, customary, or linguistic differences, a divisive stew can come to brew in which one of the potatoes may try to jump out of the pot. Indeed, the recent federated crack-ups of the U.S.S.R., Yugoslavia, and Czechoslovakia demonstrate that the pot itself may burst,** allowing all of the elements previously held together to spill forth and go their separate ways. While this Article does not address the political, theoretical, economic, or social failures of the communist philosophy that was applied to the countries of Eastern Europe and the Soviet Union, it does take note of the fact that **these were all federal systems, at least on paper, that spun apart into separate, smaller, more ethnically homogenous nation-states** after the fall of communism in Europe. Table 3 delineates some previously federated nation-states that have broken down into smaller successor states during this decade.

## FEDERALISM BAD IMPACTS – SECESSION 2/2

### B. Secession conflicts lead to extinction

**Shehadi**, Research Associate International Institute for Strategic Studies, **93** [ETHNIC SELF-DETERMINATION AND THE BREAK-UP OF STATES, p. 81-82]

This paper has argued that self-determination conflicts have direct adverse consequences on international security. As they begin to tear nuclear states apart, the likelihood of nuclear weapons falling into the hands of individuals or groups willing to use them, or to trade them to others, will reach frightening levels. This likelihood increases if a conflict over self-determination escalates into a war between two nuclear states. The Russian Federation and Ukraine may fight over the Crimea and the Donbass area; and India and Pakistan may fight over Kashmir. Ethnic conflicts may also spread both within a state and from one state to the next. This can happen in countries where more than one ethnic self-determination conflict is brewing: Russia, India and Ethiopia, for example. The conflict may also spread by contagion from one country to another if the state is weak politically and militarily and cannot contain the conflict on its doorstep. Lastly, there is a real danger that regional conflicts will erupt over national minorities and borders. Self-determination conflicts also have indirect consequences on international security. First, they undermine fundamental principles of international relations which are necessary - but not sufficient - for peace and stability. These principles are state sovereignty - but not in the archaic sense of absolute sovereignty - territorial integrity and the inviolability of borders, and are being undermined while no conscious effort is made to find alternative rules of the game. Second, self-determination conflicts break some alliances and make others look obsolete, thereby exacerbating regional security dilemmas and national insecurities. States and substate communal groups constantly shift alliances to keep up with shifting strategic environments. This danger is serious enough to have affected even an alliance as solid as the Atlantic alliance. It was observed, although maybe somewhat overstated, that 'les conflits de l'ex-Yugoslavie menacent de detruire la relation de securite et de defense batie entre l'Amerique du Nord et l'Europe occidentale'. Finally, ethnic conflicts, their proliferation and the inability to formulate a common response to them destroy whatever is left of the illusion of a 'new world order'.

## FEDERALISM BAD IMPACTS – LOCALISM

### A. Federalism reduces local control --- strong national power strengthens it

#### Cross '02

(Frank, Former NDT Champ and Prof Law – U Texas Law, Cardozo Law Review, November, Lexis)

The evidence is overwhelming that federalism reduces localism. These robust findings survive the application of different independent variables, different measures of local expenditure, and different national samples. Thus, the interposition of sovereign state governments may reduce the central government's absolute role, but it will also significantly reduce the role of local government, which is the key to decentralized decisionmaking. 270 This finding is not an artifact of the particular time period chosen. Other OECD evidence "for four different time periods ... indicates that unitary countries spent about 60 percent more money at the municipal level than did federal countries." 271 Stephen Calabresi has dismissed the decentralization of unitary systems as merely "a matter of temporary national legislative grace." 272 Vicki Jackson notes that, without judicially-enforced federalism, the national government might "simply reorganize the political boundaries" of the states. 273 While this is technically true, in a formalistic sense, it has no pragmatic materiality. The virtues of decentralization are associated with actual decentralization, not constitutional guarantees. Institutional pragmatic pressures may be far more important than paper guarantees in ensuring decentralization. 274 Jackson concedes that it is unlikely that the national government would in fact abolish the states but claims that "the belief that it cannot happen (under the present Constitution) in broad ways frames a host of other understandings." 275 Surely this is overly formalistic; understandings are framed by real-world circumstances, not by admittedly unrealistic hypotheticals. If the national government faces compelling democratic pressure to delegate, such pressure may be far more significant than any formalistic legal paper guarantees. Moreover, true decentralization, to local governments, in a federal system is merely a matter of temporary state legislative grace. Neither unitary nor federal systems truly [\*51] guarantee much real decentralization, but the circumstances of unitary systems conduce to a greater overall level of decentralization. Indeed, the international evidence suggests that federalism and decentralization function at cross purposes. 276

### B. This internal link turns their impact

#### Cross '02

(Frank, Former NDT Champ and Prof Law – U Texas Law, Cardozo Law Review, November, Lexis)

Federalism is a structural feature of the American political system. The federal system in this nation will not disappear in light of evidence that it is inferior to a more unitary system. 317 If federalism is only a "historical artifact," 318 though, it hardly offers grounds for its vigorous enforcement by the Supreme Court or other institutions. 319 The relevant issue regards what we shall make of this historical artifact and how it might be adapted, within the bounds of the Constitution, for the benefit of the nation. The benefits of decentralization not only fail to justify an expansive defense of states' rights, they affirmatively counsel against such an interpretation of the constitution. As more power is transferred from the national government to the states, so will authority be drawn from localities to the more centralized states and governmental quality and societal welfare will suffer. Fortunately, it appears unlikely that the Supreme Court will substantially reinvigorate American federalism. 320 Historically, "the less politically significant the issue, the greater the Court's insistence on the virtues of federalism." 321 The structural features of the Court make it unlikely that federalism jurisprudence will ever become too aggressive. 322 On the margin, however, the current Court clearly intends to strengthen state sovereignty and limit the discretion of the federal government in favor of that of the states. Those decisions have been defended and justified as prudential ones, preserving the virtues of decentralized decisionmaking. This defense is grounded in speculation and symbolism, though, and lacks truth. We have a federal system in this nation, for better or worse. Despite its federalism, the United States is a relatively [\*59] decentralized nation, with reasonably good governance and no severe corruption problem. Our beneficial situation cannot plausibly be attributed to our federal system itself, though, given the empirical evidence. Consequently, the mere pious invocation of federalism and its values of decentralization and good governance, which has become common among academic commentators and even judges, provides no real support for any particular decisions in support of states' rights. Rather, any such decisions about federalism, whether judicial, legislative, or executive, should be grounded in a pragmatic assessment of their consequences. Dedication to preservation and empowerment of state sovereignty, in its own intrinsic right, is insupportable, and the presumption should be to the contrary.