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Can Strong Mayors Empower Weak Cities? On the Power of Local Executives in a Federal System

ABSTRACT. This Essay considers the historic weakness of the American mayoralty and recent reform efforts designed to strengthen it. The mayoralty's weakness has two grounds. First, the office's lack of power is a product of elite skepticism of urban democracy. That skepticism manifested itself in Progressive Era reforms that almost entirely eliminated the mayor's office in favor of a city council and professional city manager; the mayoralty continues to be a ceremonial office in most small- and medium-sized cities. Second, the mayoralty's weakness is a result of a federal system that devalues city—and, by extension, mayoral—power. American-style federalism privileges regional governments rather than local ones; states, not cities, are the salient sites for constitutionally protected “local” governance. This structural fact has political consequences. The city's limited capacity to make effective policy reinforces the parochialism of its leaders; their parochialism, in turn, reinforces the city's subordinate status. The challenge for urban reformers is to alter this “constitutional” weakness of the mayoralty. I argue that the strong mayoralty is a potential instrument for democratic self-government to the extent that it is able to amass power on behalf of the city.

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Things could be worse. I could be a mayor.

—Lyndon Johnson¹

INTRODUCTION

Mayors have a special status in American political mythology. The institution of the mayoralty is vaguely disreputable yet deeply democratic, often associated with corruption but also lauded for urban civic achievement, an office that gives voice to underrepresented interests but that has often been an organ of elite manipulation. Like the city it represents, the mayoralty embodies the ambivalences of the democratic experiment: the simultaneous attraction and revulsion to the exercise of political power, the professed allegiance to—and deep skepticism of—democratic self-government, especially by and for local people. City government—and municipal affairs more generally—has often been understood as requiring a tradeoff between democratic responsiveness and managerial competence, between politics and administration.² Unlike the presidency or the governorship, the mayoralty has been suspect because it seems to pose the starkest choice between democracy and good government.

The history of the modern mayoralty has tended toward the suppression of the former in favor of the latter. Indeed, the most conspicuous characteristic of the modern mayoralty is its lack of power, which can be attributed in the first instance to the successful municipal reform efforts of the early 1900s. Since 1915, the National Municipal League—the leading instrument of municipal reform—has repudiated the mayoralty. It has instead championed the council-manager form of government, a structure that is designed to divide politics and administration by vesting executive and legislative authority in an elected council and administrative authority in a professional city manager. In this regime, the mayor is normally a figurehead, and political power is purposefully fragmented. In small and medium cities, and some large ones, this reformist vision of expert administration, insulated from democratic control and independent of political power, has dominated.

Mayoral powerlessness is being reconsidered however, at least as a formal matter. A number of cities have recently revised their “council-manager” or “weak mayor” municipal charters in favor of a “strong mayor” structure, giving

1. *Troubled Cities—and Their Mayors*, NEWSWEEK, Mar. 13, 1967, at 38.

2. It has long been asserted that local democratic processes tend to produce inferior administrative results. See, e.g., JOHN STUART MILL, CONSIDERATIONS ON REPRESENTATIVE GOVERNMENT 286–307 (photo. reprint 1994) (1862).

mayors veto powers and increased powers over appointments, and, in some cases, eliminating the city manager. Other cities with traditional “mayor-council” structures have successfully lobbied state legislatures to give the mayor control over important municipal institutions, like the school system, that have traditionally been outside mayoral authority. There are a number of reasons for this centralizing tendency, many of them specific to the politics of particular cities. What strong-mayor movements have in common, however, is the belief that a diffuse constitutional structure creates problems of accountability. Today’s reformers have reversed two assumptions that animated earlier reforms: that politics should or can be screened from administration and that centralized power in an executive invites corruption. Reformers now believe that a more executive-centered institutional structure can yield tangible governance benefits.

This Essay considers the strong-mayor movement in the context of a political and constitutional system in which cities are relatively weak. Scholarly considerations of city government often concern the relative internal advantages or disadvantages of the council-manager or mayor-council structure (or variations on those structures). The strong-mayor movement is just the most recent attempt to address the problems of urban governance through institutional design; it reflects the reformer’s inclination to use procedural fixes to address substantive problems.

But urban governance is highly constrained governance. Cities are simply not significant wielders of power in our political and constitutional system. Thus, the city’s political structure—whether reformed or unreformed—and the strength of the city’s mayoralty may have little to do with city leaders’ ability to pursue desired policy outcomes. The mayoralty is “constitutionally” weak; its power is limited by the same forces that limit city power more generally.

The mayor’s constitutional weakness can be explained in part by America’s history of anti-urbanism, which was early articulated by Thomas Jefferson, reached its reformist heights at the end of the nineteenth century in reaction to the urban political machine, and culminated with the rise of the suburbs and the fall of post-New Deal urban liberalism. Suburbanites continue to embrace the notion that municipal governance is primarily administrative or technical. Indeed, suburban locales—most of which adhere to a weak-mayor or council-manager structure—offer an explicit alternative to the “messy” politics of the city, an image of governance in which executive power—indeed, the exercise of political power of any kind—is submerged and repressed.

A more structural explanation (and the one I want to emphasize here), however, is federalism. The primary form of American political decentralization is regional rather than municipal—states, not cities, are the salient sites for constitutionally protected “local” governance. As a result, cities

and their leaders are three levels down the political food chain and must normally ask the states for whatever powers they have or wish to exercise. This city subservience has an effect on political culture. Mayors have experienced periods of influence in national policymaking, but, except in rare circumstances, mayors are not serious players in national politics and rarely use the mayoralty as a stepping stone to national political prominence. The mayoralty is both a thankless job and often a dead-end one.³

This may explain why almost nothing has been written about the mayoralty in the legal literature. When addressing the issue of executive power, legal scholars tend to think in terms of the presidency and the Federal Constitution's horizontal separation of powers. The executive, however, can assume numerous forms. Indeed, the prevalence in most local governments of a nonunitary executive that exercises both executive and legislative powers indicates that the national model is not at all dominant. And the variety of local charters and the apparent ease with which cities experiment with new ones illustrate the fluidity of constitutional structures.

Mayoral power is a function of the relationship between "formal" and "real" power—between law and politics. Part I of this Essay examines these twin aspects of mayoral power from inside the city, describing the context in which city-charter and other strong-mayor reforms are being pursued. Part II examines how the larger constitutional structure of federalism affects the mayoralty. Mayors are underpowered in part because cities are underpowered, and I argue that federalism is partly to blame. Though the United States has often been characterized as having a highly decentralized political system, that decentralization is often formal or legal rather than informal or political. Mayors may exercise some power within their sphere but their effectiveness is constrained by their lack of a national political role.

Finally, Part III makes a democratic argument for a strong municipal executive. For early-twentieth-century reformers, the strong mayor was too democratic; reform-minded elites feared a municipal government that was too responsive to the urban and ethnic masses. This mistrust of urban democracy continues to the present; strong-mayor reform charters are promoted on the grounds of efficiency, not democracy. Yet, perhaps surprisingly, the democratic argument for strong mayors is much more compelling than the technocratic argument. A strong mayoralty provides accountability and transparency while serving as a potential site of populist political energy. For those who believe that local governments are important components of a federal system intended

3. See ROBERT L. LINEBERRY & IRA SHARKANSKY, *URBAN POLITICS AND PUBLIC POLICY* 196 (3d ed. 1978).

to promote democratic self-government, mayoral power might be a worthwhile vehicle for increasing city power. I conclude with some tentative thoughts about how the strong mayorality might be responsive to the political fragmentation and subordination of the democratic city.

I. THE STRONG-MAYOR MOVEMENT

It may be surprising that mayoral power is so formally constrained in the United States. The notion of the strong executive is deeply embedded in American political culture, at least as applied to the presidency. In municipal government, however, the notion of the unitary, energetic executive has never been dominant.

Indeed, the mayorality itself has generally been a disfavored office except for a brief period at the turn of the twentieth century. In the late 1800s, an era in which city government was characterized by many as a “conspicuous failure,”⁴ the mayorality seemed to hold promise as a possible instrument for reform. Early Progressive reformers like Frank Goodnow, John Bullitt, and Frederic Howe advocated a strong mayorality, arguing that centralizing power in the executive would promote accountability, transparency, and democracy.⁵ The reformers had in mind a mayorality that could act directly for the people, untarnished by the city machines, uncorrupted by the ward leaders and the parochialism of the city councils, and independent of big business interests. An elected, centralized executive with complete authority over appointments and city departments was endorsed by the National Municipal League in its first Model City Charter, adopted in 1900.⁶ An elected city council would serve as the legislative branch, with an independent civil-service commission operating to counter the old spoils system.

In fact, power was shifting to the executive as urban governance became more complicated and executive administration became more salient. As cities began to engage in significant infrastructure investments related to the burgeoning urban population—waterworks, libraries, parks, sewer systems—administration was replacing stewardship. In the late nineteenth century, mayors began to take the reins of city government from the city fathers—the

4. JON C. TEAFORD, *THE UNHERALDED TRIUMPH: CITY GOVERNMENT IN AMERICA, 1870-1900*, at 1 (1984). Teaford recounts this characterization by British observer James Bryce, though he argues that it was unwarranted. *See id.* at 1-7.

5. *See* Russell D. Murphy, *The Mayorality and the Democratic Creed: The Evolution of an Ideology and an Institution*, 22 *URB. AFF. Q.* 3, 8-10 (1986).

6. *See* NAT'L MUN. LEAGUE, *A MUNICIPAL PROGRAM* (1901).

aldermen, city councilmen, and selectmen—who had been the amateur governors of the antebellum city.⁷ The role of the mayor was greater than it had been previously because the role of municipal government was greater than it had been previously.

But the mayor's official ascendancy was short-lived, for competing power bases were emerging—specifically, special-purpose districts and state-created authorities, sometimes responsive to the mayor and sometimes not. A spate of charter activity resulted in the interposition of boards and commissions between the executive and city departments as a means of insulating the departments from cronyism and corruption.⁸ The complicated layering of municipal bodies began almost immediately and mocked the first Model City Charter's efforts to centralize power in an executive.

By 1915, when the National Municipal League published its second Model City Charter, the strong mayor had been completely excised.⁹ In 1900, Galveston, Texas, turned governance over to a special commission charged with responding to the flooding of the city. Subsequently, commission government became popular among municipal reformers. A number of pioneering cities combined the commission form with a professional city manager, analogizing the municipal corporation to the private business corporation. The council-manager plan, in which an elected council placed administrative powers and responsibilities in the hands of an appointed, professional city manager, appealed to business-minded city fathers. The corporate model also dovetailed nicely with Progressive Era reformers' faith in expert administration. As reformer John Patterson argued, "A city is a great business enterprise whose stockholders are the people Our municipal affairs would be placed upon a strict business basis and directed, not by partisans either Republican or Democratic, but by men who are skilled in business management and social science" ¹⁰ The council-manager plan distanced the administration of the city from politics. Reformers assumed that council members would serve part-time and that most municipal undertakings

7. See TEAFORD, *supra* note 4, at 48.

8. See Murphy, *supra* note 5, at 16.

9. See NAT'L MUN. LEAGUE, A MODEL CITY CHARTER AND MUNICIPAL HOME RULE §§ 3-6 (1916).

10. Harold Wolman, *Local Government Institutions and Democratic Governance*, in THEORIES OF URBAN POLITICS 135, 138-39 (David Judge et al. eds., 1995) (citing RICHARD JOSEPH STILLMAN, RISE OF THE CITY MANAGER: A PUBLIC PROFESSIONAL IN LOCAL GOVERNMENT 8 (1974)).

would be committed to a nonpartisan professional answerable to the council but not directly to the voters.¹¹

The council-manager plan became the Municipal League's dominant model. In six subsequent Model City Charters, including the most recent 2003 edition, the League has advocated a council-manager structure. That structure was, and continues to be, attractive, as evinced by the steady increase in the number of cities that have adopted the council-manager plan.¹² Indeed, the mayoralty has become "something of a rarity"; the office does not exist or exists only for ceremonial purposes in a significant percentage of cities.¹³

This is not to say that the mayoralty is entirely absent. Many of the country's largest cities have a directly elected mayor who exercises some significant executive authority. But even in those cities, the mayoralty is often weakened by charters that fragment its authority. The council may have final say over appointments; budget authority may be administrative; department heads or commission boards may be insulated from mayoral control by set terms of office; other executive officials may be elected city-wide; unions may have charter-protected rights; or significant power may be vested in a chief administrative officer who is answerable only indirectly to the mayor. Numerous boards and commissions—mandated by the city charter or by state law—may come between the mayor and the city's executive departments. The mayor may have very little or no control over the administration of the city's schools, the city's land use decisions, or the city's transportation, sewer, water, or electric services. A weak or nonexistent mayoralty means that executive power in municipalities tends to be fragmented, either among council members, between the council and city manager, or among the council and other administrative officials who also exercise executive power.

The recent spate of strong-mayor reforms—and here I include both internal city charter reforms and state-level statutory reforms—is a reaction to this political fragmentation and responds to the perception that city governance structures are outdated. It should be noted that this latter perception seems to be an ongoing feature of urban governance. Cities have been tinkering with their constitutions constantly since the turn of the century. Los Angeles, for example, had modified its charter over 400 times before instituting its latest comprehensive reform in 1999.¹⁴ As for the most recent

11. *See id.*

12. *See id.*

13. Murphy, *supra* note 5, at 15.

14. *See* RAPHAEL J. SONENSHEIN, *THE CITY AT STAKE: SECESSION, REFORM, AND THE BATTLE FOR LOS ANGELES* (2004).

reform efforts, those who study urban governance identify a number of trends. While the council-manager plan remains the primary form of city governance, a number of large- and medium-sized cities have switched to a strong-mayor structure, while some with weak-mayor charters have eliminated barriers to executive authority.¹⁵ There are also some signs of formal convergence. Manager-led cities are increasing the power of their mayors, while some mayor-led cities are embracing professional managers or chief administrative officers who work alongside both the council and the mayor.¹⁶ This embrace of the executive reflects reformers' inclinations to use institutional design to adjust distributions of power.

Remediating the formal, legal weakness of the mayoralty does not necessarily create strong mayors as a political matter, however. For political scientists, the primary constraints on the exercise of urban power come from the nature of city politics itself and only secondarily from formal institutional design. Scholars of urban politics who seek to describe how power is actually exercised within cities tend to treat the mayor's formal powers as just one variable in the political system. This variable has salience, but only in the context of a political system that is characterized by significant complexity.

Thus, when Robert Dahl asked how power was exercised in New Haven, his answer, in 1961, had little to do with the city's formal structure. "Who Governs?" asked Dahl, and his answer, in his classic book of the same name, was that a multiplicity of individuals and groups did.¹⁷ Dahl argued that oligarchy, which had characterized nineteenth-century city governance, had given way to pluralism by the middle of the twentieth century. According to Dahl, New Haven in the 1950s was characterized by a political system in which a plurality of political institutions, elites, organized interests, elected officials, and voters were involved in making decisions. Governing was issue-specific and fluid; no one dominant individual or group explained the patterns of decision-making in areas as diverse as school policy, urban renewal, social welfare, policing, race, and labor relations.¹⁸

Dahl set one pole—pluralist theory—in the debate over the nature of urban politics.¹⁹ Some scholars, writing in the aftermath of the urban crises of the

15. See Victor S. DeSantis & Tari Renner, *City Government Structures: An Attempt at Clarification*, 34 ST. & LOC. GOV'T REV. 95 (2002).

16. See H. George Frederickson et al., *Type III Cities*, in THE FUTURE OF LOCAL GOVERNMENT ADMINISTRATION 85 (H. George Frederickson & John Nalbandian eds., 2002).

17. ROBERT A. DAHL, WHO GOVERNS?: DEMOCRACY AND POWER IN AN AMERICAN CITY (1961).

18. See *id.*

19. *Id.*; see also EDWARD C. BANFIELD & JAMES Q. WILSON, CITY POLITICS 243-44 (1963).

1960s and 1970s, argued that pluralism was so rampant that the city was mostly ungovernable.²⁰ Big city municipal policy, beset on all sides by a startling number and diversity of strident interest groups, was fragmented, unstable, chaotic, and reactive. The important question for those who saw city government as highly unstructured was not “Who Governs?” but “Does Anybody Govern?”²¹ The answer for so-called hyper-pluralists was “no.”

Other scholars, however, have asserted just the opposite, arguing that the city, far from being characterized by a rampant pluralism, tends to be dominated by coalitions of local elites. Early elite theorists spoke of an urban “power structure” dominated in many cases by downtown business and media elites.²² More recently, scholars have argued that urban governing coalitions tend to coalesce around a growth strategy.²³ Advocates of the “growth machine” thesis argue that “[c]oalitions of land-based elites . . . drive urban politics in their quest to expand the local economy and accumulate wealth.”²⁴ Others have argued that though growth-related interests are centrally important to the politics of cities, growth coalitions are only one of a number of stable coalitions that can arise in urban political settings.²⁵ Like the elite theorists, so-called regime theorists “accept[] the privileged position of business,” but like the pluralists, they also believe that “politics matters.”²⁶ Cities may experience different long-term “governing regimes,” which may create stable alignments responsive to private and public interests.²⁷

Strong-mayor reform movements are shaped by both elite and pluralistic forms of urban politics. It is noteworthy that the downtown business interests that favored the council-manager model at the turn of the twentieth century

20. See, e.g., DOUGLAS YATES, *THE UNGOVERNABLE CITY: THE POLITICS OF URBAN PROBLEMS AND POLICY MAKING* (1977).

21. David Judge, *Pluralism*, in *THEORIES OF URBAN POLITICS*, *supra* note 10, at 13.

22. See, e.g., FLOYD HUNTER, *COMMUNITY POWER STRUCTURE: A STUDY OF DECISION MAKERS* 8, 81 (1953); LINEBERRY & SHARKANSKY, *supra* note 3; C. WRIGHT MILLS, *THE POWER ELITE* 6-7 (1956).

23. See, e.g., Harvey Molotch, *The City as a Growth Machine: Toward a Political Economy of Place*, 82 *AM. J. SOC.* 309 (1976).

24. Andrew E.G. Jonas & David Wilson, *The City as a Growth Machine: Critical Reflections, Two Decades Later*, in *THE URBAN GROWTH MACHINE: CRITICAL PERSPECTIVES TWO DECADES LATER* 3, 3 (Andrew E.G. Jonas & David Wilson eds., 1999) (citing Molotch, *supra* note 23).

25. See, e.g., STEPHEN L. ELKIN, *CITY AND REGIME IN THE AMERICAN REPUBLIC* 46-48 (1987); CLARENCE N. STONE, *REGIME POLITICS: GOVERNING ATLANTA, 1946-1988* (1989).

26. Gerry Stoker, *Regime Theory and Urban Politics*, in *THEORIES OF URBAN POLITICS*, *supra* note 10, at 54, 56.

27. *Id.*

are significant supporters of strong-mayor reforms now. Republican mayors of Democratic cities have often been at the forefront of institutional reform. Rudolph Giuliani in New York and Richard Riordan in Los Angeles are the most prominent examples. Mayoral power is a means of bypassing the traditional bases of Democratic city power: ethnic neighborhoods, municipal unions, racial minorities, the leading newspapers, and the city council. Those who object to centralizing power in the executive are wary of this political convergence, fearing—in the words of one opponent of strong-mayor reforms in Cincinnati—“business-backed Republican puppets.”²⁸

Left-right politics is often just below the surface of charter reform, though it would be overly simplistic to understand the strong executive as a tool of any particular party or interest group. Mayors of all political stripes have at one time or another sought increased power, some in pursuit of progressive or reformist objectives.²⁹ As for the current political climate, in many cities, mayoral politics has shifted away from the battles that marked earlier eras. The new mayoralty emphasizes pragmatic—though some would say neoconservative—policy approaches to urban problems. This strategy includes an emphasis on public safety, the creation of a pro-business climate, the bureaucratic streamlining of city services, and a hesitance to adopt new taxes. Many of these approaches have been embraced by policy specialists tired of the failures of 1970s-style social welfarist education, housing, and public safety policies. The left and right now both employ the rhetoric of competition. Cities are competing in a regional environment in which the suburbs are often the dominant economic and political force and in a global environment in which competition between cities and regions for jobs and growth is intense. In this atmosphere, the public features of the city—its politics—tend to be repressed. “Constituents” are turned into “clients” or “customers”; “best practices” replace “policy”; an emphasis on “entrepreneurship” replaces an emphasis on “leadership”; “management” replaces “governing.”³⁰

Strong-mayor reforms have thus coincided with a new executive managerialism. Mayor Michael Bloomberg of New York is sometimes evoked as the model of the managerial mayor. A Democrat turned Republican, a billionaire entrepreneur turned politician, Bloomberg is familiar with the

28. Alan Ehrenhalt, *The Unraveling of a Local Government*, GOVERNING, Oct. 1995, at 7, 8 (quoting a letter to an unspecified Cincinnati local paper).

29. Cf. BARBARA FERMAN, GOVERNING THE UNGOVERNABLE CITY: POLITICAL SKILL, LEADERSHIP, AND THE MODERN MAYOR 146 (1985) (discussing charter reform efforts by mayors in New Haven, Boston, and San Francisco).

30. DAVID OSBORNE & TED GAEBLER, REINVENTING GOVERNMENT: HOW THE ENTREPRENEURIAL SPIRIT IS TRANSFORMING THE PUBLIC SECTOR (1992).

private-side provision of services to clients. He ran as a technocrat and practices what has been called the politics of “managerial competence,” a nonpartisan, nonconfrontational approach to urban governance.³¹ Bloomberg has succeeded by continuing the public safety and pro-business policies of his predecessor, Rudolph Giuliani, but he has also succeeded in gaining powers that Giuliani, who practiced a more charismatic and confrontational politics, could not. For example, Bloomberg convinced the state legislature to grant him full authority over the city’s schools, a consolidation of power in the mayor’s office that would have been unthinkable only a few years ago.

This concentration of power in the mayor is indicative of a shift away from the urban liberalism that tended to pit business against labor, white against black, incentive-based policies against social-welfarist ones, and development against redistribution. Labor is much weaker in the cities than it once was, and racial politics is not as salient. Many cities are now majority-black, such as Richmond, Oakland, and New Orleans. In those places, racial and ethnic political competition is still relevant, but it is somewhat muted when compared with the white-black competition of the 1970s and 1980s, when cities were experiencing much more dramatic demographic changes.

The same can be said for pro- and anti-business divisions. Left-right politics tends not to map onto mayoral attitudes toward business anymore; most mayors will do everything in their power to maintain a pro-business climate. For example, after Hurricane Katrina, New Orleans Mayor Ray Nagin was criticized for paying more attention to the white business owners of that city than to the black constituents of the Lower Ninth Ward.³² Los Angeles Mayor Antonio Villaraigosa, the first modern Latino mayor of that city and a former union organizer, has made it very clear that he will not antagonize business.³³ And Gavin Newsom, now better known for his forays into same-sex marriage, was initially criticized by left-leaning San Franciscans for being too close to business interests.³⁴

31. James Traub, *Bloomberg’s City: Politics in an Era of Anticlimax*, N.Y. TIMES, Oct. 2, 2005, § 6 (Magazine), at 21.

32. Lee Hancock, *Is It Black and White? In a City Split and Sinking Before Storm, Racial Issues Boil*, DALLAS MORNING NEWS, Dec. 4, 2005, at 1A (discussing Nagin’s ties to white business elites).

33. See Jonathan D. Colburn, *Villaraigosa: L.A.’s “Most Business-Friendly Mayor?”*, SAN FERNANDO VALLEY BUS. J., June 6, 2005, at 11 (reporting that Villaraigosa desires to be business-friendly).

34. See Jane Meredith Adams, *Greens Cast Shadow over Mayoral Elections: 3rd Party a Threat in San Francisco*, CHI. TRIB., Dec. 11, 2003, § 1, at 18 (noting that Newsom’s opponents characterized him as too close to business interests).

Few scholars doubt the influence of pro-business elites in urban policy, but many would acknowledge that these elites have to operate within an environment characterized by significant pluralism. City politics is still coalitional, especially as it is conducted through attempts at charter reform. Charter reform requires convincing a majority of the electorate to agree to significant constitutional changes, many of which can be fairly opaque. When reformers have lacked support across the myriad of urban constituencies, strong-mayor reforms have failed. For example, the backing of municipal reformers could not save charter reform in Dallas. An unpopular mayor, lack of African-American support, and lackluster business backing doomed that effort.³⁵ For large-scale charter reform, the necessary coalitions (e.g., good-government groups, downtown business interests, the city's leading newspapers, labor, and ethnic leaders) must coalesce around a popular dissatisfaction with the status quo.

This popular dissatisfaction has combined with elite opinion to generate internal charter or state legislative changes. In some places, citizens believe that mayors should "do something" about essential city services, and mayors have sought to bring their powers into alignment with citizens' expectations. Mayoral takeovers of city school systems in New York, Chicago, and Los Angeles are examples. In other cities, like Oakland, San Diego, and Richmond, the mayor's popularity drives institutional reform. In Oakland and Richmond, in particular, charismatic mayors—Jerry Brown and Douglas Wilder, respectively—asked for and received significantly expanded executive powers on the basis of their reformist credentials and electoral popularity. For municipal reformers on both the left and the right, executive power seems like an ideal tool to disrupt entrenched bureaucracies or corral fractious competing interests.

Of course, whatever their formal powers, mayors continue to operate within existing elite or pluralistic frameworks of urban political power, not outside them. Much will thus turn on the particular leadership qualities of the mayor. In the pluralist world of New Haven, circa 1955, for example, the mayor gained power not by being "at the peak of a pyramid but rather at the center of intersecting circles."³⁶ Mayor Richard Lee of New Haven created an executive-centered governing coalition by centralizing the authority over urban redevelopment. His power was gained through coordination and coalition-building. In Dahl's words, Lee "negotiated, cajoled, exhorted, beguiled,

35. See Emily Ramshaw, *Strong Mayor Trounced: Turnout Unexpectedly High as Proposal Unites South Side, Splits North*, DALLAS MORNING NEWS, May 8, 2005, at 1A.

36. DAHL, *supra* note 17, at 204.

charmed, pressed, appealed, reasoned, promised, insisted, demanded, even threatened, but he most needed support and acquiescence from other leaders who simply could not be commanded.”³⁷ Similarly, Kevin White’s successful run as Mayor of Boston from 1968 to 1984 was attributable in large part to his considerable political skills in manipulating a fractious political system.³⁸

This is not to say that institutional structures do not matter. The ability of any particular actor within the system to bring political resources to bear on policy outcomes may make a difference. To the extent that mayors operate within a charter or state legislative structure that grants them significant authority, that authority serves as a resource in the pursuit of policy. Nevertheless, it should not be forgotten that charter and other procedural reforms have always been a political instrument. Municipal reform is a trope of American urban politics, which historians have often characterized as an ongoing battle between “machine” and “reform” forces. The strong-mayor movement is no exception: The movement both reflects the state of municipal politics in particular American cities and structures that politics going forward.

The fact that institutional reform is a mode of politics—though somewhat different from and more complex than electoral politics—highlights one of the significant limitations on the mayoralty: City charters are relatively easy to amend, at least in piecemeal fashion. The coalitions that are pushing for strong-mayor reforms today may be the coalitions that cabin the mayor in the future (especially if the future mayor turns out to be unpopular). Moving power to the executive is a formal strategy for addressing the internal fragmentation of municipal government, but the political coalition that is able to deliver significant formal powers to one executive official might be unstable in the long term.

II. THE WEAK MAYOR IN THE PAROCHIAL CITY

The conceit of the strong-mayor movement—and all institutional reform movements—is that institutional designers can distribute powers that can then be exercised. Internal accounts of urban political power assume that cities (or, more precisely, certain actors within cities) have interests that they have the capacity to pursue. In other words, cities, like nation-states, are relatively politically autonomous. Whether that political autonomy is exercised on behalf of pro-growth elites, the mayor, a political machine, racial minorities, or

37. *Id.*; cf. RICHARD E. NEUSTADT, *PRESIDENTIAL POWER: THE POLITICS OF LEADERSHIP* 32-57 (1960) (describing presidential power as the power to persuade).

38. See FERMAN, *supra* note 29, at 163-65.

business interests can be determined by studying particular cities; the fact of autonomy, however, is often taken for granted.

But the city operates within a larger political and constitutional framework that significantly shapes the powers of the city and its officials. Strong-mayor reforms tend to address horizontal relationships—between officials at the same level of government—but they do not address vertical ones. The vertical relationship is dominated by federalism, a constitutional structure that recognizes state governments as sovereign but provides no recognition for local governments. States are the primary form of constitutionally protected, sub-national government in the United States, and they exercise plenary power over their political subdivisions. This arrangement, in which cities are formally subservient to states, has significant consequences for local political actors.

In order to determine the effects of federalism on mayors, one must examine both the powers of cities and the relative political influence of city leaders. Two features of American federalism—the formal separation of functions among the three tiers of government and the vertical competition between government officials—have significant consequences for both. Because of the existence of three separate governments, each with its own executive apparatus, the local leader is relatively unimportant when it comes to implementing important state objectives. And because the mayor is only one of a number of political officials who represent local interests, her power tends to be easily diluted.

A. How the Formal Separation of Functions Weakens Cities and Mayors

One of the challenges in assessing the relative power of cities is the contradictory legal status of local governments. Because cities are constitutionally subordinate to states, states are in a position to limit cities' formal powers and often do so. Nevertheless, in most states, cities do have some degree of local autonomy. That autonomy is protected under state constitutions that mimic the state-federal relationship by carving out a separate sphere of authority for local governments. The city thus enjoys a contradictory legal status: It is an instrumentality of the state but it is also politically autonomous within its sphere—it is an administrative unit as well as a mini-sovereign.³⁹

39. Cf. Mike Goldsmith, *Autonomy and City Limits*, in THEORIES OF URBAN POLITICS, *supra* note 10, at 228 (discussing the fluid nature of scholarly attempts to create a typology or schema of comparative local autonomy).

The ongoing debates in the legal literature concerning the relative power or powerlessness of the city reflect this dual status. Those who emphasize city power argue that certain localities, especially suburban ones, exercise significant local autonomy in areas in which they are deemed locally sovereign, mostly those activities that implicate land use, education, and local health and welfare.⁴⁰ By contrast, scholars who emphasize city powerlessness point to the fact that local governments are instrumentalities of their states and enjoy no independent legal status protected by the Constitution. Unlike private corporations, which exercise the autonomy that all private persons may exercise, municipal corporations exercise power at the state's sufferance.⁴¹

These conceptual and descriptive accounts of local power can co-exist. As a formal matter, cities in the United States enjoy a significant amount of legal autonomy, at least as compared with cities in some other western democracies.⁴² Local officials are normally elected by the local electorate, not appointed by a central government. Local governments usually have taxing authority (though it is limited) and thus are not entirely dependent on grants from higher-level governments. And local governments can generally make decisions about what to spend monies on (though again, the state requires certain kinds of expenditures).

Moreover, though cities are constitutionally inferior to states, many states have granted them some modicum of "home rule," which means that they tend to exercise significant authority over local land use decisions, zoning, condemnation, urban redevelopment, and basic local services. State and federal authorities generally do not interfere with local budgeting or fiscal decisions until a city is well into bankruptcy. And cities tend to be politically autonomous; that is, the choice of local officials is generally not dictated by the winning party at the state or national level. Municipal officials can (and do) disagree vociferously with the policy preferences of the party that exercises power statewide or nationally.

That cities enjoy some amount of formal legal autonomy, however, does not mean that city leaders exercise influence over those policies that are in fact most important to their constituents. Indeed, the very character of local

40. See Richard Briffault, *Our Localism: Part I—The Structure of Local Government Law*, 90 COLUM. L. REV. 1 (1990) [hereinafter Briffault, *Our Localism: Part I*]; Richard Briffault, *Our Localism: Part II—Localism and Legal Theory*, 90 COLUM. L. REV. 346 (1990) [hereinafter Briffault, *Our Localism: Part II*].

41. See GERALD E. FRUG, *CITY MAKING: BUILDING COMMUNITIES WITHOUT BUILDING WALLS* 17–25 (1999).

42. See generally *COMPARING LOCAL GOVERNANCE: TRENDS AND DEVELOPMENTS* (Bas Denters & Lawrence E. Rose eds., 2005) (comparing local autonomy across counties).

autonomy tends to limit the city's political authority rather than extend it. In large part, this is because central governments are quick to intervene to counter local decisions they disagree with but slow to intervene to take on the responsibility for providing basic municipal services. Cities thus may have significant responsibilities but insufficient resources to meet them.

For example, even in states whose cities enjoy constitutional grants of home-rule authority, the regulatory authority that cities exercise is almost always contingent on grants of authority from the state or subject to revision by the state, often through regular legislation. State legislatures have been aggressive in overruling local decisions with which they do not agree.⁴³ States have also been aggressive in preventing cities from taxing their own citizens for local services and have adopted statewide tax and spending restrictions that often hit cities particularly hard.⁴⁴ For purposes of state intervention, the city is often treated like a subordinate state agency; the city's range of action is quite limited.

Moreover, this state interference with local decision-making does not alter the city's responsibility to provide basic services to its citizens. Cities are primarily responsible for the basic health, safety, and welfare needs of the populace; state and federal elected officials can thus pick and choose when and under what circumstances to intervene. And because the provision of basic municipal services is understood to be a local responsibility, the variations among localities in that provision normally do not concern the state.⁴⁵ This works well for localities that are resource-rich; it tends to work less well for those that are not.

The well-documented gap between cities and suburbs over the course of the twentieth century is in part a product of this formal division of responsibilities.⁴⁶ The discrepancy between poor cities and rich suburbs is a function of political choices about how resources are allocated across the

43. See generally David J. Barron, *Reclaiming Home Rule*, 116 HARV. L. REV. 2255 (2003) (arguing that state laws often restrict the authority of local governments across a range of issues).

44. Proposition 13 in California, CAL. CONST. art. XIII A, is an example of this, as is the Taxpayer Bill of Rights (TABOR) in Colorado, COLO. CONST. art. X, § 20-7.

45. In the education context, however, a number of state courts have ruled that significant inter-local variations in education spending violated state constitutional guarantees. See, e.g., *Edgewood Indep. Sch. Dist. v. Kirby*, 777 S.W.2d 391, 397 (Tex. 1989).

46. Whether one describes localities in the United States as powerful or powerless may depend significantly on whether one is describing suburbs or cities. See Briffault, *Our Localism: Part I*, *supra* note 40 (arguing that suburbs exercise a great deal of local autonomy); Briffault, *Our Localism: Part II*, *supra* note 40 (same). But cf. David J. Barron & Gerald E. Frug, *Defensive Localism: A View of the Field from the Field*, 21 J.L. & POL. 261 (2005) (arguing that suburbs exercise a form of "defensive localism" rather than a form of "local autonomy").

metropolitan area, but it is also a function of the structural constraints on local politics. As Paul Peterson argued over twenty years ago, local governments face economic constraints that mean that local leaders often exercise relatively little direct influence over their municipality's economic fate; city politics is thus "limited politics."⁴⁷

Two characteristics of the city's political economy are salient. First, local government is dependent on property taxes and other territorially specific revenues for its fiscal health. Second, as in all capitalist economies, the welfare of local citizens is primarily dependent on private investment, employment, and production, and capital and labor move easily across city lines.⁴⁸ The twin facts of urban tax-base dependence and the mobility of capital mean that cities cannot engage in policies that alienate private capital, and, indeed, must actively encourage its inward flow. Cities need to avoid significant redistributive policies—such as investments in social welfare or health and human services—while promoting developmental policies that will attract business and wealthier residents. Cities that engage in too much redistribution will see mobile fiscal resources flee to other locales with fewer redistributive policies. The city's fiscal and budgetary priorities are thus significantly limited by the economic realities of cross-border competition; the city has only so much room to maneuver.⁴⁹

Even suburban municipalities, which have been attractive as alternatives to the central city precisely because they tend to avoid redistributive strategies, seem increasingly unable to achieve the outcomes they desire. Suburban municipalities appear to have more control than cities over their tax bases and their service needs. By incorporating independently and gaining control over their property taxes, suburban municipalities can avoid the higher tax costs associated with urban redistribution, namely the provision of services to lower-income populations.⁵⁰ These municipalities also have some ability to control their populations by adopting zoning ordinances that ensure a minimum price for housing, thus setting a price for entry into the community. Incorporation and zoning are two strategies that prevent the inward migration of lower-

47. PAUL PETERSON, *CITY LIMITS* 104-06 (1981); see also MARK SCHNEIDER, *THE COMPETITIVE CITY: THE POLITICAL ECONOMY OF SUBURBIA* (1989) (arguing that consumer choice and competition limit government taxation and spending powers).

48. See SUSAN S. FAINSTEIN ET AL., *RESTRUCTURING THE CITY: THE POLITICAL ECONOMY OF URBAN REDEVELOPMENT* 1-17 (1983); PETERSON, *supra* note 47, at 106.

49. See PETERSON, *supra* note 47, at 106.

50. See, e.g., GARY MILLER, *CITIES BY CONTRACT* 77-83 (1981).

income arrivals who have high service needs.⁵¹ These strategies permit a suburban municipality to keep taxes low and to provide a relatively high level of services.

Nevertheless, suburban municipalities, like urban ones, also seem to have little control over their ultimate economic and fiscal fates. Mark Schneider has shown that municipal policies designed to encourage growth or development often have little impact on tax-service ratios in the suburbs and that large-scale shifts in employment have more to do with local economic health than do the specific tax and spending decisions of local governments.⁵² Moreover, existing housing stock and the preferences of housing consumers tend to be conditions over which local governments have little influence. In both urban and suburban places, then, municipal budgetary and fiscal priorities and policies, while not irrelevant, have relatively small effects when compared to macroeconomic conditions. Schneider's conclusion is that "local government policies are relatively ineffective in producing the outcomes local actors want."⁵³

This fact should not be surprising. Cities in the Rust Belt and the Northeast once flourished during industrialization; those cities' declines can be explained largely by macroeconomic factors, specifically the demise of heavy industry and the migration of employment and firms to the West and South. Other effects are more local. For example, urban scholars have noted an alarming decline of inner-ring and second-tier suburbs in a number of metropolitan areas.⁵⁴ These suburbs have few resources to battle the ongoing migration toward new housing on the urban fringe. Unlike the central cities, the inner-ring suburbs have little in the way of cultural amenities to offer, their housing stock is often unattractive, and they are beginning to experience the kinds of social ills that formerly afflicted only central cities.⁵⁵

Population and economic migrations are largely out of the control of local governments—city or suburban. Regional or macroeconomic forces are not easily susceptible to policies that can be pursued by municipalities acting alone. Indeed, in a highly fragmented metropolitan region, there are often hundreds of local governments, each asserting control over its portion of regional development but none able to manage it. Cities cannot effectively control their

51. See *FISCAL ZONING AND LAND USE CONTROLS* (Edwin S. Mills & Wallace E. Oates eds., 1975) (describing the relationship between zoning and local government taxation).

52. SCHNEIDER, *supra* note 47, at 145, 173.

53. *Id.* at 210.

54. See, e.g., WILLIAM H. LUCY & DAVID L. PHILLIPS, *TOMORROW'S CITIES, TOMORROW'S SUBURBS* (2005).

55. See *id.*

borders; they cannot print money, engage in countercyclical spending, or entertain other macroeconomic manipulations of the economy; and they are dramatically affected by state and national tax, redistribution, immigration, land use, labor, and industrial policies.

The city's formal authority thus tells us very little about its political influence. A comparison with the French mayoralty is useful. For most of France's modern history, financial power and legal authority were officially concentrated in the hands of the central state, with localities merely fulfilling state mandates.⁵⁶ But "the ability of the central state to achieve its territorial goals depended upon the active consent and co-operation of local elected officials."⁵⁷ In the twentieth century, the French mayor became the "territorial gatekeeper,"⁵⁸ controlling the downward flow of state resources and funneling those resources into urban growth beneficial to the city. Central city mayors exercised power by developing personal relations with central administrators, by lobbying state ministries, and by influencing policy through their representation in parliament and in other national-level councils. The key element of French mayoral power, however, was the dependence of central authorities on local cooperation to accomplish state ends. The French mayor's power was derived in significant part from his ability to exert political control over national directives.⁵⁹

For those who are steeped in the ideology of federalism, the robustness of local influence in a unitary system might seem anomalous. In the United States, formal legal autonomy tends to be equated with the exercise of decentralized power. The assumption is that political power flows from legal authority. This is the essence of categorical or "separate spheres" federalism, according to which the division of political power—the actual exercise of influence over policy outcomes—is assumed to follow from the formal or legal separation of functions.

But, of course, there is no necessary relationship between the formal decentralization of power and the actual exercise of political influence, between

56. See VIVIEN A. SCHMIDT, *DEMOCRATIZING FRANCE: THE POLITICAL AND ADMINISTRATIVE HISTORY OF DECENTRALIZATION* 66-104 (1990). Recent reforms have given cities their own competencies, though much financial authority is still derived from the center. See *French Constitution Amended To Allow Decentralisation*, AGENCE FRANCE-PRESSE, Mar. 17, 2003.

57. Walter J. Nicholls, *Power and Governance: Metropolitan Governance in France*, 42 *URB. STUD.* 783, 788 (2005). See generally SIDNEY TARROW, *BETWEEN CENTER AND PERIPHERY: GRASSROOTS POLITICIANS IN ITALY AND FRANCE* (1977).

58. Nicholls, *supra* note 57, at 789.

59. *Id.* at 788.

“legal localism” and “political localism.”⁶⁰ As a number of commentators have pointed out, the mere existence of a federal system does not itself guarantee political decentralization.⁶¹ A system in which local governments are wholly dependent on funds from a central government, but in which the central government is entirely responsive to powerful local officials, might have a high degree of political localism despite its low degree of legal localism. Conversely, local governments that have the formal powers to tax and spend may have little power to influence state and national policies that make it difficult for them to operate on a sound fiscal basis. These localities may experience a low degree of political localism despite their relatively high degree of legal localism. The question, as Sidney Tarrow famously put it, is whether the center moves the periphery or the periphery moves the center.⁶²

Consider the limited reach of city—and mayoral—power in the aftermath of Hurricane Katrina. It is an understatement to say that the Mayor of New Orleans, Ray Nagin, had significant difficulty moving state and federal bureaucracies to his city’s aid; Nagin was reduced to begging on national television for assistance. Perhaps Nagin’s difficulties stemmed from his position as the mayor of a mostly Democratic and African-American city during a period of Republican dominance of the national government. It is more likely, however, that his failures reflected the inherent lack of power of his office. Indeed, Mayor Nagin’s inability to respond effectively to a natural disaster the size of Katrina reflected his limited ability to respond to his constituents more generally, long before the hurricane hit.

Despite some recent signs of city rejuvenation, urban mayors like Nagin continue to confront some of the country’s most intractable social problems: concentrated poverty, failing schools, high crime rates, racial segregation, and a declining industrial job base. Because cities have limited ability to engage in redistributive policies, urban leaders often do not have the local resources to address these problems. Mayors thus approach the state or federal governments in the position of supplicants.⁶³ Mayors come to Washington to lobby for aid or assistance, but they tend not to have ongoing relationships with federal elected officials or federal bureaucracies. Instead of being direct participants in state and federal policymaking, they are outsiders to it, only as

60. See EDWARD C. PAGE, *LOCALISM AND CENTRALISM IN EUROPE: THE POLITICAL AND LEGAL BASES OF LOCAL SELF-GOVERNMENT* (1991).

61. See, e.g., Richard Briffault, “What About the ‘Ism’?” *Normative and Formal Concerns in Contemporary Federalism*, 47 *VAND. L. REV.* 1303 (1994).

62. TARROW, *supra* note 57, at ch. 1.

63. See, e.g., James Dao, *Lawmakers Question Louisiana Governor on Storm Response and Preparation*, *N.Y. TIMES*, Dec. 15, 2005, at A33.

influential as any other representative of a group or institution seeking government aid might be.

Indeed, the formal independence of the local, state, and federal governments means that state and federal governments rarely need the direct cooperation or assistance of local officials to achieve state or national aims. This form of constitutional departmentalism often undermines local governments' ability to influence policies emanating from the center, as Justice Breyer pointed out in his dissent in *Printz v. United States*.⁶⁴ As Breyer argued, a constitutional system that creates rigid obstacles to intergovernmental cooperation by treating subfederal governments as bureaucratically (and formally) autonomous does not necessarily lead to increased local power. In many European federal democracies, constitutionalists believe that the assignment of centrally mandated duties to local authorities "interferes less, not more,"⁶⁵ with the authority of local government. Preventing the central government from ever requiring local governments to implement federal directives reduces local control by mandating the creation of a centralized implementation bureaucracy, independent from and unaccountable to local authorities.⁶⁶ The formal separation of powers maintains the locality's legal autonomy, preventing interference by central authorities in some (limited number) of cases. But the formal separation of powers also means that local officials might have little influence over policy when central governments do intervene or in cases in which the city would otherwise desire intervention.⁶⁷

This is not to say that a unitary state or a more "cooperative" federal system would necessarily serve cities and their mayors better.⁶⁸ My argument here is not that the American form of federalism always impedes decentralization—though some scholars have made that claim.⁶⁹ The problem for cities is that the ideological and formal commitment to localism is selective. State and federal

64. 521 U.S. 898, 976-78 (1997) (Breyer, J., dissenting).

65. *Id.* at 976.

66. *See id.* at 977.

67. Cf. Heather K. Gerken, *Dissenting by Deciding*, 57 STAN. L. REV. 1745, 1783-86 (2005) (discussing hard versus soft federalism).

68. Roderick Hills, for example, argues that the relationship between mayors and the central government in France is a form of sterile "clientelism." Roderick M. Hills, Jr., *Is Federalism Good for Localism? The Localist Case for Federal Regimes*, 21 J.L. & POL. 187, 215 (2005).

69. *See, e.g.*, Frank B. Cross, *The Folly of Federalism*, 24 CARDOZO L. REV. 1 (2002); Edward L. Rubin & Malcolm Feeley, *Federalism: Some Notes on a National Neurosis*, 41 UCLA L. REV. 903 (1994); *see also* Pradeep Chhibber & E. Somanathan, *Are Federal Nations Decentralized? Provincial Governments and the Devolution of Authority to Local Government* (May 2002) (unpublished manuscript, on file with author). *But see generally* Hills, *supra* note 68 (criticizing Cross, Rubin, and Feeley).

officials intervene fairly regularly in local affairs but rarely to take on the baseline social welfare responsibilities of tax-base-dependent local governments.⁷⁰ Indeed, formal localism often checks central interference when it would do certain localities the most good—for example in redistributing monies from richer jurisdictions to poorer ones.

This combination of formal legal autonomy and local political subservience generates a parochial city and parochial city leaders.⁷¹ In the case of New Orleans, for example, the boundaries of formal legal autonomy undoubtedly hindered an effective disaster response. There is significant evidence that federal and state officials had difficulty transcending the formal legal boundaries between local, state, and federal authority.⁷² At the same time, New Orleans's future will depend for the most part on state and federal policies over which the city has limited control or influence.

City leaders are thus constitutionally parochial. The mayor is a “little Caesar”⁷³—the head of a formal municipal bureaucracy that is politically and formally separate from the state and federal bureaucracy. Within her sphere, the mayor may be able to exercise significant authority, but that sphere is limited, and she exercises relatively little authority outside of it.

B. How Vertical Competition Weakens Cities and Mayors

For the leader of the limited city, the gap between formal authority and political influence is the arena in which much relevant policy is made. For the mayor attempting to operate within this arena, the problem of departmentalism is compounded by a second feature of American-style federalism: vertical redundancy. City leaders do not have a monopoly on local representation. In addition to other city officials, there are significant numbers of state and federal elected officials—namely, state representatives and members of Congress—who represent local constituents. All of these officials

70. See James H. Svara, *The Embattled Mayors and Local Executives*, in *AMERICAN STATE AND LOCAL POLITICS: DIRECTIONS FOR THE 21ST CENTURY* 139, 140-42 (Ronald E. Weber & Paul Brace eds., 1999) (describing the imbalance between city responsibilities and city resources).

71. *But cf.* Goldsmith, *supra* note 39, at 238 (arguing that U.S. local governments enjoy a relatively high political status but relatively moderate legal status); Hills, *supra* note 68 (arguing that local governments in the United States are relatively autonomous compared with local governments in some unitary systems).

72. See, e.g., Jonathan Walters & Donald Kettl, *The Katrina Breakdown*, *GOVERNING*, Dec. 2005, at 20.

73. Megan Mullin et al., *City Caesars?: Institutional Structure and Mayoral Success in Three California Cities*, 40 *URB. AFF. REV.* 19 (2004).

are in competition for political credit and spoils. All are also nominally responsive to local constituencies but not directly to the city as a whole. The result is a political competition for influence and money in which mayors are at a distinct disadvantage.

The most mundane form of competition is the direct competition for credit and avoidance of blame. State and national elected officials have incentives to take popular positions on state and national matters and push any negative consequences onto lower-level officials. State and federal tax “relief”—which often merely displaces the cost of providing essential services onto localities—is an example of this phenomenon, as are unfunded mandates. National and state politicians want credit both for providing services and for cutting taxes; they can do both by adopting laws that shift costs to local governments. The No Child Left Behind Act⁷⁴—a federal enactment that requires states and localities to hew to national education targets—is a primary example of this phenomenon. Another example is the Virginia legislature’s repeal of the unpopular car tax, which had generated revenue for local governments.⁷⁵

The turn of the twentieth century saw a more venal example of this competition, as state legislators co-opted the spoils systems of urban political machines. State-level corruption explains in part why Progressive Era political reformers sought to insulate municipal government from state legislative interference through adoption of constitutional home rule guarantees.⁷⁶ One of the reformers’ concerns was that state legislatures—dominated as they were by representatives of rural areas—were generally hostile to city interests.⁷⁷ But another fear was the corrupt inclination of those legislators who actually represented districts within the city. If state legislators could adopt laws regulating all aspects of municipal government, as they did on a relatively regular basis in the late 1800s and early 1900s,⁷⁸ reform control of municipal government would accomplish little so long as the city’s state legislative

74. Pub. L. No. 107-110, 115 Stat. 1425 (2002) (codified as amended primarily in scattered sections of 20 U.S.C.).

75. See Gordon Morse, *Virginia Must Learn the Car-Tax Lesson Over and Over*, DAILY PRESS (Newport News, Va.), Dec. 11, 2005, at H1.

76. This is a simplification. Reformers did urge home rule as a means of protecting cities from state interference, but they also urged other reforms that would have the effect of limiting city power. See Barron, *supra* note 43, at 2289-2334.

77. Whether state legislatures were in fact hostile to city concerns is the subject of some debate. Compare ROBERT H. WIEBE, *THE SEARCH FOR ORDER, 1877-1920*, at 176 (1967), with Scott Allard et al., *Representing Urban Interests: The Local Politics of State Legislatures*, 12 *STUD. AM. POL. DEV.* 267 (1998) (arguing that state legislatures were not hostile toward big cities).

78. See Allard et al., *supra* note 77, at 273; Nancy Burns & Gerald Gamm, *Creatures of the State: State Politics and Local Government, 1871-1921*, 33 *URB. AFF. REV.* 59, 65 (1997).

delegation or the wider state apparatus was controlled by the political machine. Reformers wanted to insulate city government from state government and then work on the political problem of electing local pro-reform candidates within the city.⁷⁹

In addition to their interest in seeking political credit, state and national officials—though locally elected—often have other widely divergent interests from local officials, in part because they have to be responsive to larger state and national interest groups and in part because they are accountable to a different local electorate. Because state legislative districts and U.S. congressional districts are normally not coextensive with municipal boundaries, the city qua city is not represented at these levels of government. State and national elected officials have strong incentives to inject themselves into local politics, often on behalf of the relevant local electorate but only incidentally on behalf of the local polity.

Consider Mayor Michael Bloomberg's efforts to influence the form and pace of commercial development in New York City. His proposal to develop a stadium on the west side of the city in an effort to attract both the Olympics and a professional football team to New York City was stymied by the Speaker of the State Assembly, Sheldon Silver. Silver represented the Sixty-Fourth Assembly District, which includes portions of lower Manhattan. As Speaker of the Assembly, Silver was one of three officials on the Public Authorities Control Board, which also included the Senate Majority Leader and the Governor. To obtain state financing for the stadium, Bloomberg had to obtain Board approval for the issuance of state bonds. But Bloomberg could not convince Silver, who wanted to focus on downtown redevelopment in his district, to support a stadium on the west side.⁸⁰

Consider also how Bloomberg's influence over redevelopment at the former site of the World Trade Center is mediated by state and federal agencies and thus indirectly by state and federal elected officials. The commission nominally in charge of the redevelopment effort is the Lower Manhattan Development Corporation (LMDC), which is governed by a sixteen-member board, half of which is appointed by the Governor of New York and half by the Mayor. Thus, the Mayor has some influence on the Corporation, though no more than the

79. See, e.g., Robert C. Brooks, *Metropolitan Free Cities: A Thoroughgoing Municipal Home Rule Policy*, 30 POL. SCI. Q. 222 (1915). It should be noted that Allard et al. argue that mayors and other local leaders tended to work in tandem with their state legislative delegations, though this latter claim is relatively anecdotal and—as they observe—“tentative.” Allard et al., *supra* note 77, at 294.

80. See Errol A. Cockfield, Jr., *Stadium Plan Gets Sacked*, NEWSDAY (Long Island ed.), June 7, 2005, at A7.

Governor. The LMDC is a subsidiary of the Empire State Development Corporation, whose nine members and chair are appointed by the Governor. Another agency, the Port Authority of New York and New Jersey, whose members are appointed by the Governors of New York and New Jersey, owns the World Trade Center site. And finally, the LMDC is funded by a Community Development Block Grant administered and regulated by the Department of Housing and Urban Development, a federal agency. Bloomberg's competitors for influence are thus formidable, and include Governor George Pataki, state legislators like Sheldon Silver, and the congressional delegation from New York City, including New York Senators Hillary Clinton and Charles Schumer. All of them are arguably as influential, or more influential, than Mayor Bloomberg in the rebuilding of the World Trade Center site.

Of course, the rebuilding of lower Manhattan is unusual in its scope and national visibility. Nevertheless, it is indicative of the ways in which state and national officials influence local decisions.⁸¹ These officials often operate through state-created public authorities that control important aspects of city policy.⁸² Specialized agencies, created by both state governments and the federal government, undermine mayoral authority.

Moreover, the intergovernmental grants that fund such agencies often contribute to the competition for political credit. Unlike many other developed industrial nations that use block grants or generalized revenue sharing to help fund local governments, the United States tends to use a system of program-specific or selective grants.⁸³ This style of intergovernmental fund transfer increases state and federal politicians' involvement in local affairs, for it makes every grant a potential political investment and a battleground for conflicting local interests. Because state and national funds are necessary to achieve many city ends and are often program-specific, the city must obtain the cooperation of state and federal elected officials if it is to engage in large-scale public works projects, to fund health, education, and welfare services, or to provide housing or other basic amenities to its citizens. Those state and federal officials' political

81. David Nice and Patricia Fredericksen tell a similar story of state and federal intervention in the construction of the Battery Tunnel between Manhattan and Brooklyn. DAVID C. NICE & PATRICIA FREDERICKSEN, *THE POLITICS OF INTERGOVERNMENTAL RELATIONS* 192 (2d ed. 1995).

82. Robert Moses became the most influential public official in New York City through his control of state-created public authorities. *See generally* ROBERT A. CARO, *THE POWER BROKER: ROBERT MOSES AND THE FALL OF NEW YORK* (1974).

83. *See* PIETRO S. NIVOLA, *TENSE COMMANDMENTS: FEDERAL PRESCRIPTIONS AND CITY PROBLEMS* 120-36 (2002).

interests are not always or even usually aligned with the mayor's. And those officials regularly broker relationships between local constituents and state and federal agencies; they influence the direction and flow of funds to organizations and groups in their districts; and they seek political credit for the results.

Mayors are thus often preoccupied with lobbying state and national government officials, a task that they have undertaken with mixed results. At the height of the New Deal, mayors had a significant voice in national affairs through the United States Conference of Mayors (USCM), which was established in the early 1930s and was an important political component of the New Deal coalition.⁸⁴ Fiorello LaGuardia, the first president of the Conference, was a close personal friend of Franklin D. Roosevelt, and that connection meant that the cities exercised influence in the administration of New Deal programs and the flow of federal resources to the cities.⁸⁵ Post-war mayors, like Richard Lee of New Haven, also had some success in directing the flow of federal resources to their cities, especially during the War on Poverty in the 1960s and early 1970s.⁸⁶ And when mayors controlled the local Democratic machine, as Richard Daley did in Chicago, they had a significant voice in party politics even at the national level.⁸⁷

In all of these instances, mayoral influence tended to turn on the mayor's ability to turn out the vote for state and national politicians. But these urban political coalitions were often short-lived; after LaGuardia (and by the end of the New Deal), the USCM never regained its stature in Washington.⁸⁸ And while the War on Poverty brought significant federal funds to cities, those programs often bypassed local politicians. Indeed, federal government programs were often designed to avoid the mayor's office altogether by mandating the creation of independent local agencies to handle federal funds.⁸⁹

More importantly, suburbanization and the declining strength of local and national political parties reduced the importance of mayors as vote-getters. As Margaret Weir has argued, interest groups have replaced parties as the leading

84. See DONALD H. HAIDER, *WHEN GOVERNMENTS COME TO WASHINGTON: GOVERNORS, MAYORS, AND INTERGOVERNMENTAL LOBBYING* 2-6 (1974); see also SUZANNE FARKAS, *URBAN LOBBYING: MAYORS IN THE FEDERAL ARENA* 35-38, 66-67 (1971) (discussing the influence of the USCM during the New Deal).

85. See HAIDER, *supra* note 84, at 4, 52.

86. See *id.* at 48-75.

87. See generally F. RICHARD CICCONE, *DALEY: POWER AND PRESIDENTIAL POLITICS* (1996) (describing Mayor Richard Daley's national political influence).

88. See HAIDER, *supra* note 84, at 283.

89. See JON C. TEAFORD, *THE TWENTIETH-CENTURY AMERICAN CITY* 138-39 (2d ed. 1993).

instruments of legislation at the state level.⁹⁰ Before the dominance of interest groups, Weir argues, cities had the ability to make legislative deals by playing rural or suburban interests against one another. But in an era of reduced party influence and increased suburbanization, legislators are less responsive to local interests, and the urban mayoralty has lost much of its influence in the state and national political marketplaces.⁹¹ It is notable that since the late 1970s, federal aid to local governments and to programs that serve urban populations has declined significantly and continuously.⁹²

Indeed, American mayors are relatively invisible, at least as a matter of national politics. Again, contrast the status of the American mayor with that of the French mayor. While France has a highly centralized political system, its central city mayors have traditionally been quite powerful nationally. In part, this is because French mayors are often national political figures; in France, elected officials can hold local and national political office simultaneously.⁹³

Unlike French mayors, American mayors enjoy limited national political stature. Rudolph Giuliani's national prominence since September 11 is the exception rather than the rule. Most mayors—even of big cities—have less name recognition outside their cities than do Supreme Court Justices. Moreover, the very departmentalization of local, state, and national government has effects on politicians' career trajectories. In unitary systems it might not be uncommon for politicians to begin their careers at the local level and work their way up through regional administrations, culminating in a career in the central administration.⁹⁴ In the United States, the local, regional, and federal units of government are constitutionally distinct and often politically distinct as well. Local office is not a prerequisite for state or national office, and it may even be a detriment. As one observer of the New York mayoralty noted, "What [mayors] must do to get elected and re-elected are the very things that prevent them from ever moving on to higher office."⁹⁵

90. Margaret Weir, *Central Cities' Loss of Power in State Politics*, CITYSCAPE: J. POL'Y DEV. & RES., May 1996, at 23.

91. See TEAFORD, *supra* note 89, at 127-69.

92. See ANNE MARIE CAMMISA, GOVERNMENTS AS INTEREST GROUPS: INTERGOVERNMENTAL LOBBYING AND THE FEDERAL SYSTEM 6-7 (1995); John Shannon, *The Return to Fend-for-Yourself Federalism: The Reagan Mark*, INTERGOVERNMENTAL PERSP., Summer-Fall 1987, at 34.

93. Nicholls, *supra* note 57. See generally TARROW, *supra* note 57 (analyzing the power of the French mayoralty).

94. See Jeanne Becquart-Leclercq, *Local Political Recruitment in France and the United States: A Study of Mayors*, 8 EUR. J. POL. RES. 407 (1980).

95. HAIDER, *supra* note 84, at 300 (quoting Wallace S. Sayre).

Indeed, except in unusual circumstances, the mayoralty in the United States tends not to be a stepping stone to higher political visibility, state or national executive authority, or even a position in the national legislature. Very few of those who have served in the U.S. House of Representatives or the U.S. Senate have ever had experience as a local elected official.⁹⁶ Only three Presidents began their careers as mayors,⁹⁷ and few who obtain significant posts in the federal administration did so because they performed admirably as mayors.⁹⁸

This political reality reflects a structural one. Mayors tend to be politically salient in constitutional systems that permit cities to be represented at higher levels of government, as in Germany or Russia, or that permit mayors to hold national office, as in France. In the United States, cities are not represented in state or national councils, and one need not hold local office to represent local interests. This is not to say that local political officials cannot influence national and state policy. In some states with large cities and few other population centers, cities can dominate the political landscape. But the layering of political influence in the U.S. federal system tends to fracture the city as a polity and thus to reduce the influence of any one political leader (or of the city as a whole). The city's vertical political fragmentation limits the ability of its leaders to effectuate public policy; the mayor's status is a reflection of this political reality.

III. THE STRONG MAYOR IN THE DEMOCRATIC CITY

A less fragmented city, and therefore a less parochial mayoralty, may be possible, but would entail altering the existing constitutional relationship between the city and state and federal governments—between the periphery and the center. Current strong-mayor reform efforts do not contemplate such a reformation because they focus on political relationships inside the city. More importantly, strong-mayor reforms do not challenge the dominant conceptual model of the city. That model, which we have inherited from Progressive Era reformers, views cities primarily and almost exclusively as sites for the provision of municipal services. Municipal government is, on this account, a

96. See Becquart-Leclercq, *supra* note 94, at 421.

97. Only Andrew Johnson, Grover Cleveland, and Calvin Coolidge had been mayors. See Daniel C. Diller, *Biographies of the Presidents*, in 2 GUIDE TO THE PRESIDENCY 1526, 1534, 1547 (Michael Nelson ed., 3d ed. 2002).

98. Only nineteen of the 1528 presidential appointees covered in a leading biographical database had served as mayor or as a city or local administrator. INTER-UNIV. CONSORTIUM FOR POLITICAL & SOC. RESEARCH, PRESIDENTIAL APPOINTEES, 1964-1984 (1987).

species of administration; its success or failure is measured against a metric of managerial competence and technical expertise. Strong-mayor reforms are well within this dominant paradigm. Those who favor the strong mayor (especially business interests) mostly make arguments about the internal efficiency of the unitary executive; they argue that centralizing power in one office will streamline city bureaucracy and improve administration.

A competing model of the city, however, and one that was also articulated by reformers in the early part of twentieth century, conceives of the city as a site for the expression of popular democratic energy. On this account, the city is not merely an instrument for delivering services, but rather a formative site for the exercise of mass politics—the city is “The Hope of Democracy,” as Frederic Howe put it in the title of his 1905 book.⁹⁹ For Howe—and for many political theorists who came before and after him—the city represents the ideal site for the pursuit of the democratic political life.¹⁰⁰

One can defend and promote the idea of the strong mayor on this latter ground as well. At the turn of the twentieth century, elite opposition to the strong mayor was grounded in paternalistic and nativist sentiments. Elites feared that mass democracy in a city of immigrants would lead to irresponsible rule. Municipal reformers’ inclination to suppress urban democracy by fragmenting executive power and placing authority in elite-run boards and commissions was driven by the reality of municipal corruption, but also by the notion that urban democracy was potentially lawless.¹⁰¹ For Howe and other decentralist progressives, however, the real threat to good government was not the democratic mobs, but state and local elites who suppressed local democratic will. The attraction of the strong mayor for these early reformers was not simply efficiency. Municipal government was to be designed to promote democratic energy, to foster cities that could lead a revolution in good government from the bottom up.

Modern-day scholars and reformers who are democracy-minded—that is, who tend to favor a wider distribution of political power or a more participatory politics—rarely think of the mayoralty as an instrument of political decentralization or as a source of popular political energy. These scholars often favor a strong city council or strong neighborhood governance institutions, both of which tend to disperse political power, moving it away from city hall and toward the ward or neighborhood.

99. FREDERIC C. HOWE, *THE CITY: THE HOPE OF DEMOCRACY* (1905).

100. *Id.* at 7.

101. See TEAFORD, *supra* note 4; Murphy, *supra* note 5.

The strong mayoralty, however, offers two benefits to the democrat that a more diffuse structure cannot: accountability and the possibility of dynamism. “The boss,” as Howe argued at the turn of the century, “appears under any system, whether the government be lodged with the mayor, the council, with boards, or commissions.”¹⁰² But under a strong mayor, the exercise of power is easily identified: “Attention can be focussed [sic] on a single official, whereas it is difficult to follow boards, commissions, or a large council, each member of which is seeking to shift the burden of responsibility on to someone else.”¹⁰³ The diffusion of political authority both generates confusion and creates political tension between executive officials. As one weak mayor told his constituents, “The buck doesn’t stop here. See the city manager.”¹⁰⁴

The strong mayoralty is not without its risks; there is no guarantee that the mayor will exercise power effectively or legitimately. Nevertheless, dispersing political power by lodging it in multiple local institutions or in expert administrators tends to diminish democratic responsiveness. As Barbara Ferman argues in her important study of Boston, a weak mayor leads to policymaking by bureaucracy and promotes “hyper-pluralistic competition for scarce resources.”¹⁰⁵ The result may be stalemate, or worse, rent-seeking. The strong mayor can build coalitions, hold them together, and resist capture by unions or by corporations. And a strong mayor can exercise influence over state and federal officials, representing the city in the region, the state, and the nation. “Lack of power,” Ferman argues, quoting Theodore Lowi (and echoing Howe), “can corrupt city hall almost as much as the possession of power.”¹⁰⁶

Of course, as with all distributions of power, whether the exercise of executive power benefits the city (and which constituents) depends on how it is used and in what context. Consider the mayoralty of New York’s Rudolph Giuliani. The Giuliani Administration was autocratic in both substance and style. Giuliani’s aggressive leadership style and his emphasis on law-and-order policies accounted for his popularity, but also severely strained it.¹⁰⁷ Indeed, Giuliani’s polarizing politics made it difficult for his administration to move beyond the public-safety successes that marked its first term. A series of police

102. HOWE, *supra* note 99, at 185.

103. *Id.* at 180.

104. Matthew Hall, *Strong Mayor System Gains Supporters in Oakland*, SAN DIEGO UNION-TRIB., Oct. 4, 2004, at A1 (describing a sign on the desk of a former mayor of Oakland).

105. FERMAN, *supra* note 29, at 211.

106. *Id.* at 214 (internal quotation marks omitted).

107. See RICHARD M. FLANAGAN, *MAYORS AND THE CHALLENGE OF URBAN LEADERSHIP* 188-89 (2004).

brutality scandals, which exacerbated an already strained relationship with minorities, undercut the effectiveness of his administration's second term.¹⁰⁸

After September 11, however, Giuliani was able to “cast aside his polarizing political style, and become a figure of national unity.”¹⁰⁹ As the nation's first “war-time” mayor, Giuliani proved the effectiveness of charismatic executive leadership even to those who had disagreed with his substantive policies. In so doing, he raised the profile of the mayoralty, albeit under unique circumstances.

It is far from clear whether Giuliani's leadership in the wake of September 11 generated any specific long-term benefits for New York City, though his leadership undoubtedly contributed to the city's civic health during a particularly difficult period. Charismatic leadership can generate collective feelings of ownership and belonging and can articulate a city's civic identity. Even the symbolic acts of a strong mayor can alter the popular perception of the city. To the extent that city residents begin to understand themselves as members of a unique polity, they are more likely to demand recognition as an identifiable political constituency.

Consider a second example: Mayor Gavin Newsom's claim that he was enforcing constitutional norms when he ordered the City of San Francisco to issue marriage licenses to same-sex couples in February 2004.¹¹⁰ Newsom argued that state and federal guarantees of equal protection required his city to provide marriage licenses on a gender-neutral basis. Following San Francisco's lead, a number of other cities throughout the country began to issue same-sex marriage licenses as well.

The mayors' actions elicited a predictable response. State officials sued the mayors, demanding that they comply with state statutes. Most courts sided with the states. In California, the state supreme court issued a strongly worded ruling that voided all the marriages performed for same-sex couples in San Francisco.¹¹¹ The opinion is notable for its rhetorical reining-in of wayward local public officials. The city was asking for a determination on the merits—that is, whether it had been acting unconstitutionally in denying same-sex couples marriage licenses—but the court viewed the city's issuance of licenses as akin to civil disobedience. “[T]he scope of the authority entrusted to our public officials,” stated the court, “involves the determination of a fundamental

108. *Id.*

109. *Id.* at 188.

110. See generally Richard C. Schragger, *Cities as Constitutional Actors: The Case of Same-Sex Marriage*, 21 J.L. & POL. 147, 175 (2005) (describing Newsom's actions).

111. *Lockyer v. City & County of San Francisco*, 95 P.3d 459 (Cal. 2004).

question that lies at the heart of our political system: the role of the rule of law in a society that justly prides itself on being a government of laws, and not of men (or women).¹¹² Rule-of-law values dictate that a local “public official charged with a ministerial duty [cannot] be free to make up his or her own mind whether a statute is constitutional and whether it must be obeyed.”¹¹³

Whether a local official must always comply with a state statute that is arguably unconstitutional is a tougher legal question than the majority opinion indicates; at least one of the California dissenters expressed concern about the breadth of the majority’s ruling.¹¹⁴ What is noteworthy about the majority opinion, however, is its disinclination to view the mayoralty as anything other than an inferior ministerial office. Mayor Newsom’s actions were subversive because he challenged the subordinate posture of cities; he not only laid claim to a role in interpreting the California and Federal Constitutions (thus challenging the authority of the judiciary), but he also asserted a populist vision of the mayoralty that did not accept its relatively weak constitutional status.¹¹⁵

This version of the strong mayoralty—populist, constitutionally self-confident, politically subversive—is more like the strong mayor of Howe’s “democratic city”¹¹⁶ than it is like the strong mayor of today’s municipal reformers. Certainly Newsom saw himself as a local champion, aggressively pursuing the interests of his urban constituency despite opposition from the state and federal governments. And though Newsom’s gambit in San Francisco failed as a formal matter (and perhaps as a political one), it energized a number of other city leaders throughout the country. Increased adoptions of local measures that regulate individual rights, social welfare, and other measures traditionally thought of as within the purview of the states indicate some increased aggressiveness on the part of city leaders.¹¹⁷ Recent declarations by a

112. *Id.* at 463 (internal quotation marks omitted).

113. *Id.* at 499.

114. *Id.* at 510 (Werdegar, J., concurring in part and dissenting in part); see also David J. Barron, *Why (and When) Cities Have a Stake in Enforcing the Constitution*, 115 YALE L.J. 2218 (2006) (discussing *Lockyer*).

115. Cf. Gerken, *supra* note 67, at 1764–65 (describing Newsom’s actions as a form of dissent). But cf. Barron, *supra* note 114.

116. “Democratic city” is actually Robert Dahl’s term. Robert A. Dahl, *The City in the Future of Democracy*, 61 AM. POL. SCI. REV. 953 (1967).

117. See Richard Briffault, *Home Rule for the Twenty-First Century*, 36 URB. LAW. 253, 254–55 (2004) (discussing city adoptions of living wage ordinances, anti-discrimination statutes, gun control ordinances, and local campaign finance laws).

number of cities that they will not participate in enforcing the USA PATRIOT Act may be an example of this newfound voice.¹¹⁸

This is not to say that mayors are either solely responsible for recent city initiatives or the only institutional actors capable of asserting city authority. In cities with a mayor-council structure, the city council may have the potential to generate a political and policy vision for the city, though the council—like all legislative bodies—is hampered by the need to produce political consensus among often fractious interests. The city council has also historically been a significant site of corruption and other forms of rent-seeking. Howe and other early-twentieth-century reformers sought to bypass the council, or at least limit its intrusion into the executive, for precisely this reason.

Of course, mayoral leadership alone is unlikely to generate significant changes in a city's economic and social fate. Mayors may be able to take advantage of political and economic circumstances, but they have little capacity to generate those circumstances on their own. Effective leadership has to occur within an effective administrative and political system; city councils and other urban political institutions are important components of that system.

The mayoralty, however, has the institutional capacity to represent the city as a city, with identifiable interests independent of the preferences of any particular agglomeration of competing interest groups. That does not mean that the mayor will always (or usually) pursue the city's interests; the mayor's office is obviously responsive to particularist interests and is susceptible to their capture. Nevertheless, as with the presidency, executive power is most legitimate and arguably most effective when it is invoked on behalf of the entire polity. This characteristic of the executive makes the mayoralty a better candidate than other city institutions for asserting power within a political system that tends systematically to disadvantage cities.

The democratic argument for the strong mayor is thus not grounded in a pluralist account of urban politics, but rather in an older tradition, which some might call "civic republican." That tradition, derived from the ancients, views the city as the embodiment of the democratic polity (and not merely a reflection of the individuals or groups within it).¹¹⁹ Those who see the city solely as a political space in which interests or groups compete for domination or influence, as the pluralist or elite conceptions of urban politics would have it, tend to be skeptical of any concentration of political power. But if one views the city as a polity with a collective identity and interests independent of the

118. For a list of local declarations, see Bill of Rights Def. Comm., Resolutions Passed by Date of Adoption, <http://www.bordc.org/list.php?sortChrono=1> (last visited Sept. 3, 2006).

119. Dahl, *supra* note 116, at 954.

particular ends of the citizens who inhabit it, then the embodiment of those interests in one executive office becomes more attractive. The articulation of the city's interests by a single executive official is particularly important for urban municipalities, which experience the most significant gaps between resources and responsibilities. But it is also relevant to suburban municipalities facing declining tax bases, aging populations, and deteriorating housing stock. In smaller, more homogeneous communities, the technocratic conception of local government—with its emphasis on the professional manager and the part-time council—dominates.¹²⁰ In part this is because those communities have found ways to insulate themselves from larger economic and demographic dislocations. As economic and demographic circumstances change, however, suburban municipalities will increasingly need political—not just technocratic—governance.

This does not mean that strong-mayor charter reforms alone are likely to encourage the flowering of executive-led local democracy. City power continues to be marginalized in the United States in large part because of the “persistence of elite ambivalence toward democratic politics.”¹²¹ Nevertheless, because of the limitations on the city council and other local political structures, the mayor's office is more likely to be able to assert local democratic prerogatives in a way that challenges the political subservience of the city more generally. In this way, a strong mayoralty derived from a democratic vision of city power is more likely to have substantial effects on city power than one derived from a technocratic understanding of the city and the mayor's role.

CONCLUSION

The weakness of the mayoralty illustrates a number of features of American political organization: the elite skepticism of democracy, a belief in technocracy as a solution to political failures, an emphasis on legal decentralization over political decentralization, and a federal system that fractures local power. More so than the presidency or the governorship, the mayoralty was shaped by an abiding ambivalence about the exercise of political power. Municipal policymakers came to believe that the professionalization of city management would do more to promote city efficiency than its politicization. As Frederic

120. “Reform politics appears in its purest form in affluent suburbs. The homogeneous, middle-class setting produces the least tension between reform institutions and the clientele that those institutions serve.” CLARENCE N. STONE ET AL., *URBAN POLICY AND POLITICS IN A BUREAUCRATIC AGE* 117 (2d ed. 1986).

121. Murphy, *supra* note 5, at 17.

Howe, a dissenter from this strategy, wrote, “Distrust of democracy has inspired much of the literature on the city. Distrust of democracy has dictated most of our city laws. . . . Reform organizations have voted democracy a failure.”¹²²

Distrust of urban democratic power remains apparent today in the dominance of the divided executive—the features of most city governments prove that we have internalized this suspicion. The professional manager provides a comforting image of governance in which executive power—in fact, the exercise of political power of any kind—is submerged and repressed. Weak-mayor charters and the dominance of the council-manager model reflect the widespread notion that municipal government is mainly administrative in nature. This understanding indirectly serves the interests of mayors’ political competitors at the state and federal level, who benefit from mayors’ lack of power. The ideology of municipal technocracy both cabins city power and enhances the power of those at higher levels of government.

In an era in which state and national governments are retreating from a serious urban policy or a social welfarist agenda, cities have to increase their capacity to respond to both the substantive and the participatory demands of their constituents. Though efficiency and democracy are often conceptually at odds, executive power has recently been viewed as a way to move forward along both dimensions. This view, which seems unremarkable at the national level, has been repressed at the municipal level. In part because of the long-running association of municipal politics with the political machine, strength in the executive seems most threatening in municipalities. But the city is directly accountable and accessible to the citizenry in ways that other levels of government are not. Indeed, the mayor contends most directly with citizens’ dissatisfaction with government failures even if those failures are entirely outside her control. For that reason alone, the traditional skepticism of local executive power should be reevaluated.

Of course, city governance may ultimately be impervious to the blandishments of strong leadership. As Douglas Rae observes in his recent book about twentieth-century New Haven, “Cities are among the least agile creatures in America’s system of capitalist democracy—they move slowly, reactively, and awkwardly in response to change initiated by more athletic organizations.”¹²³ Rae argues that it is “consequently possible” to be a strong mayor without having the ability to govern important aspects of a city’s future.

122. HOWE, *supra* note 99, at 1.

123. DOUGLAS W. RAE, *CITY: URBANISM AND ITS END* 24 (2003).

In fact, it may “be impossible for *any* person or coalition within such a city to govern these features of the community’s future.”¹²⁴

Rae’s story of New Haven’s mid-century decline emphasizes the social and economic forces that make city governance intractable: the demise of American industry, the flight of capital from urban centers, the technology that makes it possible to live outside the urban core, and the decline of neighborhood identification. But the city’s weakness (and the mayor’s) is also a product of our constitutional design—of the city’s institutional subordination and fragmentation.

Current strong-mayor reforms address only one aspect of the fragmentation of the democratic city. They do little to challenge the city’s constitutional subordination. And to the extent that strong-mayor charter reforms are grounded in a corporate or administrative model of local government, they are unlikely to alter intergovernmental relationships in the city’s favor. Whether a strong mayoralty derived from democratic norms can alter those relationships is an open question. If cities are worth governing, however, the strong mayoralty in the democratic city may be worth a try.

124. *Id.*