Gun control legislation is a key feature of federalism that should be granted to the states. **O’Shea ’14[[1]](#footnote--1)**

**The other, decentralizing approach envisions using the Constitution to promote autonomy** in subnational jurisdictions **by subjecting gun controls enacted by larger jurisdictions to more scrutiny than those** **enacted by smaller jurisdictions**. There has been less scholarly discussion of this perspective.[11](http://www.yalelawjournal.org/forum/why-firearm-federalism-beats-firearm-localism%22%20%5Cl%20%22_ftnref11) When Heller was decided, I published an essay exploring the arguments for the decentralizing perspective.[12](http://www.yalelawjournal.org/forum/why-firearm-federalism-beats-firearm-localism%22%20%5Cl%20%22_ftnref12) I concluded: (1) **because Americans are divided, nationwide gun restrictions raise** special **constitutional concerns**,[13](http://www.yalelawjournal.org/forum/why-firearm-federalism-beats-firearm-localism%22%20%5Cl%20%22_ftnref13) **and** (2) **to the extent it is proper to allow such concerns** to **influence constitutional analysis, the** primary locus of subnational **authority to regulate guns should be the states**, not municipalities.[14](http://www.yalelawjournal.org/forum/why-firearm-federalism-beats-firearm-localism%22%20%5Cl%20%22_ftnref14) **State firearms preemption statutes**, which bar municipalities from adopting piecemeal firearms restrictions, **help to preserve the integrity of state approaches to gun policy and uphold the settlement implicit in federalism**.[15](http://www.yalelawjournal.org/forum/why-firearm-federalism-beats-firearm-localism%22%20%5Cl%20%22_ftnref15) **These statutes**, I argued, **are not merely consistent with** a sound approach to **decentralization, but rather form a crucial part of it**. Firearm Localism takes up the decentralizing approach, enriching it with new observations and arguments. Blocher ultimately accepts the first conclusion but not the second. In his view, gun controls enacted by urban municipalities deserve “special deference” in constitutional analysis.[16](http://www.yalelawjournal.org/forum/why-firearm-federalism-beats-firearm-localism%22%20%5Cl%20%22_ftnref16) Broad state preemption laws, which prevent municipalities from adopting additional gun regulations, should be revised or repealed.[17](http://www.yalelawjournal.org/forum/why-firearm-federalism-beats-firearm-localism%22%20%5Cl%20%22_ftnref17) Thus, Blocher and I part ways in answering a critical question: if one seeks decentralization, then what is the lowest appropriate level of government for firearms policy?[18](http://www.yalelawjournal.org/forum/why-firearm-federalism-beats-firearm-localism%22%20%5Cl%20%22_ftnref18) In this response, I defend and extend my position that the right answer is the state—not, as Blocher argues, the municipality. A decentralized firearms policy and gun-rights jurisprudence should take the form of a traditional, state-based federalism, for three reasons. First, firearm localism cannot be justified by a rural-urban divide on attitudes toward hunting, a practice that, although important, is peripheral to current gun control controversies. Second, firearm localism is not supported by traditional judicial approaches to the right to keep and bear arms. Finally, there is a strong pragmatic case against according deference to local firearm regulations. Firearm localism would destroy the compromise benefits of federalism by burdening the exercise of the right to keep and bear arms in ways that gun rights supporters would justifiably view as unacceptable.

#### Federalism is vital to a clear division of labor between state and federal governments; it is key maximizing US leadership. **Nivola 07**[[2]](#footnote-0)

Whatever else it is supposed to do, a federal system of government should offer policy-makers a division of labor.1 Perhaps the first to fully appreciate that benefit was Alexis de Tocqueville. He admired the federated regime of the United States because, among other virtues, it enabled its central government to focus on primary public obligations (“a small number of objects,” he stressed, “sufficiently prominent to attract its attention”), leaving what he called society’s countless “secondary affairs” to lower levels of administration.2 Such a system, in other words, could help officials in Washington keep their priorities straight. It is this potential advantage, above all others, that warrants renewed emphasis today. America’s national government has its hands full coping with its continental, indeed global, security responsibilities, and cannot keep expanding a domestic policy agenda that injudiciously dabbles in too many duties best consigned to local authorities. Indeed, in the habit of attempting to do a little of everything, rather than a few important things well, our overstretched government suffers a kind of ~~attention deficit disorder~~ [inattentiveness]. Although this state of overload and distraction obviously is not a cause of catastrophes such as the successful surprise attacks of September 11, 2001, the ferocity of the insurgency in Iraq, or the submersion of a historic American city inundated by a hurricane in 2005, it may render such tragedies harder to prevent or mitigate.

Low U.S leadership causes nuclear war. Metz 13**[[3]](#footnote-1)**

So much for the regions of modest concern. The Middle East/North Africa region, by contrast, is a part of the world where American retrenchment or narrowing U.S. military capabilities could have extensive adverse effects. While the region has a number of nations with significant military capability, it does not have a functioning method for preserving order without outside involvement. As U.S. power recedes, it could turn out that American involvement was in fact a deterrent against Iran taking a more adventurous regional posture, for instance. With the United States gone, Tehran could become more aggressive, propelling the Middle East toward division into hostile Shiite and Sunni blocs and encouraging the spread of nuclear weapons. With fewer ties between regional armed forces and the United States, there also could be a new round of military coups. States of the region could increase pressure on Israel, possibly leading to pre-emptive military strikes by the Israelis, with a risk of another major war. One of the al-Qaida affiliates might seize control of a state or exercise outright control of at least part of a collapsed state. Or China might see American withdrawal as an opportunity to play a greater role in the region, particularly in the Persian Gulf. The United States has a number of security objectives in the Middle East and North Africa: protecting world access to the region's petroleum, limiting humanitarian disasters, preventing the proliferation of weapons of mass destruction, limiting the operating space for al-Qaida and its affiliates, sustaining America's commitment to long-standing partners and assuring Israel's security. Arguments that the U.S. can disengage from the region and recoup savings in defense expenditures assume that petroleum exports would continue even in the event of domination of the region by a hostile power like Iran or a competitor like China, state collapse or even the seizure of power by extremists. Whoever exercises power in the region would need to sell oil. And the United States is moving toward petroleum self-sufficiency or, at least, away from dependence on Middle Eastern oil. But even if the United States could get along with diminished petroleum exports from the Middle East, many other nations couldn't. The economic damage would cascade, inevitably affecting the United States. Clearly disengagement from the Middle East and North Africa would entail significant risks for the United States. It would be a roll of the strategic dice. South and Central Asia are a bit different, since large-scale U.S. involvement there is a relatively recent phenomenon. This means that the regional security architecture there is less dependent on the United States than that of some other regions. South and Central Asia also includes two vibrant, competitive and nuclear-armed powers—India and China—as well as one of the world's most fragile nuclear states, Pakistan. Writers like Robert Kaplan argue that South Asia's importance will continue to grow, its future shaped by the competition between China and India. This makes America's security partnership with India crucial. The key issue is whether India can continue to modernize its military to balance China while addressing its immense domestic problems with infrastructure, education, income inequality and ethnic and religious tensions. If it cannot, the United States might have to decide between ceding domination of the region to China or spending what it takes to sustain an American military presence in the region. Central Asia is different. After a decade of U.S. military operations, the region remains a cauldron of extremism and terrorism. America's future role there is in doubt, as it looks like the United States will not be able to sustain a working security partnership with Afghanistan and Pakistan in the future. At some point one or both of these states could collapse, with extremist movements gaining control. There is little chance of another large-scale U.S. military intervention to forestall state collapse, but Washington might feel compelled to act to secure Pakistan's nuclear weapons if Islamabad loses control of them. The key decision for Washington might someday be whether to tolerate extremist-dominated areas or states as long as they do not enable transnational terrorism. Could the United States allow a Taliban state in parts of Afghanistan and Pakistan, for instance, if it did not provide training areas and other support to al-Qaida? Most likely, the U.S. approach would be to launch raids and long-distance attacks on discernible al-Qaida targets and hope that such a method best balanced costs and risks. The Asia-Pacific region will remain the most important one to the United States even in a time of receding American power. The United States retains deep economic interests in and massive trade with Asia, and has been a central player in the region's security system for more than a century. While instability or conflict there is less likely than in the Middle East and North Africa, if it happened it would be much more dangerous because of the economic and military power of the states likely to be involved. U.S. strategy in the Asia-Pacific has been described as a hub-and-spokes strategy "with the United States as the hub, bilateral alliances as the spokes and multilateral institutions largely at the margins." In particular, the bilateral "spokes" are U.S. security ties with key allies Australia, Japan and South Korea and, in a way, Taiwan. The United States also has many other beneficial security relationships in the region, including with Singapore, Thailand, Malaysia and the Philippines. America's major security objectives in the Asia-Pacific in recent years have been to discourage Chinese provocation or destabilization as China rises in political, economic and military power, and to prevent the world's most bizarre and unpredictable nuclear power—North Korea—from unleashing Armageddon through some sort of miscalculation. Because the U.S. plays a more central role in the Asia-Pacific security framework than in any other regional security arrangement, this is the region where disengagement or a recession of American power would have the most far-reaching effect. Without an American counterweight, China might become increasingly aggressive and provocative. This could lead the other leading powers of the region close to China—particularly Japan, South Korea and Taiwan—to abandon their historical antagonism toward one another and move toward some sort of de facto or even formal alliance. If China pushed them too hard, all three have the technological capability to develop and deploy nuclear weapons quickly. The middle powers of the region, particularly those embroiled in disputes with China over the resources of the South China Sea, would have to decide between acceding to Beijing's demands or aligning themselves with the Japan-South Korea-Taiwan bloc. Clearly North Korea will remain the most incendiary element of the Asia-Pacific system even if the United States opts to downgrade its involvement in regional security. The parasitic Kim dynasty cannot survive forever. The question is whether it lashes out in its death throes, potentially with nuclear weapons, or implodes into internal conflict. Either action would require a significant multinational effort, whether to invade then reconstruct and stabilize the nation, or for humanitarian relief and peacekeeping following a civil war. Even if the United States were less involved in the region, it would probably participate in such an effort, but might not lead it. Across all these regions, four types of security threats are plausible and dangerous: protracted internal conflicts that cause humanitarian disasters and provide operating space for extremists (the Syria model); the further proliferation of nuclear weapons; the seizure of a state or part of a state by extremists that then use the territory they control to support transnational terrorism; and the old specter of major war between nations. U.S. political leaders and security experts once believed that maintaining a full range of military capabilities, including the ability to undertake large-scale, protracted land operations, was an important deterrent to potential opponents. But the problem with deterrence is that it's impossible to prove. Did the U.S. military deter the Soviet seizure of Western Europe, or did Moscow never intend to do that irrespective of what the United States did? Unfortunately, the only way to definitively demonstrate the value of deterrence is to allow U.S. power to recede and see if bad things happen. Until recently, the United States was not inclined to take such a risk. But now there is increasing political support for accepting greater risk by moving toward a cheaper military without a full range of capabilities. Many Americans are willing to throw the strategic dice. The recession of American power will influence the evolution of the various regional security systems, of which history suggests there are three types: hegemonic security systems in which a dominant state assures stability; balance of power systems where rivals compete but do not dominate; and cooperative systems in which multiple states inside and sometimes outside a region maintain security and limit or contain conflict. Sub-Saharan Africa is a weak cooperative system organized around the African Union. Even if there is diminished U.S. involvement, the sub-Saharan African security system is likely to remain as it is. Latin America might have once been a hegemonic system, at least in the Caribbean Basin, but today it is moving toward becoming a cooperative system with a diminished U.S. role. The same is true of Europe. The Middle East/North Africa region, South and Central Asia and the Asia-Pacific will probably move toward becoming balance of power systems with less U.S. involvement. Balances of power can prevent major wars with adept diplomacy and when the costs of conflict are high, as in Europe during the Cold War, for instance. But catastrophic conflicts can happen if the balance collapses, as in Europe in the summer of 1914. Power balances work best when one key state is able to shift sides to preserve the balance, but there is no candidate to play this role in the emerging power balances in these three regions. Hence the balances in these regions will be dangerously unstable.

1. Michael P. O’Shea, Why Firearm Federalism Beats Firearm Localism, 123 Yale L.J. Online 359 (2014), <http://yalelawjournal.org/forum/why-firearm-federalism-beats-firearm-localism.> 12/8/15 LK [↑](#footnote-ref--1)
2. - Vice President and Director of Governance Studies at Brookings (Pietro, “Rediscovering Federalism”, April, <http://www3.brookings.edu/~/media/Files/rc/papers/2007/07governance_nivola/07governance_nivola.pdf>)

\*We don’t endorse gendered language LK [↑](#footnote-ref-0)
3. – Dr. Steven Metz, Director of Research at the Strategic Studies Institute, Ph.D. from the Johns Hopkins University, and an MA and BA from the University of South Carolina, “A Receding Presence: The Military Implications of American Retrenchment”, World Politics Review, 10-22, <http://www.worldpoliticsreview.com/articles/13312/a-receding-presence-the-military-implications-of-american-retrenchment> LK [↑](#footnote-ref-1)