Counterplan text: The United States Federal Government will ban handguns…

Gun control legislation is a key feature of federalism. **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state preemption laws, which prevent municipalities from adopting additional gun regulations, should be revised or repealed.[17](http://www.yalelawjournal.org/forum/why-firearm-federalism-beats-firearm-localism%22%20%5Cl%20%22_ftnref17) Thus, Blocher and I part ways in answering a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.

However, federalism is bad Federalism leads to ineffective responses to disease outbreaks, terrorist attacks, and natural disaster. **Griffin, 07[[2]](#footnote-0)**

**And so it is still the case that when natural disasters strike, the divided power of the federal structure presents a coordination problem. The kind of coordination that had to occur to avoid the Katrina disaster requires long-term planning before the event**. The **American constitutional system makes taking intergovernmental action difficult and complex**. The process of coordinating governments can take years. In many ways, the government was just at the beginning of that process at the time of Katrina, [n48](http://www.lexisnexis.com.proxy.lib.umich.edu/us/lnacademic/frame.do?tokenKey=rsh-20.623515.1689064805&target=results_DocumentContent&reloadEntirePage=true&rand=1215280977638&returnToKey=20_T4099813154&parent=docview" \l "n48#n48) although we are now four years distant from the terrorist attacks of September 11, 2001 that set the latest round of disaster coordination in motion. Suppose, however, that we don't have the luxury of taking the time to satisfy every official with a veto. This is the key point of tension between what contemporary governance demands and what the Constitution permits. The kind of limited change that occurred in 1927 can take us only so far. What Hurricane Katrina showed was that even after decades of experience with natural disasters, the federal and state governments were still uncoordinated and unprepared. The reasons they were unprepared go to the heart of the constitutional order. **Unless we learn some lessons, Katrina will happen again. It may be a massive earthquake, an influenza pandemic, a terrorist attack, or even another hurricane, but the same ill-coordinated response will indeed happen again unless some attention is paid to the constitutional and institutional lessons of Katrina. We need to "stop** **federalism" before it kills again. That is, we need to stop our customary thinking about what** **federalism requires in order to prevent another horrific loss of life and property.**

Extinction **Yu 9**[[3]](#footnote-1)

A **pandemic will kill off all humans**. In the past, humans have indeed fallen victim to viruses. Perhaps the best-known case was the bubonic plague that killed up to one third of the European population in the mid-14th century (7). While vaccines have been developed for the plague and some other infectious diseases, **new viral strains are constantly emerging — a process that maintains the possibility of** a pandemic-facilitated human **extinction**. Some surveyed students mentioned AIDS as a potential pandemic-causing virus. It is true that scientists have been unable thus far to find a sustainable cure for AIDS, mainly due to HIV’s rapid and constant evolution. Specifically, two factors account for the virus’s abnormally high mutation rate: 1. HIV’s use of reverse transcriptase, which does not have a proof-reading mechanism, and 2. the lack of an error-correction mechanism in HIV DNA polymerase (8). Luckily, though, there are certain characteristics of HIV that make it a poor candidate for a large-scale global infection: HIV can lie dormant in the human body for years without manifesting itself, and AIDS itself does not kill directly, but rather through the weakening of the immune system. However, for more easily transmitted viruses such as influenza, the evolution of **new strains could prove far more consequential**. The simultaneous occurrence of **antigenic drift** (point mutations that lead to new strains) **and antigenic shift** (the inter-species transfer of disease) in the influenza virus **could produce a new version** of influenza for **which scientists may not immediately find a cure**. Since influenza can spread quickly, this lag time could potentially lead to a “global influenza pandemic,” according to the Centers for Disease Control and Prevention (9). The most recent scare of this variety came in 1918 when bird flu managed to kill over 50 million people around the world in what is sometimes referred to as the Spanish flu pandemic. Perhaps even more frightening is the fact that only 25 mutations were required to convert the original viral strain — which could only infect birds — into a human-viable strain (10).

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. (Stephen M., Professor in Constitutional Law, Tulane School St. Johns Journal of Legal Commentary Spring- “Symposium: Federalism Past, Federalism Future: A Constitutional Law Symposium: Stop Federalism Before It Kills Again: Reflections On Hurricane Katrina, 2007) LK [↑](#footnote-ref-0)
3. **—**Dartmouth Undergraduate Journal of Science (Victoria, Human Extinction: The Uncertainty of Our Fate, 22 May 2009, <http://dujs.dartmouth.edu/spring-2009/human-extinction-the-uncertainty-of-our-fate>) LK [↑](#footnote-ref-1)