

## Regional Administration and the American Experiment

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Jessica Bulman-Pozen, [Our Regionalism](#), 166 **U. Pa. L. Rev.** 377 (2018).

Regionalism in America is having a renaissance—in conceptualizing the [shared and competing interests of red, blue, and purple states](#); in developing [new possibilities for governance across the country](#); and in [administrative law scholarship](#). Into this mix comes [Jessica Bulman-Pozen](#)'s timely and thoughtful article, *Our Regionalism*.<sup>1</sup> While we usually talk about “Our Federalism,” regionalism has in fact “shaped American government over the past century,” helping to define “how power flows to and within the federal government.” (Pp. 381-382.) In making this case and exploring how regionalism's different governance forms have, over time, both expanded the federal bureaucracy and increased state power within federal programs, Bulman-Pozen's work also helps frame the contemporary stakes for the American polity of “regionalism's ‘bad twin,’ sectionalism.” (P. 380.)

After first offering a “stripped-down understanding” of the term “region”—“a subnational area encompassing all or part of multiple states” (P. 383)—the article begins with a helpful taxonomy that justifies Bulman-Pozen's claim that “regional organization pervades state and federal administration.” (P. 388.) In her conception, regional governance has developed over time to encompass three main varieties. First is interstate collaboration, in which states band together to solve a common problem. The interstate compact, provided for by Article I, Section 10 of the Constitution, is the oldest and most common of this form of regional governance, but other types exist as well, including interstate agreements (less formal than compacts because they allow for unilateral withdrawal), and “the synchronized adoption of substantially similar laws” in neighboring states. (P. 387.)

The second variety of regional governance, emerging during the New Deal, is “the division of purely federal administrative agencies into regional offices”, a top-down mirror of the bottom-up interstate collaboration. (P. 388.) It turns out that the vast majority of federal employees – 85% – work outside DC in these regional offices. Despite periodic efforts within the federal government to standardize these regions, Bulman-Pozen describes the “chaos” that reigns, under which different agencies, and sometimes different units within a single cabinet department, divide the country into different regions.

The last variety of regional governance, first emerging during the 1960s and growing more common today, is “the joint state-federal regional body.” (P. 392.) These organizations draw not only from contiguous state leadership but also from federal leadership, often across agency lines, in an effort to address a multivalent problem, such as the Deepwater Horizon oil spill. Sometimes local and private actors are formally engaged in these organizations as well.

This descriptive categorization is itself conceptually useful. But Bulman-Pozen also makes a contribution in her rich historical work on the role of regions in the New Deal and the Great Society. She uses this history to make a counterintuitive point: While “[t]hroughout American history, regions—usually traveling under the label ‘sections’—have been sites of resistance to the federal government,” in fact “regions have also facilitated the growth of the federal government.” (Pp. 394-395.)

How? As Bulman-Pozen tells it, serious, self-conscious attention to regionalism emerged in the 1920s as a way to push back against the federal government's increase in responsibilities during World War I, as well as against the perceived homogenizing force of the new national media. The idea was that regions could solve—sometimes even without formal new governmental arrangements—problems that lay beyond individual states' capacities, and thereby preclude federal intervention. But “regionalism soon proved congenial to the burgeoning project of federal administration itself.” (P.

401.) It did so in two ways, in Bulman-Pozen's categorization. First was by *accommodation*: "Major New Deal programs were designed to look different in different regions of the country," thereby alleviating some state-level concern about federal power. (P. 402.) Second was through *administration*: whether by creating field offices to manage "purely federal programs," by establishing regional structures to supervise the new cooperative federalism programs, or by instituting regional planning commissions, "regionalism had gone from being a creed of resistance" to federal encroachment "to serving as a tool for expanding the reach of the federal government." (P. 409.)

For its part, regionalism during the Great Society played an important role in entrenching the period's vast expansion of federal grants. States sought federal financial assistance through hybrid state-federal regional programs, such as the Delaware River Basin Commission and the Appalachian Regional Commission. These programs increased state capacity and let states play an important role in distributing funds, and at the same time cemented the importance of federal funds and the policies in question. More generally, regionalism provided a way to coordinate the influx of federal assistance to states, thereby bringing some order to federal administration of grants. With many different federal agencies giving overlapping grants for the same purposes, regional administration helped coordinate "not only between the federal government and state and local governments, but also within the federal government itself." (P. 423.) President Nixon eventually succeeded where President Johnson and previous efforts had failed to standardize the boundaries of the federal regions, at least among the primary grant-making agencies, and further created Federal Regional Councils to coordinate the federal government's work in the field. While these efforts were pitched in part as devolutionary, they also served to "amplify the power of the White House vis-à-vis the bureaucracy," given the importance of OMB officials in this work. (P. 425.) The Councils were eventually disbanded, but the other aspects of regional administration have continued "to integrate the states more fully into federal programs." (P. 426.)

What does regionalism look like today? On the one hand, Bulman-Pozen argues, the bulk of the regional structures created during the New Deal and Great Society remain alive and well, and the regional form has been still further expanded by the twenty-first century's preoccupation with the idea of the network. This newest form of regional governance involves "flexible, modular, interjurisdictional cooperation" with "a continually changing partnership among a large number of federal, state, and local government actors, as well as nongovernmental institutions" designed to address a particular regional problem. (Pp. 428-429.) The Chesapeake Bay restoration effort represents the primary example of this kind of effort already in existence. Attention to broader "environmental, economic, cultural, and infrastructure" needs of so-called "megaregions," or "networks of metropolitan centers and their surrounding areas" all over the country, represents the idea's potential expansion. (Pp. 430-431.)

On the other hand, Bulman-Pozen invites us to think about "today's most significant regional development" as "regionalism without regions." That is, regionalism is no longer tied solely to geography; instead, extreme partisanship has connected non-contiguous groups of red and blue states with contrasting sets of shared policy interests. (P. 436.) President Obama's term saw the rise of this new form, as the administration primarily worked with one set of states to advance shared goals while attempting (ultimately unsuccessfully) to make concessions to another set of states that engaged in policy resistance. Under President Trump, "the partisan valence of multistate opposition to the federal executive has, unsurprisingly, flipped." (P. 435.) Still, "[i]n the policy decisions and chosen alliances of blue Minnesota and Colorado and their red neighbors Wisconsin and Utah, partisanship trumps place." (P. 439.)

This important insight underscores the larger question Bulman-Pozen's article suggests: How does today's hyperpartisan regionalism without regions fit into the American experiment? New Deal planners framed regionalism as a more positive approach to the project of nation-building than its close relative, sectionalism; "'sectionalism' was a divisive force," while "'regionalism' was instead integrative and union-bolstering." (P. 410.) Regionalism provided a way to reframe "nationalism in a plural society"—not "the destructive sectionalism of the Civil War," which had led to secession, and also not the "'toxic' European nationalism" that was veering abroad into totalitarianism or fascism, but rather a multivalent celebration of America's regional diversity. (P. 410-411.)

This was likely too cheery a view even then. As Bulman-Pozen points out, regional accommodation helped entrench Jim Crow. (P. 402.) But it is even less clear to me that today's regionalism has a nation-building effect. Or rather,

hyperpartisan regionalism may strive towards nation-building, but with irreconcilable views of what it means to build the nation—in [immigration policy](#), in [LGBT antidiscrimination policy](#), [in abortion policy](#), and [in much else](#). This kind of regionalism seems less about embracing regional diversity than it is about striving towards embedding at the federal level a specific set of policies that are currently only regional.

Bulman-Pozen acknowledges that today’s regionalism without regions “has the potential to exacerbate already-fever-pitch-level partisan rancor and divisiveness” while nonetheless suggesting the tentative aspiration that it may at the same time “foster governance and solidarity amid such division.” (P. 441.) Time will tell. At the very least, her article provides an analytic, historical, and conceptual framework to help us understand and respond to future developments.

1. I had the pleasure of reading an earlier version of the article for the “Reflections on Executive Power and Administrative Law” conference organized by Miriam Seifter at the University of Wisconsin last spring. [?]

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