There is consensus on the need for a successor to the U.S. Advisory Commission on Intergovernmental Relations in Washington, D.C., but no agreement on how this entity should be organized and funded and what it should do. There are now many players, both organizations and individuals, in the intergovernmental field, and they need to be sorted out. A key distinction is that American federalism is both an idea and an interest, and a new ACIR should focus on the former as a neutral, independent body with informational, convener, educational, and dissemination functions. We should encourage a discussion and debate on what the new ACIR should be and how it should be structured in order to bring federalism and intergovernmental relations back to the table in Washington.

The U.S. Advisory Commission on Intergovernmental Relations (ACIR) was established under President Dwight D. Eisenhower in 1959. It operated for 37 years until September 1996, when it was defunded by the Republican-controlled 104th Congress as part of its program to pare down the number of U.S. government agencies. The ACIR was small, and hence an easy target for congressional agency cutters. This is despite the fact that the ACIR’s premise and purpose—to support and enhance knowledge of American federalism—would seem to have been consistent with good Republican doctrine. But Republican doctrine could not save the ACIR because of a combination of factors that are worth sorting out in this postmortem.

I was a private citizen member of the commission at the time of its demise. My friend and associate in federalism studies conducted at the Rockefeller Institute of Government, former governor of Mississippi William F. Winter, headed the commission during my period of service. He was appointed as chairman by President Bill Clinton in October 1993. He recommended my appointment to the White House, as our understanding at the time was that the next appointee could not be a Democrat in order to have partisan balance among the commission’s citizen members.

The next thing I heard was when a White House aide requesting background information called me on the phone. His final question to me was what political party I belonged to. When I said that I was a Republican, he seemed surprised. I explained what I understood to be the reason for this, and the next thing that happened was that I received a certificate of appointment.

Although President Clinton met with the full commission in a public meeting in the Indian Treaty Room of the Old Executive Office Building in December 1993 as a way of revitalizing the ACIR, and Vice President Al Gore met with the commission in September 1994 to discuss the National Performance Review, it is fair to say, as a general comment, that we never heard much more from the White House, at least during my tenure and from what I knew about what was going on. They were hands off. We were on our own.

Why Was the ACIR Eliminated in 1996?

As one component of House Speaker Newt Gingrich’s “Contract with America,” the 104th Congress enacted the Unfunded Mandates Reform Act of 1995, which assigned a major role to the ACIR to work out the definitions of unfunded federal mandates for state and local governments and to report on the operations of the new law (Posner 1998). The ACIR was responsible for costing out the effects of mandates as part of the procedures adopted to oversee state and local interests with respect to the national government. The law required the ACIR to prepare reports on matters affecting the cost of proposed mandates, including a report on the cost of existing mandates. This latter requirement caused the tempest that was one of the reasons why, despite the ACIR’s good efforts, it was impossible to save the commission.
When the ACIR issued its report on the costs of existing federal mandates, the mountains of interest erupted. Environmental and disability interest groups came at the ACIR hammer and tong. Indeed, some of the ACIR’s strongest critics were from federal agencies that had officials on the commission who presumably had participated in the decision processes and work developing and drafting the report on existing mandates. Now, they joined in denouncing it. Ultimately, the report was withdrawn. In such an environment, hard as we tried, there was not enough clout on the part of commission members and staff who wanted to save the ACIR to prevent cutting out this small potato agency with its very small appropriation (under $1 million, which is small not just by Washington standards, but by any standard).

The leader of the state senate in Kansas, who at the time was a member of the ACIR, and I met with U.S. Senate majority leader Bob Dole (R-KS). Gracious as he was, he said that it was too late in the process to change things, although that may not have been what he really meant.

It was over.

Now what?

**ACIR Structure Flawed**

During my tenure on the commission, I increasingly came to the view that the structure of the ACIR was flawed. Despite the good intentions of its founders, the commission’s 26 members represented too many and too diverse interests. Public Law 86-380, which established the commission, included four main categories of members: (1) six members of Congress appointed by the House and Senate leadership; (2) 14 state and local officials—four governors, three state legislators, four mayors, and three county officials, all appointed by the president from nominations by the respective national organizations of state and local governments; (3) three representatives of the executive branch appointed by the president; and (4) three private citizens also appointed by the president. This wide-ranging representation produced a setting in which the commission had a hard time reaching a consensus on anything, most of all on controversial policy issues.

The ACIR always had a strong staff and was well known for its knowledge-building role. As an academic, I cut my professional teeth on its many research and information reports and statistical publications, including *Significant Features of Fiscal Federalism*, a well-organized, widely used annual compilation of information on the characteristics and conditions of America’s governments. Over many years, I had working relationships with members of the commission’s staff.

Despite the concern expressed here about the ACIR’s unwieldy structure, a broad consensus exists among people who work on U.S. federalism, intergovernmental relations, and state and local government that the commission is much missed, and that there should be a successor entity in Washington, D.C. But that is where the consensus ends.

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**Possible Concepts and Purposes of a New ACIR**

Despite the concern expressed here about the ACIR’s unwieldy structure, a broad consensus exists among people who work on U.S. federalism, intergovernmental relations, and state and local government that the commission is much missed, and that there should be a successor entity in Washington, D.C. But that is where the consensus ends. There is no agreement on what the new ACIR should be, how it should be organized and funded, and what it should do. A number of existing organizations play important roles in this field. But the overriding fact is that proposals for a new ACIR are inchoate, and to the extent that they exist, they tend to be highly differentiated, reflecting the wide range of actors in the intergovernmental field.

Organizations in the field (some of which were represented on the old ACIR) are advocacy organizations for particular kinds of governments—cities, counties, townships, school districts, and public authorities. Some have their own functional area and policy purposes; they may be liberal or conservative, or pro this or pro that. They publish. They blog. Many have Washington, D.C., offices and belong to lobbying organizations, and directly or through their national organizations, they regarded the ACIR as a sandbox for advancing their interests.

There are other organizations, in particular parts of existing government agencies that work in the intergovernmental field, that should be included in this canvass. They include the Governments Division of the U.S. Census Bureau, which for more than 50 years has played a vital role cataloging the nation’s 89,000 governments and providing statistics on their functions, finances, and employment (National Research Council 2007). The U.S. Government Accountability Office also deserves special mention for the emphasis in its studies on the roles played by, and the activities of, state and local governments.

In short, there are plenty of agencies (and parts of agencies), organizations, and actors in the intergovernmental field. We need to sort them out in thinking about a successor to the ACIR. I do so in what follows along one particular dimension.

It is submitted that there is one important, overarching distinction for classifying groups that have a role in the intergovernmental field that reflects a basic attribute of American federalism and often is not recognized—or a least not highlighted sufficiently—and needs to be highlighted here. The key point is this: American federalism is both an idea and an interest. Here is what I mean.

. . . American federalism is both an idea and an interest.
Federalism as an idea: Federalism is an idea about governmental form in the sense that it emphasizes the vertical separation of power among central and regional governments.

Federalism as an interest: Federalism is an interest in the sense that many agencies and organizations, as just recounted, have a role in and strong views about what state and local governments should do and how intergovernmental relationships should be organized and carried out.

Should we try to put these two types of organizations under one new ACIR roof? (i.e., those that focus on federalism as a governmental form and those that have particular views and purposes on what state and local governments should do). My answer is that we should not. Rather, we should choose between these two organizational principles for the purpose of creating a successor to the ACIR.

Nearly 15 years after the ACIR was abolished, the lack of focus portrayed here persists. Many people like the idea that there should be an entity in Washington, D.C., that concentrates on state and local government and American federalism, but they do not agree on what it should be.

I would like the new ACIR to be an idea agency. I would like it to be neutral and independent—essentially an intellectual entity—with a mission to examine and explain crucial and timely aspects of American federalism and intergovernmental relations. It should educate, not advocate. I can envision lively, productive meetings in the current period by such an organization looking at policy implementation in the health care field, considering such subjects as the changing role of state governments under Medicaid, who (i.e., which agencies) in state governments should administer insurance “exchanges” to market health insurance for people who lack coverage, how new health programs can be linked with existing social safety net programs, how to administer mandates and subsidies for people to purchase health insurance, and the crucial role and problems of state data systems, as well as their regulatory functions in connection with the implementation of the national health reform law enacted in March 2010. Many views could be aired at such meetings. The aim would be to advance understanding, in this way informing the governmental process.

This is my preferred kind of an ACIR, and it reflects what I care about most in what the old ACIR did—its informational, convening, educational, and dissemination functions. Such a capability is needed in Washington, D.C., to bring truth to power and to be the entity and place for taking account of the essential federalism character of our system of democratic self-government.

I have a secret wish (it used to be secret, anyway) about a possible location for such an entity: locate it in or near the James Madison Building of the U.S. Library of Congress. Madison was the great inventor among the founders, including his prescient writings about the conditions in an extensive republic and the balancing of interests, such as, importantly, the interests of the new national government and existing state governments.

For this new ACIR, officials from federal agencies, members of Congress and their staffs, governors, and state and local agency heads, officials of counties, cities, and particular functional area agencies and authorities, university experts, and think tankers should all be at the table, both as speakers and as panel participants. But representatives of these interests should not be the governing members of the new agency in the way they were for the old ACIR.

Go the next step. Assume a consensus could be obtained on a formulation like this for a successor to the ACIR. How would it work, who would be a member, and who would pay for such a new organization?

The national government could sponsor and structure an ACIR successor entity and pay for it. Another option would be for a foundation or group of foundations to take on this responsibility, although my experience suggests that working this out would be a heavy lift. There have been moments in recent years when foundation officials explored doing something like this, but they did not get very far. There are foundations that devote a lot of their energy and attention to state and local government and intergovernmental relationships, but typically in relation to a set of policy goals they want to advance.

All things considered, it would be hard to establish, finance, and sustain a critical mass of support for the needed managers, experts, and disseminators for a significant nonadvocacy, intellectual-educational mission for a new ACIR. Under this formulation, the new ACIR would perform a function not unlike that which universities are supposed to perform. However, the role of the university is not one dimensional in the manner suggested here. The new ACIR would focus on one subject, albeit a large and important one, and it would not have associated teaching and degree-granting activities.

What to Do Next?

As an actionable conclusion for these reflections, I encourage readers to organize. Take to your keyboards! In the past, discussions and writings about what the next ACIR should look like and do have been sporadic and unfocused. What has been missing is a structure for discussion and debate. People interested in this subject need to get their act together. In a clear and well-organized manner, there should be a dialogue on what different formulations for a new ACIR could be and should be. The aim would be to systematically develop one or several concepts to be considered by and with the various audiences and organizations that would need to be won over to bring federalism and intergovernmental affairs back to the table in the nation’s capital.

Such a design-focused competition would need to consider both conceptual and practical questions—how to articulate a mission, frame the structure, and define the functions of a new ACIR—as well as the scale and methods of its operations. Such a competition should include ways and means for establishing and operating the new organization. If a new ACIR, like the old, were to be federally funded, it could have a commission form with a governing board of specialists and experts who would select and oversee the director and staff. This could be, for example, a small governing commission or council similar to the Council of Economic Advisers, perhaps with the members chosen by different government officials, the president, the librarian of Congress, and the comptroller general. The essential
point is that planning for and working to create a new ACIR needs to be both strategic and politically astute. The aim should be to come to a consensus on an approach, or several approaches, that is desirable and at the same time feasible to pursue.

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References

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