

# Competitive Government vs. Democratic Government

By Arnold Kling

In this essay, I will suggest that competitive government might be better than democratic government at satisfying the desires of the governed. In democratic government, people take jurisdictions as given, and they elect leaders. In competitive government, people take leaders as given, and they select jurisdictions.

The first part of this essay reviews some relevant literature. The second part lists some of the performance shortcomings of democratic government. The third part argues that competitive government could overcome these shortcomings. The fourth part considers possible arguments against competitive government. The fifth part looks at various proposals for implementing competitive government.

## 1. Background

In 1956, Charles Tiebout made a claim that individuals choose their local government based on its combination of tax and spending policies. This theory treats constituents as if they were shoppers in a competitive market for local government services. If true, this hypothesis has some important implications.

First, Tiebout competition forces local governments to be efficient. If two local governments offer the same services, but one government's "price" in terms of taxes is higher, then people will choose the low-priced jurisdiction. The inefficient government will lose constituents, just as an inefficient firm loses customers.

Second, Tiebout competition allows diversity in preferences to be satisfied by sorting. Suppose that some people want expensive public goods and are prepared to pay high taxes, while another group prefers lower taxes with less expensive public goods. The two types of constituents can sort themselves into different jurisdictions, with each group's preferences satisfied by its chosen jurisdiction.

Next, suppose that there are two types of public goods—schools and recreation facilities. Some people might want to spend a lot on both, some might want to spend a lot on schools but not on recreation facilities, some people might want expensive recreation facilities but not expensive schools, and some people might want to spend little on either. If there are enough communities to choose from, everyone can get what they prefer. Taken to the limit, this process can lead to great variety in local government policies.

There are reasons to suspect that the Tiebout equilibrium is not reached in practice. For example, location tends to be sticky, because families face high costs of moving. Moreover, the location decision is affected by many factors in addition to the configuration of public goods and taxes.

Albert O. Hirschman, in *Exit, Voice, and Loyalty* (1970), described a more realistic situation. Of those who may be dissatisfied with a local government's performance, some may choose to exit, as in the Tiebout model. However, many will instead exercise voice, meaning that they complain about policies and try to get them changed through the political process.

The exit/voice paradigm is quite useful in distinguishing competitive government from democratic government. Competitive government relies on exit to produce change. Democratic government relies on voice to produce change.

The oldest, and in some ways the purest theoretical model of competitive government was proposed by Spencer Heath in 1936, in a self-published monograph called *Politics vs. Proprietorship*. This work is cited in Nelson (2005), among other places.

Heath evidently was influenced by the single-tax movement of Henry George. The idea of the single tax is to use a tax on land to finance all of government's functions.

Heath reasoned that a land tax was analogous to rent. One can think of government as a landlord, supplying public amenities in exchange for rent. From that perspective, a profit-maximizing landlord might serve just as well as an elected government.

Today, two-thirds of Americans own their own homes, including the land underneath. Public goods are supplied by governments. In Heath's model, everyone would lease their land, and public goods would be supplied by the landlord. Within any given area, there would be many landlords competing for tenants. Each subdivision might have a different landlord. The landlord would decide on rent, amenities, and rules. Tenants would lease the land. Heath's grandson, Spencer Heath MacCallum (1997, 2004), describes this as manorialism. He sees manorialism as a voluntary relationship between tenants and landlord, whereas feudalism is a system where the tenant/serf cannot leave without the landlord's permission.

Historically, Americans have viewed tenancy with disdain. We associate home ownership with freedom and equality. We associate tenancy with serfdom. Thomas Jefferson wanted a nation of yeoman farmers.

In the 160 years between the American Revolution and Heath's monograph, a number of things had changed. In 1776, less than 10 percent of the population was urban. Land was the primary source of wealth and a major focus of economic activity. Recall that George Washington was a surveyor. He and many of his contemporaries were land speculators.

By 1936, almost half the population was urban (today it is over three fourths). Physical capital was becoming the dominant form of wealth, and speculation in corporate securities was at least as important as speculation in land. Today, it is intangible capital (education, know-how, social capital, and the quality of private and public institutions) that makes up the largest share of wealth in the U.S. and other developed economies. See Kling and Schulz (forthcoming).

In 1776, a system in which the vast majority of people rented from a small landlord class would necessarily have been highly stratified. It would have meant the sort of aristocracy that most Americans wanted to leave behind. By 1936, ownership of land was no longer necessary or sufficient for attaining wealth and status in our society.

In modern America, a tenant need not be poor and dependent. This is particularly so when one considers that in principle a tenant could own the improvements on the land where he or she lives. Only the land itself needs to be leased. The individual can be free to build a mansion and to sell that mansion to a new tenant.

Although they do not call it rent, many American homeowners pay monthly fees that are used to pay for collective amenities. Neighborhood associations, including condominium associations, manage these funds. Robert H. Nelson (2005, p. 28) points out that “about 50 percent of new housing built in the United States during the 1980s and 1990s was located in a neighborhood association.” Thus, many American homeowners are familiar with the phenomenon of fee-based collective amenities. However, the managers of the neighborhood associations typically are democratically elected. They are not owner-landlords.

In commercial real estate, one finds an even closer implementation of the Heath model. A shopping mall or multi-tenant office building will include public amenities, such as parking facilities, that are managed by the landlord. Businesses will lease, rather than own, their spaces within the commercial development.

We are familiar with the terms “gated community” and “private security guard.” These phenomena remind us that a very basic function of government is to provide security, including a judicial process for enforcing rules and for resolving disputes peacefully.

David D. Friedman (1989), in his *The Machinery of Freedom*, devotes considerable effort to arguing that security and dispute resolution services can be provided competitively by market firms. I will discuss his ideas in the last section of this essay, concerning implementation of competitive government.

Most recently, Bruno Frey and Reinhard Eichenberger (1999) have proposed what they call functional, overlapping, and competing jurisdictions (FOCJ). In Frey (2008), the concept is not motivated by purely libertarian reasoning. Instead, Frey argues that happiness research shows that people are more satisfied with diffusion of political power than with concentrated political power.

With FOCJ, a governmental unit is defined not by territory, but by its function or functions. There might be an elementary education unit, a fire protection unit, a garbage collection unit, and so forth. The territories of these different units could overlap. The fire protection unit serving my house could have a different territory from the garbage collection unit serving my house.

Taxes and regulations would be issued by the functional units. There would be competition among functional units. My family, or a group of families in my neighborhood, could choose to subscribe to any of a number of garbage collection units, for example. If we were not satisfied with the service of one unit, we could exit by choosing a different unit.

Before moving on, it probably would be worthwhile to make clear the distinction between competitive government and the privatization of government services. With privatization of government services, government officials still make the key decisions: whether to provide the service, how to collect taxes for the service, how much to budget for the service, and who will provide the service. Individuals are supposed to influence these decisions by using voice. They have very little scope for exit.

With competitive government, individuals have no voice (unless the supplier offers a formal complaint mechanism to its customers), but they have many options for exit. The market gives individuals the ability to select from a variety of governing bodies, which in turn will give individuals a lot of choice about which services they want and approximately how much they are willing to pay for them.

## **2. Democratic Government: What is Broken?**

Democratic government in the United States today offers neither adequate exit nor adequate voice to its constituents. Just as our economy is characterized by extreme inequality of income and wealth, our political system is one in which power is very unevenly distributed.

I live in Montgomery County, Maryland. For me, the county government is the equivalent of a local municipal authority. There is no town or city government—the county government has direct oversight and responsibility for all local matters. Nearly one million people live in the county, within an area of 500 square miles. To exit the county requires a more significant move than changing neighborhoods.

Montgomery County has an annual budget of \$4.3 billion. This is allocated by a nine-member County Council. On average, then, each member of the Council spends almost \$500 million per year. The ability of ordinary citizens to influence spending is quite limited. One political party has controlled the Council for over 40 years. Several years ago, two incumbents were defeated in primaries by a campaign organized by public employee unions, who were unsatisfied with the voting records of the incumbents on public employee salaries and benefits. Otherwise, there have been no examples in which voice was exercised successfully in the county.

As one goes to higher levels of government—states and the Federal government—the spending per legislator goes up even more. Federal outlays today are close to \$3 trillion. Divided by the same 535 legislators, that means spending of close to \$5.5 billion per legislator.

In the United States as a whole, the approval ratings of both the Republican Administration and the Democratic Congress stand at less than 30 percent. This suggests that voice is not working very well at the national level. In fact, many constituencies are dissatisfied. Pundits point out that people in the center are unhappy with the polarized politics in Congress. However, there are also dissatisfied groups at various extremes, including libertarians, socialists, social conservatives, and advocates of easier laws on gay marriage and marijuana.

Early in 2008, the St. Louis newspaper *Riverfront Times* reported the story of Larry Cohn, a prominent philanthropist who gave money in large increments, sometimes as much as \$1 million. Apparently, he had inherited a small fortune, although he himself had no job or business. When he had exhausted his inheritance, he kept on making donations, until his checks started to bounce. According to the *Riverfront Times*, Cohn disappeared and was reportedly in treatment for mental illness.

Like Larry Cohn, politicians incur gratitude while doling out money earned by others. They also appear to be oblivious to the fact that they may be running through their inheritance. Unfunded liabilities in public pensions have been piling up at the state and local level. For example, the city of San Diego's pension shortfall is over \$1 billion.

According to the United States Government Accountability Office (2007), the aggregate deficit at the state and local level is projected to widen in coming decades, reaching four percent of GDP by 2050. This is due primarily to a continuation of a trend of rising health care expenditures.

At the Federal level, the excess of promised benefits relative to expected tax collections in the entitlement programs of Social Security and Medicare is in the trillions of dollars. Both the Medicare Trustees and the Congressional Budget Office see Medicare spending as unsustainable on its current course.

Our political system is characterized by scale creep and scope creep. Scale creep means that fixed governmental units serve ever-larger populations. Scope creep means that government at all levels engages in more activities each decade.

When the United States was founded, its population was less than four million. There were thirteen states, each with its own legislature. The U.S. Congress consisted of 65 Representatives and 26 Senators.

For the next century, much of America's population growth went to new states. This meant that new legislatures were being created, thereby restraining the growth in the number of constituents per legislator. Congress expanded, until in 1910, with a population of 92 million, there were 435 Representatives and 92 Senators.

For the past one hundred years, the size of Congress has remained the same, apart from the addition of Senators from Arizona, New Mexico, Hawaii, and Alaska. Meanwhile, the nation's population has more than tripled.

The scale of government is completely different than what it was in 1790 or even in 1910. In 1790, there were fewer than 50,000 people per legislator (dividing the population of four million by a total of 91 Representative and Senators). In 1910, there were fewer than 200,000 people per legislator. Today, there are more than 500,000 people per legislator.

Los Angeles County, the largest county in America, has a population of 9.9 million, with a legislature consisting of five members. Thus, the local government has almost two million people per legislator.

At each level of government, the number of legislators has remained largely fixed while population has increased. The result is to increase the number of constituents per legislator. It would seem that this has to shift the balance of power away from the individual constituent.

Meanwhile, the scope of government also has increased. All levels of government are involved in more activities than was the case historically.

For many years, the Constitution was interpreted as providing clear boundaries between powers that were given to the Federal government and powers that were left to the states. There was relatively little overlap.

Today, there appear to be few effective boundaries separating the responsibilities of the Federal government and the states. Both are involved in education, labor regulation, health care, income redistribution, housing, insurance, security, and emergency assistance.

Public education used to be a state and local function. Increasingly, the Federal government is involved in providing funding and setting standards for primary education.

The regulation of carbon emissions in order to address climate change is sometimes considered to be a problem that goes beyond the ability of any one nation to regulate. It seemingly requires an international solution. Yet California attempted to set standards for carbon emissions from automobiles sold in that state.

It used to be that no level of government was engaged with the issue of adult smoking. Today, smokers are subject to Federal, state, and local regulation. Attempts to upgrade the nation's infrastructure for electricity generation and transmission also must deal with regulations at all three levels of government.

Jurisdictional issues create a number of anomalies. Employer-provided health insurance is regulated at the Federal level, but individual health insurance is regulated at the state level.

One way to measure the scope of government is in terms of spending per person, in year 2000 dollars. By this measure, for our first hundred years, at the Federal level spending was under \$100 per person. The table below shows real Federal spending every ten years, starting in 1911.

Year	Federal spending per person, in year 2000 dollars
1911	106
1921	386
1931	281
1941	987
1951	1796
1961	2561
1971	3575
1981	5064
1991	6305
2001	6466

At the state and local level, real spending per person rose from \$487 in 1931 to \$1148 in 1961 to \$4748 in 2001. Since 1961, the acceleration in real spending per capita has actually been higher at the state and local level than at the Federal level.

The effect of scale creep and scope creep is multiplicative, in the sense that total spending per legislator is equal to population per legislator times spending per person. Between 1951 and 2001, population doubled and per capita spending more than tripled. As a result, real spending per legislator at the Federal level went from \$486 million to over \$3.4 billion, nearly a seven-fold increase. Similar increases in concentration of power have taken place at the state and local levels.

It would appear that what has evolved represents a major imbalance of power. On the one hand, we have political units with relatively few elected officials controlling large amounts of spending. Recall Montgomery County, where spending per legislator is almost half a billion dollars per year. These nine relatively minor elected officials have control over much more than the annual earnings of all but the very richest people in the world. On the other hand, we have individuals who make up an infinitesimal portion of the voting population.

It is possible for a modern society to function without such a severe imbalance of power. In the cantons of Switzerland, for example, spending per legislator is far lower than in the United States, even though spending per capita is higher.

The population of Switzerland is about 7.5 million, and there are 26 cantons. Thus, a canton corresponds roughly to a Maryland county in terms of population size. Average spending per capita at the canton level in 2003 was about \$10,000, or almost double that of Montgomery County, Maryland. However, the size of the legislatures in the cantons ranges from 49 to 180, with an average of over 100. As a result, the highest-spending

cantons are Zurich, Geneva, and Bern, which have populations comparable to Montgomery County, had spending per legislator of \$76 million, \$67 million, and \$56 million, respectively. This is almost 90 percent less than what a Montgomery County legislator spends.

In addition, Switzerland has a very comprehensive voter initiative system. Any legislation passed by the Swiss parliament can be challenged through the initiative.

I bring up Switzerland as an illustration of a country in which democracy appears to provide much better voice for individuals than is possible in the United States. To implement the Swiss fashion of federalism in America would require breaking our country into hundreds of states, probably close to one thousand. Each of these states would have a legislature consisting of dozens of representatives.

### **The Case for Exit**

“Imagine buying cars the way we buy governments. Ten thousand people would get together and agree to vote, each for the car he preferred. Whichever car won, each of the ten thousand would have to buy it. It would not pay any of us to make any serious effort to find out which car was best; whatever I decide, my car is being picked for me by other members of the group. Under such institutions, the quality of cars would quickly decline.”

--David D. Friedman, *The Machinery of Freedom* (1995), p.132

The idea of competitive government is to allow constituents to use exit rather than voice as a check on concentrated power. In markets, consumer sovereignty puts firms under constant pressure to improve efficiency and tune their offerings to the wishes of individuals.

In markets, firms with unsuccessful product offerings go out of business. Voice works very poorly at shutting down unsuccessful government programs. No individual has an incentive to fight to end an obsolete or ineffective program. In fact, people whose incomes depend on the program are likely to lobby to keep it.

Market behavior shows that consumers value variety. People prefer different foods, different cars, and different forms of entertainment. In fact, offerings in music, television, and Internet show an expanding universe of niche demands. If there were a competitive market for packages of government services, regulations, and taxes, one would expect a lot of variety to emerge.

Elections tend to offer voters only very limited choices. In contested districts, voters face a choice between two parties. However, the nature of the contest leads to convergence toward the center. In less contested districts, the majority party has the freedom to nominate a candidate who is somewhat more extreme, but by the same token adherents to the minority party have almost no voice.

In a competitive market, political power would likely to be less concentrated than is the case today. Instead, we might observe something closer to the distribution that we observe among nonprofit organizations. Some nonprofits are quite large, but there are also many mid-range and smaller nonprofits.

### **What's Wrong with Competitive Government?**

A number of objections can be raised against competitive government. One can argue that people should be forced to use voice, that many government programs require mass participation, that people need a source of solidarity and central authority, that market failure requires corrective action, or that minorities need comprehensive protection.

One of Hirschman's main points is that when people can use exit, they will not use voice. For example, if parents who are actively involved in their children's education cannot easily pull their children out of public schools, then those parents will probably provide direct and explicit feedback to school officials. The school officials will not hear that feedback if the parents just quietly switch schools.

There is a cliché that says, "Programs for the poor tend to be poor programs." The implication is that a broad entitlement, such as Social Security, will be better designed and maintained than a means-tested program, such as food stamps or Medicaid. The rationale for the cliché is that the voice of the middle class is needed to ensure a durable, quality program. In practice, however, it is not clear that this cliché is true. See Christopher Howard (2007). He points out that several means-tested programs, notably the Earned Income Tax Credit, have been strengthened, not weakened, over time.

Another argument is that government provides services that require mass participation. For example, national defense and foreign policy are not excludable. An individual cannot opt out of receiving protection from foreign attacks.

Many would argue that government insurance functions have to be universal. For example, if people can opt out of government health insurance, then in theory the healthy people will opt out, raising the cost of insurance for those who need it.

A related point is that government often provides *de facto* insurance. When a natural disaster strikes, government typically helps people whether they are insured or not. Government pays hospitals to treat patients whether they have insurance or not. In 2008, we have seen the Federal Reserve take actions to support financial institutions that are not part of the federal deposit insurance system.

What we are seeing in these examples is that government insurance combines "pure" insurance with compassion. Under competitive government, the insurance function is likely to be separate from a compassion function.

Another objection to competitive government is psychological. People like to feel that a single entity is in charge. Under Franklin Roosevelt's New Deal, the American economy continued to wallow in recession. However, people felt better that someone in a position of authority was actively working on the problem.

Systems that evolve on their own can be difficult for people to accept. Many people prefer a theory of Creation or Intelligent Design to the theory of evolution. Similarly, many people, including many economists, prefer an economic system with government basically in charge, delegating functions to markets where appropriate.

Modern societies rely heavily on social norms, including norms of trust. We have evolved an ability to trust strangers, so that we can order a product over the Internet from someone we are never likely to meet and feel comfortable that the other party will ship what we are expecting. It could be that competitive government would reduce people's sense of commonality with the broader population. In that case, trust among strangers could deteriorate, with adverse consequences for the economy and for society in general.

Another argument against competitive government is that it requires too much faith in markets. We observe market failures all the time, and government steps in to try to correct them. How can we possibly rely solely on the market mechanism, without the government to step in and fix problems that arise from market imperfection? Do we really expect competing government agencies to handle financial meltdowns, pollution, information asymmetries, and other market failures?

Here, we face a choice among imperfect institutions. Markets are never perfect by the textbook standards. The question is whether the process of improving markets and correcting failures works better under market evolution or government direction. One can cite examples of government success and market failure, but one can also cite examples of the reverse.

There is a longstanding division in the United States between what might be termed the progressive tradition and what might be termed the libertarian tradition. The progressive tradition has its roots in the temperance, anti-slavery, and religious revival movements that began about four decades before the Civil War. See Howe (2007). The libertarian tradition has its roots in the philosophy of James Madison and Thomas Jefferson.

The libertarian tradition has a narrative of history that venerates a view of the Constitution as a design for limited government. The progressive tradition has a narrative of history that venerates the view that government has evolved in order to meet the needs of a more urban, industrial, complex society.

From Jefferson through Barry Goldwater, the libertarian tradition has been associated with the protection of practices that oppressed African-Americans. Accordingly, one fear about competitive government is that it will hurt racial minorities. Perhaps whites will gravitate toward governmental units that practice discrimination, either overtly or through

subtle means.

## **Implementation**

In order for government to be competitive, the following conditions are required:

--the scope of government units must be finite and flexible;

--entrepreneurs must be free to form small government units without being hampered by large, incumbent government units.

--institutional norms and common law must establish and protect the rights of individuals to opt out of government units and to choose from among alternatives.

Along the way, we will confront philosophical issues. These include the definition of public goods, the role of paternalism, and the need for income redistribution.

What is needed to implement competitive government are rules, procedures, and norms that allow groups of citizens to secede from existing government programs and regulations while forming new organizations to provide services in different ways. Competitive government requires easy entry and easy exit relative to government functions.

Neighborhood associations are an example of competitive government. They collect dues, provide services, and apply regulations to residents. Private standard-setting bodies, such as those that reach consensus on protocols for Internet software, are another example.

The charter school phenomenon illustrates some of the characteristics of competitive government. A charter school is a privately-run school that is entitled to public funds based on the students that it serves.

Charter schools would work best if the scope of schooling were finite and flexible. For example, it should be possible to charter a high school without chartering an elementary school, and vice-versa. A school should be allowed to outsource some functions, such as after-school athletics, to other providers.

Where I live, in Montgomery County, Maryland, there are very few charter schools. A charter school must be approved by the County Council, many of whose members oppose charter schools. The ability of the incumbents to veto new entrants severely hampers the creation of a meaningful market.

The problem of charter schools where I live illustrates the impediment to competitive government that exists when the incumbent government dictates the terms of competition. In Montgomery County, the charter allows some neighborhoods to contract separately for services such as garbage collection, in exchange for which the residents

pay lower taxes to the County. This provision in the charter probably exists in order to “grandfather” some neighborhood associations that were obtaining these services prior to the passage of the charter. However, the charter does allow for the formation of new independent communities within the county.

In order to form such a community, the neighborhood must collect signatures on a petition, and then the proposal is put on the ballot in the next election. However, the County Council must approve the petition in order for the item to appear on the ballot. In 2007, one effort to form a community was thwarted by the Council’s refusal to allow the proposal to go onto the ballot. The Council claimed that it had the authority to prevent a proposal from going onto the ballot if it was not in the public interest, as determined by the Council.

Clearly, if the rights of Montgomery County neighborhoods to form communities are going to be protected, a different regulatory mechanism must be applied. The validity of a petition to put the question on the ballot has to be established by an independent body, such as a court, rather than by the body from which the neighborhood is attempting to (partially) secede.

One strategy for implementing competitive government is to extend the chartering concept to include any government function. Any group of citizens can organize an alternative provider of a government service and petition a court to assign the group fair compensation for replacing the government provision of the service.

For example, suppose that my neighborhood signs a contract with a private garbage collection service and stops using the County-provided service. The court would reduce the taxes that my neighbors and I have to pay by an amount that reflects the savings to the County of not having to collect garbage in our neighborhood.

Often, the connection between taxes and benefits is not so clear. For example, the beneficiaries of a school are the parents with students in the school. This makes charter schools somewhat problematic. On what basis does a charter school lay claim to taxpayers’ money?

The taxes to pay for the school may come from property-owners who have no students in the school. If we take it as given that parents with school-aged children are to be subsidized by other taxpayers, then a charter school should receive taxpayer funds in the same proportion as a regular public school. However, it is not clear that this should be the case.

Suppose that we do not want to take the amount of educational subsidies as given by location. The fact that I live in Montgomery County does not necessarily imply that I should subsidize the education of other residents in that county. Instead, citizens would be allowed to join organizations that provide education subsidies in different ways. I might join a group that provides subsidies to poor children, regardless of where they live,

including outside the United States. I might join a group that provides much larger or much smaller contributions to education than my local government currently provides.

One might object that people will not join an organization whose sole purpose is to subsidize the education of others. However, there clearly are people willing to supply education subsidies. Our nation's colleges are among the largest recipients of philanthropy. Religious organizations also fund schools using charitable donations.

Under fully competitive government, both the funding and the operation of schools would come from private organizations. Parents would pay some of the cost of school through tuition. The rest would come from philanthropic organizations.

If the funds that are used to pay for public schools were given back to the taxpayers, would the taxpayers donate those funds for educational subsidies? If not, is that a bad thing? Those are difficult questions. How do we know what the right level of subsidies ought to be, and how do we know whether that level is more likely to be provided by the philanthropic system or by the political process?

Similar issues arise with the largest government programs--Social Security and Medicare. Under competitive government, groups ought to be able to opt out of those programs and adopt other methods for obtaining income security and providing income assistance. However, some individuals might choose to provide themselves with lower retirement incomes and less health insurance than the current programs offer. Moreover, some people might be less inclined to contribute to the retirement incomes and health care of retired low-wage workers than is the case under Social Security and Medicare.

What sort of income insurance programs would generate voluntary participation? What sort of income assistance programs could be supported by philanthropy? Under competitive government, we would find out the answers to these questions. Whether the results would be better or worse than those produced by the political process is a question that requires both empirical and philosophical analysis.

With respect to product regulation, competitive government would allow different standard-setting bodies to emerge. Companies could choose which standard-setters with whom to comply. For example, electrical equipment is often manufactured to standards set by UL, or Underwriters Laboratories.

Orthodox Jews purchase food products that are labelled in accordance with their compliance to standards for kosher food. In fact, there are dozens of different kosher certification bodies in the world. Food producers will pay a service to inspect their manufacturing processes. In return for passing inspection, the manufacturer is permitted to apply the certification service's particular label to its products. Some of the certification bodies are trusted by some Jews but not by others, so that the particular label makes a difference in terms of who will be willing to purchase the product.

Competition in product regulation would probably lead to similar results. Some certification groups would generate labels that are widely accepted. Others might provide labels that comfort only a fraction of potential consumers.

For example, drug certification service X might only test the safety of pharmaceuticals. Drug certification service Y might require both safety and efficacy tests. Some consumers might be content to buy drugs certified by X, while other consumers might only be willing to obtain drugs certified by Y.

If the idea of competitive government were to gain widespread support, then I think that it would be facilitated by the creation of a regulatory agency or court system that is charged with overseeing the competitive process. Call this the Government Competition Agency. The Government Competition Agency should be given the goals of making entry and exit simple, without providing undue advantage to incumbent government units. It must implement the following principles:

1. Encourage competition as much as possible. Ideally, government services will be supported by user fees. Services that cannot be supported by user fees will be referred to as subsidized services. These subsidies should be viewed with suspicion.
2. If the government subsidizes a service, then the government must make clear the purpose of the subsidy and how it is allocated among consumers. The Government Competition Agency should try to ensure that competing service providers have equal access to the subsidy. For example, if the government subsidizes the education of students with a particular learning disability, then a competing school that educates such students should receive that subsidy.
3. Government programs must be designed in such a way that permits entry by competitors. Government agencies should have to comply with all of the regulations to which a private firm would have to submit.

For Social Security and Medicare, this would mean that normal accounting rules and pension requirements would apply. If a private corporation's pension plan assets consisted of its own debt obligations, it would be shut down tomorrow. The "trust funds" of Social Security and Medicare are exactly this sort of sham.

If the "trust funds" are real, then workers who wish to do so should be able to request their accumulated trust fund assets and invest them in privately-provided insurance. Even if the trust funds are fictional, this sort of an opt-out arrangement ought to be permitted. Going forward, government programs must be properly funded, rather than allowed to pile ever-increasing obligations onto future taxpayers.

4. Similarly, government regulations must be design in such a way that allows competing regulatory regimes to operate. Failure to comply with regulations can result in losing the government's "seal of approval," but it should not be a criminal offense. The concept of

a crime should be reserved for instances in which individuals or organizations coerce or deceive their victims.

5. All causes should have to compete for individual donations. Today, causes that enjoy political popularity are given the inside track for tax dollars.

At the least, individuals should be given more discretion about which causes their tax dollars support. For example, an individual could be allowed to redirect a portion of his or her tax payments to a charity.

An important issue in competitive government is dispute resolution. One advantage of territorial government is that the process of dispute resolution is clear. People must abide by court rulings in the relevant territory. Today, when corporations in different states sign a contract, the agreement often includes a provision that says that any disputes will be settled according to the laws of a particular state. That way, it is clear which court will have jurisdiction.

With competitive government, a dispute might potentially go to many different regulatory agencies. If the process is not specified ahead of time, it may be unclear how to resolve a dispute. On the other hand, it is not practical for every human interaction to be accompanied by a written agreement specifying which court has jurisdiction in case of a dispute. There has to be a well-understood default jurisdiction.

Today, the default jurisdiction is given by the territory. I know that if I interact with you in the state of Maryland, then the laws and courts of Maryland will apply.

For example, suppose that I hire a contractor to pave my driveway, and the concrete develops an enormous hole one week after I start using it. With territorial default jurisdiction, I know where I go to try to obtain redress.

With competitive government, the problem becomes more complex. Perhaps I did not anticipate the possibility of concrete failing, and I have no recourse. Alternatively, perhaps I belong to a “consumer protection club” that regulates and approves contractors. Even though the club has no specific arrangements for concrete failing, it has procedures for dealing with problems with contractors in general. If so, then I may be able to appeal to this club for redress, particularly if the contractor that I chose was approved by the club and has agreed to abide by its rules. But if the contractor disputes the club’s ruling, what happens next? To which jurisdiction does this dispute default?

David Friedman describes a setting in which each individual signs up with a “protection service,” and each protection service in turn sets up a pre-arrangement with other protection services as to which third party will resolve any disputes. It strikes me that the number of necessary pre-arrangements could get to be rather large, considering the range of regulatory services that I might want and the number of possible interactions among them. Perhaps this problem is manageable, but it could turn out that using territory-based default dispute-resolution systems is simpler and cleaner.

Ultimately, all providers of government services, including incumbent governments, should be supported by a combination of user fees and contributions. No government service, including the Government Competition Agency, should have the power to extract taxes from unwilling citizens.

In the absence of taxes, the playing field in government competition would be completely level. The National Institutes of Health would have to raise funds to support research, just as the various non-profit health research organizations do today. The various housing agencies would have to compete with private groups for donations to support housing for poor people.

The competitive process should work to strengthen the provision of these sorts of services. As long as the winners do not use force or deception, this should result in continuous improvements in public goods.

The end result of a level playing field can be arrived at gradually. There are a number of ways to move in stages.

For example, with Social Security and Medicare, rules could be drawn up for people to opt out. However, for the first ten years, the number of people allowed to opt out could be limited to, say, one million a year, with a lottery used if necessary to determine who is permitted to opt out.

With state and local government functions, the Government Competition Agency can be established. Community groups can then propose to provide some government services themselves, with the Government Competition Agency determining the fair reduction in taxes for the community members who do not use the incumbent government for the designated services.

It is unlikely that the optimal rules and procedures for competitive government can be determined ahead of time. Instead, initial rules and procedures should be allowed to evolve gradually, through a process of trial and error.

## References

Frey, Bruno S. and Reiner Eichenberger, *The New Democratic Federalism for Europe: Functional, Overlapping, and Competing Jurisdictions*. Cheltenham, UK: Edward Elgar Publishing, 1999.

Frey, Bruno S., *Happiness: A Revolution in Economics*. Cambridge, Ma.: MIT Press, 2008.

Friedman, David, *The Machinery of Freedom*. La Salle, Ill.: Open Court Publishing Company, 1989. (2<sup>nd</sup> edition 1995)

Heath, Spencer, *Politics vs. Proprietorship*. Self-published, 1936. Cited in MacCallum (1997, 2004)

Hirschman, Albert O. *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States*. Cambridge, Ma: Harvard University Press, 1970.

Howard, Christopher, *The Welfare State Nobody Knows: Debunking Myths About U.S. Social Policy*. Princeton, NJ: Princeton University Press, 2007.

Howe, Daniel Walker, *What Hath God Wrought: The Transformation of America, 1815-1848*. New York, NY: Oxford University Press USA, 2007.

Kling, Arnold, and Nick Schulz, *Economics 2.0*. Washington, DC: Encounter Books, forthcoming.

MacCallum, Spencer Heath (1997,2004), “The Quickening of Social Evolution: Negotiating the Last Rapids, Perhaps,” first published in *The Independent Review*, Fall 1997. [Revised web version](#) dated 2004

Nelson, Robert H., *Private Neighborhoods*. Washington, DC: Urban Institute Press, 2005.

Charles Tiebout, 'A Pure Theory of Local Government Expenditure', *Journal of Political Economy*, vol. LXIV (1956), 416-24

United States Government Accountability Office (2007). *State and Local Governments: Persistent Fiscal Challenges Will Likely Emerge within the Next Decade*. Washington, DC, 2007. [web version](#)