Fine Print: The Contract with America, Devolution, and the Administrative Realities of American Federalism

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This report of the Brookings Institution's Center for Public Management (CPM) is intended to help inform the contemporary debate about federalism most specifically as it relates to the Contract with America. One of the striking ideas of the Contract is the belief that the absolute size and scope of national government can and should be greatly reduced, while responsibilities for many remaining non-defense federal responsibilities can and should be devolved to state and local governments, or, where possible and appropriate, removed altogether from governmental hands and made the responsibility of private citizens, families, churches, or other civic institutions.1

At the outset, let it be clear that this Brookings-CPM report is not about the desirability of the Contract with America, or of any particular provisions or subsections thereof, or of any given substantive policy goals of the Republicans led 104th Congress. Rather, our principal concern here is to measure as accurately as possible the distance between the Contract and its language, devolution, on the one side, and the administrative realities of contemporary American federalism, on the other.

We find that this distance must now be measured in miles, not inches. The Contract with America contains virtually no administrative fine print. Language of devolution does more to hide than to highlight the administrative realities of federal-state relations, more to distort than to delineate the facts about how existing intergovernmental policies are implemented, and more to delay, gut, and implementation decisions than to define precisely how "devolve domestic policies can be administered so that they may succeed where existing federal policies have ostensibly failed.

As Herbert Kaufman stated neatly, policy is enunciated in rhetoric; it is realized (or not) in action.2 Since the 1960s, policymakers at all levels, especially at the federal level, have enacted new policies or recast old or without thinking through how best the policies can be administered, whether, in fact, they can be implemented at all. Successive Democratic-controlled Congresses established broad (and not infrequently unreachable) goals and delegated to others (either federal bureaucracies, state and local governments, or vast networks of private contractors) the task of administration.

One obvious way to avoid the administrative complexities of American federalism is simply to have less government, especially less government in Washington. Rhetorically, that is what the Contract with America and the language of devolution are all about. And relative to the ambitious national policy plans that Democrats have favored since the days of the New Deal and Great Society, the Contract does represent "less government.

But make no mistake: the Contract with America is a big government—a big government to Washington—documents fly paper for virtually all the same intergovernmental administrative problems that have bedeviled succeeding generations of national policymakers since the end of the Second World War...
Conceptually, one way to approach questions about sorting federal responsibilities is to recognize that there are at least three activities of every governmental function: setting policy, financing policy, and administering policy. In any given area of domestic policy, Washington can be involved in one, two, three, or none of these activities. The content and character of federal-state relations thus depends not only on whether the national government is expanding or contracting its activities in given areas, but on which mix of responsibilities Washington is assuming or shedding, centralizing or devolving....

...Americans now have about $3 trillion worth of government, about half of it national, the other half of it state and local. Some want to shrink both halves of this pie. Others want to shrink only the federal half. And still others prefer to rephrase it in ways that improve government performance. In recent years many policy intellectuals and political leaders of both parties have used the term devolution to describe their ideas about how to reorder and sort federal responsibilities. But do Republicans and Democrats mean even roughly the same thing by “devolution”?

To be sure, the administrative politics of devolving given federal responsibilities after as much as a half-century of nationalizing them are bound to be controversial and complicated. But this is only the beginning of what dedicated devolutionists must face.

The problems with devolution go much deeper, right down to the core belief that the growth of the national government has been fueled mainly by an expansion of the Washington-based federal bureaucracy. The Reagan administration rallied against “waste, fraud, and abuse” by federal bureaucrats. The Clinton administration has made cutting the size of the federal civilian workforce the popular political centerpiece of its campaign to “reinvent government.” With few exceptions, national politicians of both parties, the public, and the press are highly and uniformly receptive to this blame-the-federal-bureaucracy article of devolutionist faith. There is just one problem: it is totally and demonstrably false.

Since 1960 the only persistent personnel growth in federal agencies has occurred among senior executives and presidential political appointees (from 451 in 1960 to 2,393 in 1992). The rest of the federal work force has thinned, not thickened. As Figure 3-2 shows, between 1965 and 1994 the volume of federal regulations issued and the amount of federal money spent rose much faster than did the number of federal civilian employees who wrote the regulations and disbursed the funds. Between 1960 and 1990 the number of federal civilian workers fluctuated between 2.2 million and 3.2 million. In recent years the number of federal civilian employees has been dropping and is now at 2.08 million. Over the last several decades, the fraction of federal civil servants who work in the Washington area has held steady at around 11 percent. Most federal bureaucrats do not work “inside the beltway”—or anywhere near it.

The real “Washington bureaucracy” is composed mainly of the large number of people who work indirectly for the national government as employees of private firms and state and local agencies that are largely, if not entirely, funded by federal dollars. Outside the defense area, the federal government revolves around three basic functions: (1) paying subsidies to particular indi-

Figure 3-2. Federal Government Growth

Source: Budget of the U.S. Government, Fiscal Year 1996.

hospital; (2) transferring money from the federal government to state and local governments; and (3) enforcing congressionally mandated regulations for various sectors of society and the economy.

For several decades now, in accordance with increasingly detailed acts of Congress, federal civilian employees, state and local government employees and vast networks of private contractors and non-profit organizations have performed these and related functions together. Contrary to the devolution creed, federal bureaucrats are neither always the dominant partners in governmental administration nor the chief culprits in clear-cut cases of “waste, fraud, abuse” or outright policy or program failure.

Since the end of World War II, virtually every major domestic policy initiative in the United States has involved state and local governments, Medicare, Medicaid, antipoverty, interstate highways, environmental clean and much, much more. This pattern is illustrated in the shared Social Security financing and payment arrangements under the Social Security Act (administered by the states subject to federal review for compliance with minimum standards set by the Secretary of Health and Human Services), management for active state and local participation in land use under Federal Land Policy and Management Act (regionally administered subject to federal review for compliance with planning criteria set by the Secret of the Interior), and the state implementation of the Clean Air Act, under which state officials develop specific plans for environmental cleanup (subject to standards set by the Environmental Protection Agency).
In addition to the huge role that state and local governments play in the "Washington bureaucracy," almost every major federal domestic policy directly involves either private contractors, or non-profit organizations, or both. In many federal programs these private agents make important decisions as well as implement them. To cite just a few examples, Environmental Protection Agency (EPA) contractors have overseen the agency's Superfund hotline and advised callers about which projects might be eligible for funding. Other contractors have helped develop the Department of Transportation's safety policy. Each involvement meant using the discretion granted federal bureaus by Congress and shaping fundamental policy decisions. At EPA, in fact, contractors developed criteria for how the agency ought to define inherently governmental functions that should not be contracted out.

Relying on contractors to deliver services is one thing; relying on them to make government policy is another. Many federal agencies lack the staff, in numbers or training, to conduct such work. Sometimes, as with the Superfund program, these shortages flow directly from congressional restrictions on agency hiring. Drawing the line between policy execution and policymaking, moreover, is difficult. Public administration has been struggling for a century, with increasing frustration, to solve this problem.

**WHICH WAY TO DEVOlUTION?**

Zeroing in on the federal bureaucracy, cutting the federal payroll, and consolidating federal programs are ways of avoiding, not confronting, the hard work of sorting federal responsibilities and mastering the administrative realities of the "Washington bureaucracy" and American federalism itself. There are at least three additional ways that devolutionists could proceed.

First, devolution could mean the _total or near-total national withdrawal_ of federal responsibilities. Devolution could be wielded as an axe in many areas where the federal government now plays a big role in making, administering, or financing domestic policy. There are, for example, many conservatives who believe that Washington should simply stop all involvement in most areas of social policy.

But the Contract with America does not trumpet any such retreat. Rather, the Contract is practically a catalogue of all the areas in which the federal government has become deeply involved since the end of the Second World War. No more than the Eisenhower administration rolled back the New Deal does the Contract even contemplate rolling back major elements of both the New Deal and the Great Society.

A second possibility is devolution as the _radical privatization_ of federal responsibilities. In this scenario, Washington would play paymaster to private firms which assumed a greater and greater share of existing federal responsibilities. The Contract would encourage a resumption of Reagan-era efforts to privatize more federal functions than ever before.

A third potential path of devolution is the _new "new federalism."_ This road would need to be paved brick-by-brick with block grants and the repeal of so-called unfunded mandates. Steps on this road have already been taken by the Republican-led, Contract-bound 104th Congress.

At present, the first path remains politically irrelevant, while the latter two are littered with mines: administering overhead costs and constant oversight requirements.

**REINVENTING BLOCK GRANTS?**

Whatever the fate of devolution efforts that center on the further privatization federal responsibilities, there can be no doubt that the Contract with America a midwife at the birth of the third "new federalism" of the last quarter-century. In the 1970s, President Nixon pushed for block grants as part of 1 "New Federalism" initiatives. In the 1980s, President Reagan waved the same banner, but with a crucial difference: Reagan tried to block welfare-ty grants, whereas Nixon's block grants were for services that states and localities themselves perform.

Let us begin, however, with a more detailed overview of the twentieth century history of block grants—a guided preview to a history that may about to repeat itself once again.

In 1915 the federal government gave less than $6 million in grants-in-aid to the states. By 1925, over $114 million was spent; by 1937 nearly $300 million. The great growth began in the 1960s: between 1960 and 1966 federal grants to the states doubled; from 1966 to 1970 they doubled again; between 1970 and 1975 they doubled yet again. By 1985 they amounted to over $1 billion a year and were spent through more than four hundred separate programs. The five largest programs accounted for over half the money spent and reflected the new priorities that federal policy had come to serve: housing assistance for low-income families, medicaid, highway construction, services to the unemployed, and welfare programs for mothers with dependent children and the disabled.

Until the 1960s most federal grants-in-aid were conceived by or in cooperation with the states and were designed to serve essentially state purposes. Large blocs of voters and a variety of organized interests would press for grants to help farmers, build highways, or support vocational education. During 1960s, however, an important change occurred: the federal government began devising grant programs based less on what states were demanding and more on what federal officials perceived to be important national needs (See Ta 3-1). Federal officials, not state and local ones, were the principal propone of grant programs to aid the urban poor, combat crime, reduce pollution, and deal with drug abuse.

The rise in federal activism in setting goals and the efforts, on occasion to bypass state officials occurred at a time when the total amount of federal aid to states and localities had become so vast that many jurisdictions were completely dependent on it for the support of vital services. Whereas federal aid amounted to less than 2 percent of state and local spending in 1927, 1970 it amounted to 19 percent and by 1980 to 26 percent (see Table 3-2; Figure 3-3).

**LESS GOVERNMENT?**

Americans say they want less government, especially less government in Washington. The Contract with America and the drive for devolution responses to this popular outcry. Today only 22 percent of Americans (yet 73 percent in 1958) "trust the government in Washington to do what is right" (see Table 3-4). About 67 percent of Americans (versus 35 percent...
Table 3-1

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<th>1960</th>
<th>1992</th>
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<tr>
<td>Transportation and highways</td>
<td>43</td>
<td>12</td>
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<td>Income security</td>
<td>38</td>
<td>24</td>
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<td>Health</td>
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<td>Education and training</td>
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<td>Miscellaneous</td>
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future. Some 80 percent feel that the value they get from federal taxes is “only fair/poor,” and 60 percent favor “a smaller government with fewer services” to a “larger government with many services.” Finally, 73 percent are convinced that the federal government “is much too large and has too much power.”

It is perfectly clear how negatively Americans now feel toward government in general and the federal government in particular. What remains entirely unclear, however, is whether the mass public, national lawmakers, and state and local government leaders are prepared to do what would be necessary to shrink substantially the size and scope of the national government, devolve major chunks of federal responsibilities, and live with the huge changes in American life that must result from any serious and sustained effort to reverse a half-century of “big government.” Some evidence suggests that the anti-government, anti-Washington consensus is 3,000 miles wide but only a few miles deep.

And just how much “less government” do Americans really want and what, if anything, can be done from Washington to deliver it? After one subtracts the military and defense spending, the fact remains that most government spending in America has been, and continues to be, state and local. No other modern democratic nation in the world has the vibrant and political consequential subnational governance that America does.

The balance of federal-state powers is today, as it has always been, a bon of political and jurisprudential contention. But even those who insist on “less government” must agree that federalism lives and that America, even on it worst day, remains one of the most well-governed, well-ordered free societies that the world has ever known. In the language of the very first paragraph of the first number of The Federalist, there are three who truly believes that the American political experience has been a failure, or that, in the absence of the rapid-fire adoption of the Constitution, America will soon enter the ranks of societies governed not by “reflection and choice” but by “accident and force.” Somewhere, we doubt it.

In a monumental empirical study of post-1970 efforts in Italy to devolve certain central government responsibilities to regional governments, Robe D. Putnam summons the intellectual spirit of Alexis de Tocqueville to renew the civic traditions (associationism, trust, and cooperation) that make democracy work. Like other modern democratic peoples, today’s Americans have civic traditions that can hardly be described simply as anti-government. Putnam keenly observes,

We want government to do things, not just decide things—to educate children, pensioners, stop crime, create jobs, hold down prices, encourage family values, and so on. We do not agree on which of these things is most urgent, nor how they should be accomplished, nor even whether they are all worthwhile. All but the anarchists among us, however, agree that at least some of the time on some issue action is required of government institutions. This fact must inform the way we think about institutional success and failure.

When cut-government push comes to address problems of government, how much contemporary Americans really do not want government in general, or to national government in particular, to act on reducing crime, encouraging family values, and all the rest? Unless we have misplaced or completely misread the last half-century’s worth of public opinion data, and unless the $3 trillion worth of government Americans have voted for themselves is a mirage, the only reasonable answer is “a minority.”

CIVIC EDUCATION ABOUT PUBLIC MANAGEMENT

Whether one agrees fully or disagrees entirely with the Contract with America, the country will fare better in the future if national lawmakers, state and local government officials, the press, and the public come to grips with
Figure 3.3. Federal Aid to State and Local Governments, 1980-1995

Total federal aid to state and local governments, in billions of 1987 constant dollars, and the aid as a percentage of total federal spending, for each fiscal year.

Not without justification, the case has often been made that civic education about public management—practical knowledge of how government does what it does and how, if at all, it could do things better—promotes a sort of prudential conservative bias. For when public management noses sniff government policies, they almost always smell something burning—or something likely to burn before too long. No one who understands what it actually takes to translate complicated public policy mandates into administrative action; alter out-moded government personnel or procurement practices; foster and maintain cooperation among disparate public and private bureaucracies; promote effective leadership and build productive organizational cultures within the public sector; coordinate a network of federal, state, and local agencies, private contractors, and non-profit organizations; institutionalize meaningful ways of measuring and evaluating government performance; or devise ways of cutting "red tape" without destroying democratically-based procedural safeguards, knows that none of these things can be done without lots of political foresight and forbearance, plenty of hard work by public administrator and no shortage of sheer good luck. Many government policy or program failures are in fact administrative failures in disguise. Likewise, the perverse and unintended consequences of any given government policy often owe much to the ways in which that policy was (or was not) implemented.

Yet after a half-century of big-government policy initiatives were put into law by national political leaders who hardly ever gave federalism, implementation, or management issues a thought, we are now witnessing efforts to change the course of American governance by leaders who seem no less blissfully ignorant of these issues.

Whatever one's particular policy preferences or ideological outlook about what government ought to be doing (or to refrain from doing), it should be possible to concede the need for civic education about public management.

It is revealing, for example, that the 1994 National Standards for Civics and Government, a fine guide to much that children K-4 through high school should know about the theory and practice of American government, conveys almost nothing about what most government agencies actually do; how give types of bureaucracies at given levels of government are monitored, organized, and evaluated; the administrative realities of intergovernmental relations; and other facts, figures, and first-order ideas about how a federal, state or local bill which has become law gets implemented (or not). . . .

REDISCOVER GOVERNMENT

Whether American government needs to be razed or reinvented, downsized, we cannot say. But we are certain that American government needs to be rediscovered by policy elites and average citizens alike. By "rediscovering government" we mean:

1. Empirically documenting what government does and the actual range of administrative successes and failures in government bureaucracies;
2. Analyzing carefully the reasons for the interagency, intraagency, at historical variance in the performance of government policies and programs;
3. Figure out how, if at all, well-substantiated instances of managerial excellence in government bureaucracies can be replicated widely; and
4. Producing and disseminating widely a body of reliable applied administrative knowledge about what public leadership and management strategies work best, under what conditions, and at what human and financial costs.

Unless we are totally mistaken, a generation from now America is going to have lots and lots of government, much of it from Washington. Whatever else happens, therefore, we hope that the debate over the Constitution with America, devolution, and the administrative realities of American federalism causes many Americans, and not just public management specialists, begin to rediscover government.