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The Political Climate of Devolution and the Implementation Game

Suzanne Leland*

1. Introduction

Devolution is not a new concept. Throughout U.S. history there has been tension between centralization of political authority and local autonomy. "Devolution" essentially describes the ebb and flow of governmental control and financing services and programs. The following article explores the concept of "devolution" from a political science perspective. It chronicles the history behind devolution and seeks to explain why devolution has become one of the most frequently used terms in intergovernmental relations. It identifies the political implications for state and local governments and explores the impact devolution has had on the implementation of new service responsibilities.

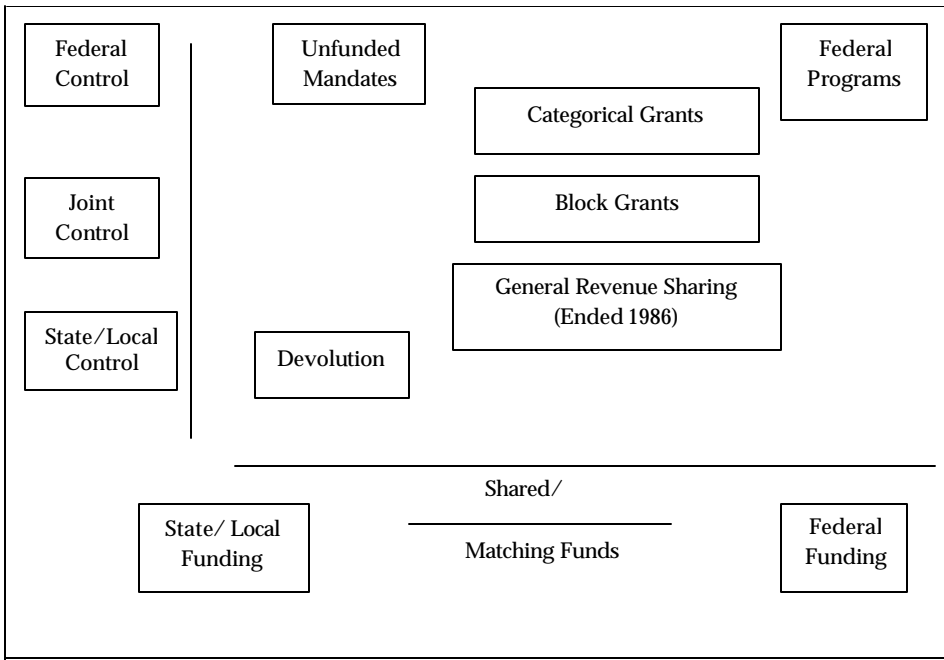
2. Background

Federalism in the U.S. political system can be viewed as a unique arrangement created by the Founding Fathers who envisioned citizens as actors who give their consent to the Constitution. The Constitution then modestly allocates powers to both national and state governments (Beer 1977). The national government possesses delegated powers such as Article 1, Section 8, where the Constitution grants Congress the power to coin money, regulate commerce among states and foreign nations and to declare war. Powers that are "not delegated to the United States" government are reserved to the states via the Tenth Amendment. Powers are never spelled out, but they are protected in other ways. For example, Article IV promises that state boundaries will be inviolate, and guarantees a republican form of government. It is then the Supreme Court's job to oversee such relationships and to act as the final arbiter in the arrangement (Wright 1990). The design of the government was to pur

* Assistant Professor Department of Political Science, University of North Carolina-Charlotte.

posely create tension between the different levels of government to protect liberty. A consequence of this experiment has led to the periodic shifting of power from one level to another (Donahue 1997).

The most recent phase in the evolution of the American federal system is the “Devolution Revolution,” a phrase coined by Richard Nathan. The core concept of devolution involves turning back federal domestic programs to state and local governments with an emphasis on the rearrangement rather than the reform of, or diminution of public authority. Devolution as a part of political rhetoric has multiple meanings. Devolution, or de-federalization, in its purest form, means state and/or local governments will be responsible for the financing, design, and implementation of specific programs. In other versions, devolution can mean as little as the decrease in federal grants-in-aid without removing federal mandates. For simplicity’s sake, this paper will consider devolution as the reduction of authority, resources and legitimacy of the federal government, and as an opportunity for state and local governments to inherit or take over the authority, resources and legitimacy of domestic programs.



Sources of Funding

Figure 1. Intergovernmental Relationships: Funding and Control.

3. Historical Roots of Devolution

Is the concept of devolution new, or just a new spin on an old idea? Since the New Deal, and the subsequent expansion of government, the involvement of multiple levels of government in individual programs has become the norm in the United States (Kettl 1993; Johnston and Romzek 1997). What has changed slowly over the last half century is that government in general has become less compartmentalized. Several levels of government now jointly engage in promoting many services to citizens (Agranoff 1996). As a result, numerous working relationships at the policy and operating levels were created. Simultaneously, governments have developed both formal and informal relationships with private and non-profit sectors.

In terms of responsibility and funding being turned back to lower levels of government, the origins can be traced back as far as Richard Nixon's New Federalism. With the ascension of Nixon to the presidency, came a notable but not dramatic shift towards devolution. The previous intergovernmental arrangements of Franklin Roosevelt's New Deal and Lyndon Johnson's Great Society emphasized federal control of domestic programs. Nixon broke with this tradition by shifting two federal programs from categorical grants, which have the most mandates attached, to block grants, which allowed state and local governments more freedom to design programs but still continued the financial support. The first program shifted from centralized categorical control to block grants was Comprehensive Employment Training Act in 1973. This was followed by Community Development Block Grants (CDBG) in 1974. Nixon's New Federalism focused primarily on fewer federal rules and increased discretion for state and local governments. In other words, Nixon's contribution to devolution involved the federal government giving up some control, without shirking its funding responsibilities.

Nixon's introduction of general revenue sharing was also a shift in the intergovernmental system consistent with his version of New Federalism. General revenue sharing gave state and local governments funding without any strings attached. Therefore, more responsibility accompanied the funds to carry out any new or expanded program or initiative. General revenue sharing put an estimated 25,000-30,000 local jurisdictions in direct touch with the federal treasury. For thousands of local government units with no prior experience with the federal aid process, general revenue sharing heightened their interest in intergovernmental relations (Wright 1982). Once state and local governments were "hooked," several new domestic programs emerged under the direct control of state and local governments without the responsibility of funding. It all came to an end in 1986, when Ronald Reagan ended gen-

eral revenue sharing as a way to curb domestic expenditures. Many of the programs ended, but others remained, only now in a purely devolved form—funding and control at the local level.

As the ending of general revenue sharing demonstrated, the Reagan administration continued the gradual shift toward pure devolution. Reagan's twist on New Federalism emphasized both funding and control of domestic programs at the state and local level. The idea was to shrink the size of the federal government in the face of budgetary deficits. Again, Reagan's New Federalism initiatives were very incremental in nature. While funding from sources like general revenue sharing ended, regulations produced by the federal government continued, creating several instances where state and local governments were required to implement policies without the funding to do so.

Due to devolution, state governments increased their capacity to handle more domestic program responsibilities. A "quiet revolution" started to take place in the 1960's. States began pioneering solutions to some of the country's most difficult problems. Two landmark federal policies, reapportionment of state legislatures and the enactment of civil rights laws served as catalysts for change in state governments. State governments strengthened and professionalized their legislative, executive and judicial branches. Governors in particular became more politically significant, too. Several governors rose to national prominence, such as presidents Jimmy Carter, Ronald Reagan, Bill Clinton and George W. Bush. Governorships are now seen as training ground for future presidential candidates. As a result, states came to occupy a more prominent role in American politics. In the 1980's and 1990's states demonstrated that they were capable of setting national agendas and could be innovators in areas of economic development, social services and healthcare. They also increased their commitment to administer and fund traditional local government services such as law enforcement and education (Van Horn 1996).

By the early 1990's devolution became prominent on the national agenda. New(t) Federalism emerged in the mid-1990's with the Republican take-over of Congress.¹ Welfare reform is a recent and highly visible example of the transfer of authority, resources and legitimacy from the federal governments to the states. National legislation, signed into law in 1996, abolished a sixty-year tradition of providing federal aid to the poor. Freestanding state programs replaced federal programs.

Another example is the passage of a law prohibiting the imposition of unfunded mandates on the states. Although devolution of responsi-

¹ In reference to House Speaker Newt Gingrich who was generally credited with leading the Republican Party to regain control of Congress after over forty years of Democratic Party control.

bility to state and local governments in the 1980's was supposed to be accompanied by less regulation, the federal government continued to maintain significant control over domestic programs by imposing strict regulations in the areas of healthcare to the poor, environmental protection, and services for the disabled and senior citizens. Unfunded mandates were costing state government billions of dollars annually. Congress and the president continued to satisfy constituent demand despite budgetary shortfalls by imposing new demands on state capitals without the funding to pay for them (Van Horn 1996).

The intention of the 1995 Unfunded Mandates Reform Act was to limit the federal government's power to impose federal mandates on state and local governments without paying for the costs. Like most legislation, the final product looks different from the original intention. Although the Clinton administration publicly claimed to have welcomed the act, its acceptance of the bill came at great cost. In order to pacify the concerns of several environmental and public interest groups, the bill was weakened substantially.

While the act established a procedure that was supposed to make it more difficult to enact mandates, huge loopholes remained. Foremost, the act did not apply to existing unfunded mandates. However, it was relief from the burden of such mandates that states and localities fought for in the first place. Second, the act exempted certain categories of new unfunded mandates including those that enforce the constitutional rights of individuals; those that prohibit discrimination on the basis of characteristics such as race, gender, age, and disability; and those that are designated as "emergency legislation" by the President and Congress.

A third way to circumvent the intent of the act was procedural. When new federal mandates are proposed, the act only applied to bills that have been reported out of a congressional committee. Yet bills that are not reported by committee can still be considered on the floor. Also, the time between the conference committee vote and the final vote by the entire congressional body is usually too brief to calculate accurate cost estimates of the mandate. Such loopholes mean that the costs of federal mandates often escape close scrutiny. And while the act provides for a point of order in either the House or Senate for new unfunded mandates, a simple majority in either house can vote to override the veto. For a mandate that has a lot of support, this is not a very cumbersome procedural hurdle. In sum, the Unfunded Mandates Reform Act is really what some call a "Toothless Tiger" --a law with little power (Nathan 1996).

4. The Political Arguments Underlying the Devolution Revolution

Devolution in its many forms has enjoyed support across political party lines since at least the 1960's. The political arguments for devolution are numerous and convincing. Some proponents argue that devolution creates greater efficiency, lowers costs, increases innovation among state and local governments, as well as increases trust in government. Other proponents of devolution see it as a way to decrease the overall size and scope of the federal government and to reduce the federal debt.

Efficiency arguments are typically based on the public choice perspective pioneered by economist Charles Tiebout (1956). That is, allocative efficiency can be achieved best by smaller fragmented governments that compete with one another. Instead of the federal government imposing programs on state and local governments, pure devolution would allow people to "vote with their feet." People who wished to have certain domestic programs would pay for them and those who did not would move. Allocative efficiency of local governments will also help relieve national budget pressures. The trade off in the 1995 Deficit Reduction Act was that governors would receive fewer federal dollars in exchange for more power.

Yet another positive outcome from policy devolution is increased innovation among state and local governments. Such proponents envision states as "laboratories of democracy" that will find new solutions to problems, some of them old problems that a remote and heavily-bureaucratic federal government could not solve. The expectation is that greater discretion will result in variation across states. Such variation would demonstrate what programs work and which do not under specific internal political, administrative, and socio-economic conditions. Successful programs can be duplicated and unsuccessful programs can emulate successful programs (Clark 1998).

The "laboratories of democracy" argument is further bolstered by the fact that governors are demanding more responsibility while simultaneously providing the increased capacity to finance and administer previous federal programs. "During the past three decades, a 'silent revolution' in state capitals has transformed their governing institutions, administrative and revenue systems, and service delivery arrangements. Structural, functional, and fiscal reforms have been accompanied by the replacement of 'Good-Time Charlies' with executives, leaders, and visionaries" (Stenberg 1994, 135).

Finally, a fourth factor contributing to the devolutionary mood of the country is the lack of trust in government—particularly at the federal level. A 1993 Advisory Commission on Intergovernmental Relations poll

of "Changing Public Attitudes on Governments and Taxes" found that when asked, "From what level of government do you feel you get the most for your money?" 38 percent responded "local," 23 percent said "federal," 20 percent said "state," and 20 percent responded "don't know." To the question, "Which level of government do you think spends your tax dollars most wisely?" in 1993, 35 percent replied "local," 14 percent said "state," 7 percent replied "federal," and 29 percent responded "none of them." (ACIR 1994).

Opponents arguments are made in terms of equity. They maintain that devolved programs such as welfare reform will create a "race to the bottom" where state and local governments only give the minimum benefits to avoid becoming welfare magnets. They also assert that part of the reason the implementation of federal government programs fail is because of the wide latitude given to state and local government officials.

Clearly the proponents arguments are those currently being given the most attention. Yet despite the interest and continuous dialogue, the majority of federal programs have not been devolved in any sense of the word. The intergovernmental pendulum has swung toward the state and local governments, but only slightly.

5. Implications for the Polity Implementation process at the State and Local Level

While the overall effect of the Devolution Revolution is still undetermined, what is certain is that these changes will influence state and local government administrators. State and local governments are now being asked to take on more responsibilities with generally fewer funds than were previously available (Van Horn 1996). Politics, or the process of determining who gets what from government, does not end when legislation is signed into law. That is simply the beginning of the political process. Much of what happens in the course of implementing public policies revolves around the political relationships between the federal, state, and local governments. To merely discuss the historical context of devolution without its political impact on those who must implement the policies being devolved would be incomplete.

The final question this paper addresses is what this means to state and local governments who must implement the policies. Since most devolutionary acts are not pure in nature, they usually require some type of coordination of funding and control between the federal, state, and local government level. Devolution increases the number of actors involved in the policy implementation process and increases the complexity, interdependence, and bargaining necessary at the state and local

level to get things done (O'Toole 1993). This means that administrators themselves become political actors in the intergovernmental process. Administrators must have the savvy and skills to deal with the politics of complex intergovernmental relationships. As mentioned before, devolution in the form of revenue sharing introduced a whole host of new players to the intergovernmental system. As Wright aptly stated, "Federal aid and intergovernmental relations became as common as the morning cup of coffee to tens of thousands of officials in small cities and counties" (Wright 1982:62). Now, state and local government administrators and elected officials must follow the events and devolution discussion in Washington and their state capitals. The question remains: do local governments have the capacity to assume these new responsibilities? And, if the trend continues, what are the future capacity needs of local government?

6. Conclusions

Devolution was not a direct result of the 104th Congress or the Clinton administration. It is part of the ebb and flow in intergovernmental relations that dates to the country's founding. The most recent version is the incremental process towards devolving certain domestic programs. Devolution is the result of political, social and economic conditions accumulating overtime. The fact that devolution came on the policy agenda of the federal government in the past decade was not an accident. The increased capacity of state and local governments, the federal budget deficits, and the widespread distrust of federal programs all contributed to the interest in devolving federal programs to the state and local level.

The U.S. federal system is dynamic. Political, economic, and social issues drive federalism on a case-by-case basis. And similar to other types of government reform, the federalism pendulum swings back and forth between the different levels of government. Currently, the power is shifting gradually towards state and local governments. This means that state and local governments will have to accept the challenge of delivering more services with fewer federal dollars. As new administrations emerge, each will attempt to leave their mark on the intergovernmental system.

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