

## INTERGOVERNMENTAL RELATIONS: PRESENT AND FUTURE

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The American federal system has served the people well for nearly 200 years. It has great elements of strength. It has survived crises in the past and will, in all probability, survive others in the future. But there is no assurance that it will always continue to do so unless statesmanlike solutions are found—and found quickly—to meet new problems arising out of an almost completely different set of social and economic conditions under which it must operate now and in the future.

—W. Brooke Graves, *American Intergovernmental Relations* (1964)

As we have underscored throughout this volume, the one *constant* in the federal system as it has evolved in the United States is *change*:

- *Change* in the *roles* played by federal, state, and local governments, as well as in the various branches and agencies that constitute each level
- *Change* in the *power relationships* between levels
- *Change* in the *numbers* of governments
- *Change* in the *mechanisms* through which different levels, governments, and agencies at the same level relate and interact
- *Change* in the *basic documents and the interpretation* of the meaning of these basic documents that are supposed to outline the *authority and jurisdiction* of different governments and different levels of government
- *Change* in the *roles* played by government versus the private sector

We also would like to emphasize that these changes in the intergovernmental system have both initiated and partly been brought about by the *changing socioeconomic structure* of the nation.

As the intergovernmental system has evolved over time, scholars have bestowed different labels on the system reflective of these changes: Dual Federalism,

Cooperative Federalism, Creative Federalism, New Federalism, Picket-Fence Federalism, Prefectorial Federalism, Coercive or Regulatory Federalism, different constructs of a New Federalism, Privatized Federalism, and New Federalism *by default*. Samuel H. Beer (1978) has noted that it was the Americans at their Constitutional Convention in 1787 who, taking advantage of "the new science of politics," in a practical and applied sense invented federalism. He noted that the preceding permutations of federalism each are sequential versions of what he labeled "Representational Federalism" (1; 12, 13).

Some scholars over the years have argued that the American experiment in federalism represented simply a "way station" on the road from confederation to a centralized or unitary system, with all of the important powers of government concentrated at the national level. To this date in time, the American system has not progressed that far, although certain powers have become much more centralized. In a contrary vein, as a result of the extreme complexity and atomistic character of our federal system, there is the foreboding possibility of governmental deadlock or arteriosclerosis.

#### FRAGMENTED FEDERALISM AND INTERGOVERNMENTAL RELATIONS

Simplistic "layer-cake" or "marble-cake" models of the federal system cannot accurately commence to describe or portray the fragmented American federal system in regards to manner in which it functions—or *fails to adequately function*—in the United States. Elazar (1987) noted almost two decades ago that the intellectual models of federalism have tended to lag behind actual developments in intergovernmental relations (225). Given the multitudinous and multifarious discrete and overlying political, legal, and public and private administrative jurisdictions in the American federal system, it is somewhat miraculous that it can work at all, much less accomplish what it sets out to realize in terms of policy goals. Using a term that once was utilized popularly by scholars to portray the governmental structure of metropolitan areas, we can well describe our federal system as consisting of a "crazy-quilt" tapestry of governments, stitched together in a somewhat haphazard incremental fashion. Or, perhaps given the multifarious array of relationships in our present intergovernmental system it may be useful to view our federal system, as argued by Joseph P. Zimmerman (2004), in a kaleidoscopic fashion. Given all of this, where do the concepts of democracy and public accountability fit into the scheme of our federal system? And, more precisely, how does the public know which governmental unit to praise when praise is due and, conversely, how to correctly sort out the supposed culprits when policies or services go awry?

**CASE STUDY 5****System Failure: The Response to Hurricane Katrina**

On Friday, August 26, 2005, Hurricane Katrina passed into the Gulf of Mexico, presenting a significant weather threat to the coastal areas of Alabama, Mississippi, and Louisiana, along with New Orleans—the major city in the region. On the same day, Louisiana Governor Kathleen B. Blanco declared a “state of emergency” for her state and requested federal assistance. This request was followed by her plea the next day for the federal government to declare an emergency for her state and assist in helping to save lives and property. In response, President George W. Bush declared a state of emergency in Louisiana and authorized the Federal Emergency Management Agency (FEMA), an agency of the Department of Homeland Security (DHS), to provide aid. On the same day, New Orleans Mayor C. Ray Nagin announced a state of emergency for his community and issued a voluntary evacuation order. The next day—Sunday, August 28—Mayor Nagin, fearing growing concerns about gas leaks, fires, toxic water, and diseases, ordered a mandatory evacuation of all citizens from the city.

On Monday, August 29, Hurricane Katrina made landfall. Its wind and rain caused widespread destruction along the Gulf Coast and claimed over 1,100 lives, mostly in Louisiana (885) and Mississippi (219) (Time Warner 2005 3), though this may not be the final tally. A number of major levees breached in New Orleans, and large parts of the city, especially the poorer sections, were flooded. Responding, in part, to Governor Blanco’s second plea for assistance, President Bush declared Louisiana to be a major disaster area, releasing federal funds to supplement local and state aid. President Bush met with Governor Blanco and Mayor Nagin on Friday, September 2, but was unable to persuade the governor to relinquish her control of the Louisiana National Guard. President Bush, largely for political reasons, refrained from being more aggressive in seeking federal control of the National Guard troops (Lipton, Schmitt, and Shanker 2005).

Meanwhile, due to the flooded conditions of their neighborhoods, large numbers of the citizens of New Orleans—along with a substantial number of tourists—sought shelter in the Superdome, which housed about 20,000 people on August 31 and September 1. By this time, the supply of food and water was exhausted and toilet facilities were largely inoperative. Adding to the complexities, violence and lawlessness broke out in the Superdome, the Convention Center, and numerous other parts of the city (a large number of individuals had fled to the Convention Center for shelter). However, among FEMA, state, and local governmental authorities there was no clear plan or agreement concerning 1 which level of government would provide the necessary number of buses to evacuate the citizens who had fled to the Superdome and Convention Center. Eventually, the Louisiana National Guard reported on Saturday, September 3

that it had successfully evacuated all individuals from the two public facilities. The following Monday, September 5, that National Guard reported that it had restored order and "secured" New Orleans.

Complicating the governmental response to the disaster was the lack of an adequate system and flow of communications between local, regional, and national FEMA officials, and between FEMA officials and the state officials of Alabama, Mississippi, and Louisiana. Michael D. Brown, the Director of FEMA, has been severely criticized for not fully comprehending the magnitude of the disaster or immediately developing a comprehensive response plan. For instance, Brown readily acknowledged that he was not aware that 20,000 individuals were at the Convention Center until twenty-four hours after news reports of them were broadcast (Lichtblau 2005, A20). FEMA was largely blamed for failing to develop an overall command-and-control structure for dealing with the disaster and for having a myriad of organizational problems—resulting, for example, in leaving thousands of people stranded for an extended period of time at the Superdome and Convention Center, without food, water, security, or medical assistance. In addition, largely because of the ineptness of FEMA, evacuees safe from immediate danger confronted long delays in finding adequate assistance and navigating a maze of federal and local programs. Officials and citizens complained that FEMA's computers were repeatedly "crashing," further adding to the communications problem.

Local officials complained bitterly about FEMA's overall performance, or lack thereof. For instance, Mayor Laura Miller of Dallas, where about 1,500 evacuees had been transported to, stated:

"Where is FEMA national? We keep being told that help is coming and so far we're not getting the help. So we will do what the government can't do. We will take the 1,500 people sleeping on cots and air mattresses and move them into apartments with beds and furniture and sheets and towels. There is so much chaos and dysfunction going on with the federal government that Dallas can't wait any longer for federal help." (Stevenson and Kornblut 2005, A1, A14).

Early in the relief effort, Louisiana officials complained about the slow pace at which FEMA was moving evacuees living in shelters to longer-term and more comfortable housing arrangements.

In response to the crisis, President Bush (on his third trip to the region), speaking from historic Jackson Square in New Orleans, issued a televised address to the nation on the evening of Thursday, September 16. He said:

"The work that has begun in the Gulf Coast region will be one of the largest reconstruction efforts the world has ever seen. . . . And tonight I also offer this pledge of the American people: Throughout the area hit by the hurricane, we will do what it takes, we will stay as long as it takes to help citizens rebuild their communities and their lives."

In implementing his pledge, Bush created a Gulf Opportunity Zone—a government enterprise that he said would provide help on taxes, housing, education, and training for the victims of the hurricane. In addition, Bush noted that he would ask Congress to pass an Urban Homesteading Act, designed to provide building sites on federal land through a lottery to low-income citizens, free of charge. In return, residents would pledge to build on the lots, with either a mortgage or help from a charitable organization like Habitat for Humanity. In his address, Bush took special note of the division between rich and poor in the United States, and especially the plight of the many African-Americans who reside in an environment of desperate poverty (Bumiller and Sanger, A1).

Initially, about \$10.5 billion was allocated to the relief effort, with a supplemental appropriation of \$51.8 billion, with most of the funds—\$50 billion—directed to FEMA for recovery efforts including shelter, food, and medical care. The balance of the funds were provided to the Defense Department (\$1.4 billion) for military deployment and the Army Corps of Engineers (\$400 million) for repairs to levees, pumps, and clearing channels. Informed observers noted however, that the total costs of reconstruction and the resettlement of residents could well total two or three times this amount (Hulse 2005a, A22). Some conservative Republicans in Congress voiced their strong concern about the extent of funding advanced by Bush (Hulse 2005b, A1).

Due to his inept performance, Brown was relieved on September 9 by the Bush administration from his oversight of the post-storm relief effort and replaced with Vice Admiral Thad W. Allen of the Coast Guard, known for his communication skills and steady resolve (Shanker 2005). The following Monday, September 12, Brown—under intense political pressure from both Democrats and Republicans, and viewed as a political liability by the White House—resigned his post as director of FEMA. He was replaced on an acting basis by R. David Paulison, who in strong contrast to Brown has pursued a long-time career in emergency assistance and disaster relief (Kornblut 2005, A23).

Members of Congress were quick to react to the failed response of the government, particularly FEMA, to the disaster. Senator Susan Collins, Chair of the Senate Homeland Security Committee, expressed her strong dismay at the inadequacy of the local, state, and federal response and noted: "If our system did such a poor job when there was no enemy how would the federal, state, and local governments have coped with a terrorist attack that provided no advance warning and that was intent on causing as much death and destruction as possible?" (Longman and Chan 2005, A1). On September 12, Collins began to hold public hearings on the inadequate response of the federal government to the disaster. Senator Bill Frist, the Senate majority leader, along with the Speaker of the House of Representatives, J. Dennis Hastert, announced on September 7 the establishment of a joint House-Senate inquiry into the failures surrounding the response to Hurricane Katrina by the Bush administration. The members of the panel were charged with providing a report to Congress by

5 Mr. [unclear]

February 15, 2006. Many leading Congressional Democrats, including Senator Harry Reid, the Senate Democratic leader, and Senator Hillary Rodham Clinton, opposed this initiative, along with Representative Nancy Pelosi, the House Democratic leader. They stressed the need for an independent panel, such as was established after the tragedy of September 11, 2001. At minimum, many Democrats in Congress stated that such a panel should include an equal number of Democrats and Republicans, in order to ensure a fair and impartial inquiry. In addition, some Democratic members of Congress suggested that FEMA should be severed from the Department of Homeland Security, arguing that FEMA's effectiveness was diminished by being placed under the broader organizational umbrella (Hulse 2005c, A20).

### CONCLUDING COMMENTS

Our overview of the inept performance of the government—particularly FEMA—to the Katrina disaster provides us with a number of lessons. First, given the complexity of the federal system, with its numerous federal, state, and local agencies, developing a comprehensive plan of responsible relief is undermined by the very nature of the fragmented intergovernmental system. In the instance of the Katrina disaster, this difficulty was further magnified by the uncertain and confused response of FEMA officials, who failed to quickly develop an appreciation of the magnitude of the disaster and to put in place a central and coordinated command structure.

Second, President Bush's management style, often described by observers as haphazard and reactive, also significantly contributed to the inadequate response of the federal government to the disaster. As William Kristol noted in regard to the operational style of Bush: "He is a strong president . . . but he has never really focused on the importance of good execution. I think that is true in many parts of his presidency." David Ignatius (2005, A25) elaborating in the *Washington Post* about Kristol's comments, wrote:

"What accounts for this management failure? Experts cite a number of factors. First, this White House lacks a strong, substantive chief of staff who could act as a kind of deputy president, riding herd on the Cabinet agencies. Bush's chief, Andrew Card, is good at organizing the President's schedule, but he hasn't played the broader, make-the-trains-run role of many of his predecessors . . . Another problem is Bush's own style. As a key adviser once told me, this President isn't interested in hitting singles and doubles; he wants home runs. This approach almost guarantees that the administration won't do well at crisis prevention—which succeeds best when nothing dramatic happens at all, thanks to good planning."

Third, the initial lackluster and confused response of FEMA was partly due to the Bush administration's penchant for staffing the agency (along with

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6 other components of the federal government) with individuals known for their strident conservative political beliefs and personal political loyalty, rather than demonstrated competence. For instance, Michael D. Brown, the former director of FEMA, had little experience in disaster relief before assuming his position. In addition, FEMA has been accused of engaging in wasteful spending practices, funding many projects of little real value or significance ("FEMA Spending a Disaster?" 2005, A1, A6). The departure of Brown from FEMA does not guarantee the future success of FEMA; for, as noted by an editorial in the *New York Times* (2005, September 16, A26): "An administration staffed on many levels by people who distrust big government is now faced with handling an unprecedented task: housing hundreds of thousands of homeless people, making sure their children are educated over the short term, and eventually getting them a start on a new life. There is no way to meet the challenge without a focused federal effort."

In addition, the U.S. Army Corps of Engineers may be criticized for not allocating a larger share of its funding to more adequately strengthen the levees of New Orleans largely because of intense pressure for pork-barrel projects in Congress. As the *New York Times* (2005, September 13, A28) expressed in an editorial: "There has been much grumbling that Congress and the Bush administration denied the Army Corps of Engineers the money that was required to fortify New Orleans against a hurricane like Katrina. These complaints need to be pursued. Flood control is mainly a federal obligation and the agency most responsible for it must have enough money to do the job right." And, as it further advanced: "But there is another question worth asking: has the Army Corps made wise use of the money it has? Louisiana has received about \$1.9 billion over the past four years for corps civil works projects, more than any other state. Although much of this has been spent to protect New Orleans, a lot has been spent on unrelated water projects—a new and unnecessary lock in the New Orleans Industrial Canal, for instance, and dredging little-used waterways like the Red River—mainly to serve the barge industry and other commercial interests" (*New York Times*, September 13, 2005, A28).

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C And finally, because of the inept performance of the federal government in regard to the challenge of Katrina, many Americans have lost some degree of confidence in the ability of their government to protect them from the onslaught of a natural disaster. The Pew Research Center for People and the Press found that somewhat more than 60 percent of the respondents judged the federal government's response to the disaster to be fair or poor (Stevenson 2005, A23).

Federal, state, and local officials have been criticizing each other for their response to hurricane Katrina, and there is certainly enough blame to go around. Michael Brown claims FEMA has been gutted by several years of budget cuts by the DHS (McCaffrey 2005, September 28, A1). And this seems to be the case. FEMA was layered-under when some twenty-two agencies were consolidated

into the DHS, which has focused on the threat of terrorism rather than the possibility of major natural disasters like Katrina. Brown went on to say that FEMA was overwhelmed by the massive storm and its response was complicated by state and local officials: "My biggest mistake was not recognizing by Saturday (August 27) that Louisiana was dysfunctional."

All three levels of government have been negligent in their preparation for and execution of emergency procedures for a category four or five hurricane. The federal government was very slow in its response to a forecast category five hurricane, and it is the only level with the necessary resources to cope. The Bush administration was not slow, however, in throwing out no-bid procurement contracts to their favorite corporations, like Halliburton and Bechtel (Stephens 2005, B8). In fact, the news from National Public Radio (September 29, 2005) indicated that FEMA has let dozens of no-bid contracts with few controls over contract performance and cost in the aftermath of Katrina.

Over time, all three levels of government have been negligent in the maintenance and upgrading of the necessary infrastructure given the resources they had at their disposal. However, most state and local governments along the Gulf coast lack the financial resources needed to properly upgrade their infrastructure for such a disaster. Even if public officials at all levels had done their best, given the fragmented and amorphous governmental characteristics of our federal system, it is doubtful that the outcome for a disaster of this magnitude would have been much better. To have satisfactorily coped with this disaster would have required the coordination and direction of officials from a dozen federal agencies, three states, and hundreds of local governments, not to mention the officials and governments of surrounding states that were affected by refugees from the states directly in the path of Katrina.

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In addition to structure, in a somewhat ironic sense, the very dynamics, or currents, of federalism involving national and state regulation and intergovernmental cooperation have further served to undermine democracy and accountability. The rise of Coercive Federalism, with its "toolbox" of mandates, cross-cutting regulations, preemption, and partial preemption, has effectively served, in more than a few functional areas, to divorce between the levels of government the functions of policy-making and policy implementation. The potpourri of federal and state categorical grants, surely benevolent in their intent, has served to make even more confusing for the common citizen the determination of to what extent each level of government is providing the funding for a particular service. With reference to the latter, the long-cherished principle that the level of government that provides the service is to fund the service has been, in many cases, effectively cast asunder.

### FISCAL FEDERALISM

The most important development in fiscal federalism during the first half of the twentieth century was the greatly increased reliance of the federal government on progressive income tax revenue, as a result of the adoption of the sixteenth amendment in 1913. As a result of the latter development, the federal government was able to significantly expand its role in the governmental sector, as well as in the larger society. We should note that the federal government is a much better collector of revenue than the states or localities because it is much more difficult for individuals to avoid or evade the payment of federal taxes. During the same time frame, state and local governments largely abandoned their reliance on revenues derived from the property tax and began to rely more on general and selective sales tax revenues,