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The Pattern of Federalism in the United States: Unchanged by the COVID-19 Pandemic

Abstract

The era of the COVID-19 pandemic has exposed the United States government to unprecedented circumstances that have greatly challenged the federal administration, states' governments, and the people of the United States. This essay will focus on the principle of federalism, its history in United States governance, and the way it has been impacted by COVID-19. A close analysis of the reactions to the pandemic with respect to the current Trump administration, various states, and other countries show a transition in federalism in action. A look at the history of United States federalism supports our claim that federalism is never one thing and that it is constantly evolving. We argue that the COVID-19 pandemic has shifted the previous Ad Hoc federalism to a more partisan type of federalism. However we contend that the change itself is not out of the ordinary for the United States.

The Many Forms of Federalism

The central idea around federalism is that there is not one single actor making decisions for the state, rather a collaboration between state and federal governments to implement policy and balance power (Smith and Greenblatt 93). This idea has been hotly contested within the United States and is subject to change based on the country's needs. One specific moment in the United States' history that defined federalism was seen in the era of President Roosevelt. At the time, Louis Brandeis was a Supreme Court Justice who advocated for states' rights and warned about concentrating too much power in the federal government. While Brandeis held this opinion, it was not shared by the former president. Roosevelt advocated for "New Nationalism" which gave more power to the federal government, particularly on economic issues (Tarr 38). Brandeis had an active role prior to serving on the Supreme Court, as the policy advisor for Woodrow Wilson. In this role he expanded states' rights on a variety of issues. While serving on the Court, his federalist ideals were pronounced in his decisions. Although he was often giving the dissenting opinion, he fought for the right of states to determine their own future on social and economic issues. Not only did Brandeis argue that states should try out different policies, he actively encouraged them to do so. In his dissenting opinion in *New State Ice Co. v. Liebmann* he stated, "It is one of the happy accidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory, and try novel social and economic experiments without risk to the rest of the country" (Tarr 38). This quote describes the founding notion of states acting as laboratories of democracy. States are able to innovate and create solutions that

can be modeled by other states or at a federal level, if the solutions are successful. And, if the solutions are not viable, it only poses a risk to one state, and not the country as a whole.

There are many advantages to a federalist system including flexible laws at state and federal levels, the creation of an environment for laboratories of democracy to flourish in the state legislative system, and by allowing states to accommodate their citizens' unique needs. All of these factors benefit the nation as a whole, and not just the states themselves. To fully understand the impact laboratories of democracy can have, it is important to understand how this system functions. Over a hundred years ago, North Dakota was plagued by extreme economic inequality, much of which was attributed to corporate banks implementing policies that hurt the rural state. A socialist group began to advocate for state owned banks rather than out-of-state corporate financial institutions. The group was successful at creating The Bank of North Dakota. This bank is the only one in the nation that is government owned. The advantage to this system is that the public bank is responsive to citizens and not shareholders. Now, over 100 years later, California is looking at a similar option to create more fair banking for its residents (Peischel). Monumental problems that states try to solve are not occurring in a vacuum. The political, social, and economic impacts are all opportunities for states to build off of each other's ideas and create a more innovative United States. This is just one example out of hundreds that examine how laboratories of democracy work, and why they are imperative to innovation on a national scale.

However, there are disadvantages to this system as well. Most of the problems that occur with federalism are a result of the complexity of various laws between the states and federal government. This can make it confusing for individuals, where laws can be vastly different in one state than they are in another. A prime example of this is marijuana legalization. In one state,

Nevada, citizens can legally purchase marijuana for recreation, however, a state like Wyoming has not legalized marijuana and possession of the substance is unlawful. This complex system can cause major problems for state and federal coordination on legislation (102). Additionally there are caveats to which laws take precedence. The Supremacy Clause is found in Article VI of the Constitution, and states that the laws written in the Constitution are supreme to any others and judges are bound to abide by them. Essentially, this means that if there is ever any state law that is inconsistent with a federal law, then the federal law will repudiate the state law. This, along with Article I Section 8, enforce the idea that state governments surrender much power to the federal government. Article I section 8 lists what is known to us as enumerated powers of the federal government, specifically Congress. These are all the individual powers granted to Congress, as well as granting them the ability to carry out other non-listed powers that are “necessary and proper” (“Article I Section 8”).

A federalist form of government poses a contrast to unitary systems where, in the latter, power is centralized at the federal government. Federalism was the preferred method of governance for the United States because the founding fathers feared tyrannical governments, but also wanted the federal government to be strong enough to protect the nation from outside forces (Smith and Greenblatt 98). However, a federalist system also is different from a confederacy. In a confederacy, power is given to the federal government through individualized local governments. Under a confederate system the federal government gains its power and legitimacy through localities (Smith and Greenblatt 94).

An important aspect to note about systems of government is that they are not set in stone. Leadership changes and the shifting of public opinion can cause governments to take on a new

form of governance to meet the moment. To understand the fluidity of this system of government it is important to catalog how it has changed in the United States since its inception. The Constitution of the United States mandated that the government was a federalist system. However, federalism exists in different forms. The authors of the Constitution isolate the late 1700's to the 1900's as the period of Dual Federalism (Boyd). Dual-federalism is referred to as "layered-cake" federalism (Smith and Greenblatt, 120). In this form of government, the national and local governments play distinct roles where they have separate roles and limited the federal government's ability to exercise narrow Constitutional interpretations of power. (Boyd)

As in all systems of government, there are clear negatives to this system. In this system, it is more difficult for state and local governments to cooperate. Cooperative federalism, on the other hand, encourages the different levels of government to work together on issues and collaborate in ways that dual-federalism cannot. The form of federalism that was used in the United States prior to the COVID-19 pandemic was Ad Hoc federalism. This is a more active form of government where state and federal governments determine who will be in charge based on the issue at hand. The advantage of this system is that it allows both the federal and state government to utilize their respective strengths. The federal government has expertise and power in certain areas, making it the best option for problem solving, while the state government may understand the politics on the ground of another issue better. The fact that the governments can interchange power dynamics based on the issues at hand helps to ensure that the most effective system is being used to address the nation's most pressing problems (Smith and Greenblatt 120, 138).

Many other forms of federalism also exist, including nation and state centered federalism. Nation-centered federalism uses the basic function of split power between the federal and state governments, but believes that the federal government should maintain more authority. In contrast, state centered federalism believes that more power should be given to the states (Smith and Greenblatt 121). As time progressed, new federalism started to emerge. In the era of new federalism, states gained more control, but lost a portion of federal government grants (Smith and Greenblatt 133).

Changes have been seen in federalist structures multiple times in the nation's history and the COVID-19 pandemic era is only one example. Another time the United States has seen major shifts in federal and state power was with the passage of the Patient Protection and Affordable Care Act in 2010. During Obama's tenure as President of the United States, his administration successfully passed the Affordable Care Act (ACA). This act created more insurance markets for individuals to choose from, among other changes. Some denoted the ACA as government overreach, while others applauded its increase in access to care. Under this new law, some states created interstate compacts and new insurance markets while other states relied solely on the federal government's implementation. The variation of the implementation of this law across the country created ambiguity for healthcare and resulted in some states supporting the law while other states did all they could to defy it (Kettl). In the current era of COVID-19, the federalist system of the United States is seeing a similar problem where the federal government and state governments are advocating for different approaches to the global pandemic.

As can be seen, a federalist system of government allows for a balance between state and federal powers. This gives states the ability to be creative in the policymaking realm while also

granting the federal government the authority to implement laws. In the era of a global pandemic, there is no better time for states to have the freedom to try out new solutions and innovate to solve this problem. States can learn from each other, build off of existing knowledge, and try out solutions that the federal government simply does not have the know how to implement. A federalist system is key to addressing some of the nation's largest problems, and the COVID-19 pandemic has exacerbated the need for states to try something new while leaving room for the federal government to act when needed.

The Transition to Partisan Federalism

The Trump administration's reactions to the COVID-19 situation have transformed the previous Ad Hoc federalism system into a partisan one. As current trends have shown, federalism has recently been somewhat cooperative, but the delegation of power from the federal government to the state level has been abysmal. With President Trump allowing governors to decide when their states will open up, it appears as though cooperative federalism is in play, but in earlier stages of the COVID-19 pandemic, the federal government assumed supreme power. In the beginning, the federal government was incapable of relaying accurate information to the public. While U.S. intelligence agencies were given warning about COVID-19 in January and February, the Trump Administration downplayed all reports, which likely worsened the spread (Harris et al.). The media reported different information, which caused panic to ensue, as toilet paper and water bottles disappeared from the shelves of every supermarket. The uninformed public devoured every new piece of information that appeared on the news. Different narratives controlled different groups of people. To conservatives, this was similar to the flu and nothing to

worry about; to liberals, this virus was sure to end the world. Between those extremes was the truth.

This separation from the truth and the mass panic can be blamed on the federal government. The conflictual relationship between the federal government and the states' governments along with the indefinite state of federalism cause stress for those who live in the United States, especially during the COVID-19 pandemic. Different levels of government scramble to fill in the gaps, which is "the dark side of federalism: it encourages a patchwork response to epidemics" (Duff-Brown). The impact of this substandard leadership can be seen through a misinformed public, a broken healthcare system, and stay at home orders that are received poorly.

The federal government's response to large events such as COVID-19 set the tone for the nation's response. The way the United State government has reacted to the coronavirus has caused confusion and panic among its people. The federal government, the executive branch specifically, has conveyed inconsistent messages and has failed to properly delegate power to state and local government. The basic expectation of the government is to provide accurate information often, control the virus and take preventative measures to ensure that it does not spread any more. As the president, Trump is looked upon to lead the nation in response to the virus. Trump deflected responsibility by claiming that the governors should be carrying the burden of the work, and the federal government should not be held accountable for buying and shipping materials to aid the states (Brutoco). This attitude could be attributed to incompetence or his conservative view of state's rights. Regardless, Trump shirked his obligations to others.

The vagueness of who decides when states reopen worsened when Trump tweeted that the decision was all his, with conjunction with governors (@realDonaldTrump). On the other hand, the president has no authority to “override local state shelter-in-place orders or to reopen schools and small businesses” (Cassidy). There is no legal document that grants the president that power. The challenge that comes with Trump “giving” power to governors is that they still need his cooperation to proceed with their combat measures. Therefore, governors have to “compete” with other governors in order to win over the president so they can receive federal aid. Under most other presidents, this would not be an issue, and that is why the current leadership has introduced a new form of federalism.

The unclear relationship between the federal government and the state government in Nevada, for example, causes people who live there to distrust the leadership. Nevada has an individualistic political culture where its people believe that the government should be utilitarian. It is difficult for Nevadans to differentiate the intention behind government orders because economic self-interest of citizens is prioritized, leaving health and safety on the back burner.

Due to Nevada’s individualistic culture and moderate government spending, funds go to basic services but not to anything considered as “extra”. This leads Nevadans to be cautious of their government's intentions. An example of this can be seen through Las Vegas’ mayor, Carolyn Goodman. Goodman recently appeared on CNN, where she offered for Las Vegas to be a control group for reopening the United States (Brito). With millions of people visiting Las Vegas every year, this could easily trigger the nation and amplify the pandemic. Goodman’s intentions for reopening Las Vegas are strictly economical. She is worried about the city’s finances and is willing to put lives on the line to make money.

Governor Sisolak, on the other hand, is cautious about reopening the state of Nevada. Since Trump delegated the responsibility of opening states up to the governors, Sisolak has been working through phases to return Nevada back to normal as safely as possible. Due to the closures in Nevada, many people lost their jobs especially those who worked on the Las Vegas Strip. Sisolak has worked very hard to pick up the slack and aid Nevadans. A day after ordering non-essential business to close, he waived the seven day waiting period and other barriers toward filing for unemployment. Along with that, Nevada was approved for SBA disaster loans, which will help relieve some financial stress that COVID-19 has caused (Miller). While Goodman claims the virus is a flu and holds the economy higher than human lives, Sisolak takes COVID-19 seriously and is not willing to put people at risk for the sake of income (Willson). These differing opinions of COVID-19 cause uncertainty among those who live in Nevada.

In order to be informed about COVID-19 and feel prepared to take precautions against it, the public must make the effort to check all the information that is given. News sources are biased, fake news infects social media, and even the President of the United States occasionally spews out false information during press briefings. The issue is that being informed is already too costly for Americans, so it is incredibly unlikely that people are fact checking the government and ensuring the information being spread on the media is unbiased and correct. Pride trumped the value of explaining the crisis to the mass public truthfully. The narrative quickly transformed into a racist defense, in which COVID-19 was nicknamed “the Chinese virus” by the president. Through press briefings, Trump made several false claims which derailed the information stream and misled the country. First, he claimed that he implemented travel bans from China and Europe, but this “ban” only restricted non-U.S. citizens who had

been in China two weeks prior to entering. This also did not include imports from China (Factcheck.org). The false claims reach their peak as Trump offers a drug called hydroxychloroquine as a treatment for COVID-19, while experts such as Dr. Fauci debunk this claim. This is most concerning because Trump has financial interest in this drug, so his intentions of pushing it are completely self-motivated (Baker et al). Trump's biased power grab exemplifies that the current status of federalism is an illusion of cooperation that is driven by partisanship.

President Trump's relationship with Dr. Fauci has also caused distress to the American people. He is a man that was trusted as an expert on the virus, yet due to his disagreements with Trump, he has been asked to give advice privately, according to Alba, Welker, and Lee. This proves that the health of Americans is not a priority for the Trump Administration, but rather the president's reputation. With re-election on the horizon, Trump will do anything to ensure his seat of power will not be lost.

The past dictates the future, and taking into account the status of healthcare in America, the future is bleak. Health care in the United States has always been a topic of contention, but COVID-19 has forced the U.S. government to find solutions. Health care is a human right, but Washington has taken little steps to ensure everyone is protected. The government needs to provide basic rights to those who inhabit their territory, but COVID-19 proves that human rights are not its concern. Many were left untested and uncared for as the number of cases rose. It is believed that "if you have a cough or a low-grade fever but no access to a test, you have no idea whether your actions are putting others in danger" (Dougherty). The lack of national regulations for health care and allowing states to have different directives seems great on paper, but

COVID-19 changed everything. This virus knows no state borders and does not respect health insurance coverage. Toward the beginning of the pandemic, the lack of testing kits in America caused the virus to spread unknowingly. Luckily, state governors have been using the interest of their constituents as a guide through COVID-19. The governors of California, Oregon, and Washington said “Health outcomes and science- not politics- will guide these decisions [concerning COVID-19]” (Cassidy et al). Governors have been vigilant about taking charge and working with other governors to create expert groups to combat COVID-19. This virus should begin a dialogue about healthcare in America. While the Affordable Care Act is not the perfect health care system, it is probably the best bet right now. The Trump Administration is motivated to repeal this act, which would negatively impact millions of Americans. States continue to make modifications to the ACA, ERISA restricts states from deviating too far from federal health law infrastructure (Fuse et al 446).

The status quo of America has changed completely due to COVID-19, and it will take a long time for things to go back to normal. For the past few months, everyone has had to make sacrifices from getting a haircut to having a steady flow of income. In Nevada, the decision to close Nevada was difficult, but Governor Sisolak focused on the obligation to protect “the elderly, healthcare workers, and first responders,” along with other essential workers (DeSilva). The closures were received well among the Nevada community, except for a small number of people who believed that it impeded on their rights.

With strict stay-at-home orders, freedom was taken away from everyone. Most people would gladly give these freedoms up temporarily in order to slow the spread of the virus and protect their community, but some people believe that their freedom is more important.

Protesters began defying stay-at-home orders to gather in large crowds, many without masks, and complain. Some people had concerns about their small business struggling and financial burdens their families are facing, but some protesters were upset because they are not able to get their nails done or go to the movie theater. A majority of the protesters are conservative, which has led to many pro-gun demonstrations. Trump responded to these protests by praising their boldness and promising that America will open up again soon. It is no surprise that he rewarded bad behavior. Levin says, “the willingness and the ability to radically constrain our activities and choices is actually a show of strength,” so rather than looking negatively on stay-at-home orders as a confiscation of freedom, it should be seen as a triumph and a testament to what we can overcome as a nation (15).

The president has been a barrier in the advancement of controlling COVID-19. This virus should not have impacted America the way that it has. When it is a matter of life or death, money should not be an issue for one of the richest countries in the world. At the same time, Levin argues that America’s imperfect government and defiance of the regulation that are set may be a good thing (14). If the United States was able to control COVID-19, it would mean that the government had too much power. The fact that elected officials are overwhelmed is a humbling aspect of the nation and is an indicator that power does not only lie in Washington.

Overall, COVID-19 has reshaped the standards of media, health care, and governmental authority. This virus has exposed America as the broken system that it is, but moving forward, the pandemic should invite a discussion of how the government can improve, and solid objectives that will be implemented to build a brighter America.

Interaction Between the Federal Government and the States' Governments

Bringing our attention to the interaction between state governors and the Trump administration during the times of the COVID-19 pandemic has revealed the significant role each level of our federalist system plays in the success of our nation as a whole.

Despite the fact that each level of federalism in the United States simultaneously exists, we see that both the state and federal government has its own jurisdiction and set abilities that directly affect individuals that reside in various states. The exchanges between these two separate, yet co-existing entities is unorthodox during this time of uncertainty, specifically in the United States. The federal government has not yet implemented any nationally mandated guidelines to ensure that states are collectively working towards efforts to combat the spread of coronavirus. The Trump administration has chosen to take a relaxed approach in regards to the requirements that individual states must follow during this time of disorder. The administration has left much, if not all, of the burden on the governors of each state to create and implement their own plans using brief recommendations from national health organizations such as the Center for Disease Control (CDC). This not only allows for inconsistencies between states in regards to how effective the fight against COVID-19 is, but leaves the blame on the governors instead of the nations leaders in case the proper decision is not made. The United States has experienced similar circumstances during the Civil War, however statistics show that the impact on everyday life is more dramatic and may have a longer lasting effect on the economy.

The lack of intervention from the Trump administration has led individual states to face issues regarding obtaining supplies and funds that will aid them in addressing the fluctuation of

needs, such as unemployment and food assistance. Each governor has been asked to make decisions for their states based on what they believe is correct, meaning that each state has presented a different way of confronting COVID-19. The disparities in the guidelines presented state-by-state extend to stay-at-home orders, mask requirements, and even curfews that are inflicted on the inhabitants. The conversation continues with the shortage of essential medical supplies and the lack of response from the federal government. States have been forced to team up with their neighbors in order to develop trading plans and courses of actions to fight the effects of the virus. One issue that has been at the forefront of this pandemic is the economic effects it has had on the United States and how soon can the economy get back running. Overall, the coronavirus has been the most significant topic of discussion between state and federal governments in 2020 and the way at which each entity is engaging each other is leaving a notable difference on the lives of those who live in America.

During the times of COVID-19, we are seeing the levels of federalism work like never before. President Abraham Lincoln made it clear that during a national crisis, federalism should be a strength, not an obstacle. The Civil War was another trying time in American history, however federalism was of great help when facing the task of mobilizing the national army. Early on in the war, “President Lincoln relied almost entirely on states to raise armies, but even after Congress enacted national conscription in 1863, recruitment still depended heavily upon state and local efforts, impossible without the administrative work of governors” (Alexander). In this instance, the federal government was able to use the resources of individual states to further the goals of the nation. Although much of the work was exhibited by the governors, the victory of the Union would not have been possible without federal leadership and contributions. The

Trump administration should use the precedent set by President Lincoln when addressing the coronavirus as it is seen to have been effective during a difficult time where the nation needed to bound together rather than be torn apart.

The federal government, who is allocated supreme power over the nation through the supremacy clause and the 10th amendment, is not utilizing many of their powers towards efforts to contain COVID-19. This is significant because the federal government's use of this power would be beneficial in ensuring that all states are properly implementing guidelines that would potentially slow the spread across the nation concurrently. The White House administration has the authority to declare national orders that must be followed by each state in order to combat the coronavirus consistently across the nation. This is said to have not been done as a method to deflect blame from Trump in the event that death rates continue to grow and the solution does not present itself soon. Individual governors have been given the burden of making the executive decisions that directly impact the inhabitants of their states and are now reliable for what takes place within their borders. Andrew Cuomo, the governor of New York, one of the hardest hit places in terms of the number of coronavirus cases, believes that more can be done when addressing the plan to be victorious against this pandemic. He stated that, "even if the federal government doesn't order closures... it should be issuing guidelines so that states are largely consistent with one another, which would give the greatest chance to limit the spread and severity of the disease" (Ollove).

Martin O'Malley, the former governor of Maryland who served for eight years on the Homeland Security Task Force of the National Governors Association, believes that the manner at which the Trump administration is handling COVID-19 is a "darwinism approach to

federalism”. She stated that “the better read of federalism is that the states and federal government work together when the U.S. is attacked, whether it is by imperial Japan or a pandemic” (Cook). This statement proves that although governors may serve a commanding role over their states, they need guidance from the federal government to ensure that the choices made within their borders are the best for not only themselves, but the nation as a whole. The Trump administration has only provided recommendations rather than using the intelligence of federal health officials to mandate a universal plan to combat COVID-19, ultimately leaving governors to defend their states occupants according to their own discretion.

The lack of authority displayed by Trump and the federal administration has forced states to fend for themselves while assessing the best methods to combat the conflicts that the coronavirus has inflicted. Due to the lack of a federally mandated plan of action, each state's governor is left to constantly update and alter the regulations for their inhabitants as independent entities. For example, Governor Pritzker of Illinois announced a 5-Phase “Restore Illinois” plan that addresses the rapid spread of the virus, flattening the curve, recovery, revitalization and restoration. On the other hand, West Virginia announced a three week “Virginia Comeback” plan that aims to open up businesses as soon as possible (State-by-State COVID-19 Guidance). These sorts of dramatic distinctions from state to state are bound to generate a resurgence of coronavirus cases. The varying levels of freedom depicted within each area leads to confusion when crossing state lines and possible mass relocation to avoid obsessive control that is not implemented everywhere. It is obvious that not every state is having the same experiences with COVID-19, however if the federal government were to apply a set of mandatory base guidelines

that were enforced in all states, we will be more united as a nation and will prevent the threat of resurrecting the virus.

State governors have banded together to combat COVID-19 as the federal government fails to step up and lead the battle against the virus. Neighboring states have willingly made pacts with one another to collectively work towards getting people back to work and restoring the economy. Many governors, including those of New Jersey, New York, Connecticut, Pennsylvania, Delaware and Rhode Island, have bound together in an effort to better ensure that they are working towards the health and safety of their states. They are combating the coronavirus using a uniformed approach to social distancing, ultimately minimizing confusion when crossing state lines and slowing the spread (Official Site of The State of New Jersey). The western states of California, Washington, Nevada, Colorado and Oregon formulated a similar pact that will be used “to share purchasing power, manufacturing, data, and strategies for dealing with COVID-19 and a potential economic restart” (Rogers). These states have taken the initiative to combine their efforts to combat coronavirus for the greater good of their regions, something that Trump should be implementing across the country. Governors are desperate for assistance from the federal government due to the overwhelming need for essential materials to keep their states functioning.

One of the most controversial and pressing issues of this pandemic is the implementation of stay-at-home orders, as well as the distribution of scarce medical supplies such as masks, ventilators, and hand sanitizer. The Federal Emergency Management Agency (FEMA) is the sector of homeland security that is responsible for coordinating the federal government's response to natural and manmade disasters (“Coronavirus (COVID-19) Response”). Although

federal decisions regarding these types of events are implemented by FEMA, most resolutions are highly influenced by the White House administration. “FEMA makes the decision, but it is not like FEMA is going to do the opposite of what the president tells them to do “considering that all recommendations come from Trump, Pence, or other members of the White House administration” (Linskey). Due to the lack of guidance from the Trump administration and ultimately FEMA, stay-at-home orders are developed and implemented according to the discretion of each state's individual governor. In the United States, “at least 316 million people in at least 42 states, three counties, 10 cities, the District of Columbia and Puerto Rico are being urged to stay home” (Merosh). Each state has its own set of guidelines including curfews, letters of necessity and different effective/end dates. In all, 95% of the nation's population has been instructed to refrain from leaving their houses by their state officials in some form or another.

Through all the precautionary actions to stop the spread of COVID-19, governors are still left to worry about caring for those who have already contracted the virus. There is a massive medical supply shortage across the nation that is leaving hospitals without the proper supplies to treat coronavirus patients and to protect the healthcare workers who are nursing them back to health. States have been forced to reconfigure their operations or lean on local companies and their global connections to produce needed supplies like N95 masks and cotton swabs (Linskey). Although states are getting promised assistance from the federal government in regards to supplies, the national stockpile is being stretched thin to distribute essential items across the nation. The fact that the federal government is not supplying essential materials in large enough numbers has led many governors to stop looking towards the Trump administration for assistance and use their emergency funds to secure supplies when the rare opportunities arise.

“The White House distribution approach of mixing federal and state entities with private health care companies continues to create confusion, anger, and state bidding wars that waste time and money” according to a national news source called The Hill (Wilson). Many governors believe that the federal government's approach to the situation is not effective and fear that the Trump administration will inflict tighter controls on supplies and distribution chains. Three-star Retired Army General Russel Honoré believes that, “we have to adapt and overcome like in any war because the solution will not be coming from the federal government on that issue” meaning that it is now up to the hospitals and states to swap needed supplies with each other (Westervelt).

Although Trump may not be as concerned with how to stop the spread or the deaths caused by COVID-19 effectively on a state level, he has shown great interest in assessing ways to return the economy back to normal. The Trump administration would like to see the economy open up as soon as possible, however some governors believe that the United States should collectively take its time to get more testing done before they begin to lighten restrictions on social distancing. One question that is bound to be brought up while evaluating these interactions between the United States federal government and individual state governors would be whether the health of the people or the health of the economy is more important?

Although there is no federally issued plan of action to universally stop the spread of coronavirus, Trump and his administration have created a plan to help the states recover from the economic effects that COVID-19 has left on the nation. Trump recently announced a 3-phase plan outlining how states can reopen but stated that the governors will “call your own shots” (Alemany). This plan includes a how-to guide describing the criteria at which states should begin functioning normally. Trump has stated that, “a national shutdown is not a sustainable long-term

solution... to preserve the health of our citizens, we must also preserve the health and function of our economy”. This statement displays that his focus is more on a monetary comeback rather than ensuring that there is no resurgence of COVID-19 (Alemany). The implementation of this plan has further shifted accountability on to the governors and mayors of each state. They are instructed to make decisions based on their assessment of their states' circumstances although they do not have the expertise of federal health organizations. Many believe that this decision from Trump is simply a measure that is designed to shield him and his administration from blame regarding new outbreaks of coronavirus as states begin to reopen. States have urgently appealed to get more testing kits and necessary equipment to prepare for phase one of Trump's plan as Anthony S. Fauci, Trump's top infectious disease expert, says that there is not enough testing and tracing procedures in place to start reopening the country (Alemany). Matthew Harrison, a biotech analyst for Morgan Stanley estimates that, “the United States must perform 1 million tests per day to reach levels similar to South Korea, a country that has become a global example for how to contain the virus's spread” (Alemany).

The outstanding levels of job loss the nation is experiencing has not been seen since the Great Depression as over 22 million people have filed for unemployment since a national emergency was declared in the United States (Alemany). The declaration that Trump made on March 18, 2020 allowed the federal administration to use the Stafford Act, a federal law that governs disaster relief efforts, to allocate an expected \$50 billion to states in need (Maher). A \$8.3 billion emergency coronavirus aid package that originally focused on public health concerns was signed on March 6th and now may be used to address other economic concerns of the states (Maher). The third phase of relief handed down from the federal government was the

Coronavirus, Aid, Relief and Economic Security (CARES) Act, which was signed on March 27th and is considered the largest fiscal stimulus package in American history (Maher). This package includes \$150 billion to help local state governments fund the costs of fighting the pandemic and provides stimulus checks for taxpayers. On April 24th, the Paycheck Protection Program and Health Care Enhancement Act was signed to aid individual's that are facing hardships regarding job loss and healthcare security (Maher). Several states have individually enacted legislation for additional funding and have authorized the use of state rainy day funds for coronavirus related tasks. Supplemental appropriations for each state vary due to governors making decisions as independent authorities, which means that not every state has the same amount of funds to combat the virus.

We can see that the federal government has provided various forms of aid to assist states with their economic troubles, however the fight against coronavirus is still in the hands of the governors. The federal government and state governors hold their own stances on how COVID-19 should be addressed. They agree with the fact that the American people and business are in need of financial assistance during this time and that there needs to be a plan on how to return to a functioning society. They disagree with whether the blame should lie with the president or the governors and with how quickly the reopening process should begin. Many governors believe that the process should be slow and gradual while the Trump administration would like the process to be more immediate. Although they agree that more testing needs to be done as we work towards returning back to normal life, their projected times do not correlate with one another. COVID-19 has had a tremendous effect on the nation's economy, which has ultimately fueled other conflicts such as this economic crisis.

“A sweeping survey of more than 22,000 voters in all 50 states found that most say their governor is doing a better job than President Trump in handling the coronavirus outbreak” (Wilson). In all, nations across the world are searching for the roadmap to recovery from COVID-19 through exercising their shared powers between national and regional governments. COVID-19 has revealed that the levels of federalism are distinctly different even though they actively impact lives in the United States simultaneously.

The Same Pattern of Federalism is Observed in the COVID-19 Era

As previously mentioned, the United States government was structured to function according to the system of Ad Hoc federalism. Within this type of federalism, a country can either be nation-centered or state-centered, and our belief is that will change fluidly, depending on the acting administration as well as what is currently going on in that nation. The United States Constitution established a subsection of cooperative federalism known as dual sovereignty (“Federalism”), not to be confused with dual federalism. Regional state governments capitulated power to the federal government, while also retaining some sovereignty. Both divisions of government have some level of autonomy from the other, yet are expected to work harmoniously. This idea of dual sovereignty is mostly enacted through three components of the Constitution: the Supremacy Clause, Article I Section 8, and the 10th Amendment. As the rules are laid out in these provisions, the system is still under dual sovereignty which means that the states retain some level of sovereignty, which is granted to them by the 10th amendment. It is quite vague, as it grants states all powers that are not specifically outlined in the Constitution for the federal government. Some individuals find that to contradict with the necessary and proper

clause, as that clause is not clearly defined either. We have seen this argument time and time again and it has yet to be clearly and undisputedly outlined as to what exactly entails something to be necessary and proper.

It may seem as though the United States has defined how it will practice federalism and what roles will be given to each sector, however it can be argued that our specific form of federalism is fluid and the power, or lack of, between sectors can change. That doesn't mean that we are entering a new stage of federalism, rather our stage is in a constant state of change. We believe that there can be two reasons as to why we see shifts in our federalism; one is ulterior motives and the other is partisanship. Federalism can be partisan, as leaders who identify with certain parties may have their own ideas as to how largely or little the federal government should be involved in the lives of the people. Traditionally, the Republican Party has been known to endorse the idea of small and limited government while the Democratic Party is on the contrary, and prefers authority and order within the federal government (Mashaw 88). This, obviously, connects to federalism and how much power the state governments should actually relinquish to the federal government. However, it is important to note that while there are still aspects of limited government practices within the Republican Party, the constitutional principle of complete limited government is slightly outdated following the New Deal (Glenn 611). The old-right conservatism had deep rooted anti-statist ideals that has shifted to supporting free markets and local control, still believing that the federal government should grant more authority to the states (Glenn 612).

Applying all of that to the current state of the United States under the COVID-19 crisis, the argument arises whether Donald Trump's lack of federally mandated restrictions is a result of

his political ideology and the belief that less federal interference is favorable, or if his motives are purely a result of wanting to be reelected. Of course, there is no denying that he wants to be reelected, and that is not a crime within itself. However, if the reason his administration is not making any federally required regulations is because he doesn't not want to appear to be acting liberally to his conservative voters or he wants to be able to shift blame to state governors and therefore not have to take responsibility for flaws in judgement, then that is not an appropriate reason. This does allow us to conclude that we are not in a new stage of federalism, rather we are seeing a conservative small-government take on our already existing federalism. Similarly, if our executive branch was making mandated regulations and not allowing states to decide restrictions for themselves, we would have a more liberal take on federalism, not a new branch entirely.

The idea that federalism is partisan can be explained by looking at other countries who practice a similar form of federalism as the United States, and comparing their responses to COVID-19 to ours. First, we should take a look at our neighbor, Canada. Generally speaking, our federalism practices are fundamentally similar, with only some minor differences in each other's discourses. It is said that the creation of federalism in Canada was a result of wanting national unity and exploring province-building versus nation building (Simeon and Radin 360). Whereas in the United States, the discourse at the creation of federalism was about sharing power and checks and balances (Simeon and Radin 360). Nonetheless, they are similar enough to identify how partisan federalism is affecting us both during this crisis.

Completely differing from the United States, Canada's response is by utilizing the federal government's power to mandate restrictions that Prime Minister Justin Trudeau's administration feels is best. On the Canadian's Department of Justice website, they list out a substantial amount

of regulations put in place by their federal government in response to COVID-19 (“Government of Canada’s Response to COVID-19”). Some are similar to acts put in place by the United States such as immigration restrictions, stimulus checks, and unemployment. However, there are actual regulations regarding health restrictions within cities. For example, there are regulations being put in place nationwide that order public transportation to implement mandatory health checks and allow the refusal of boarding to passengers that appear to have commonly known COVID-19 symptoms (“Government of Canada’s Response to COVID-19”). All of this is relevant because it shows that there isn’t a universal response to COVID-19, in terms of how much the government should be involved. Prime Minister Trudeau is a liberal democrat, practicing a big-government response to the crisis as he believes that is the answer. He isn’t changing Canadian federalism, he is practicing it as it fits into his realm of ideology. Similar to what President Trump is doing in America, regardless if his motives are less than favorable.

A more interesting example would be Australia, and how their response correlates to the ideology of their acting federal administration. The Prime Minister of Australia is Scott Morrison, who is the leader of the Liberal Party. Apply the logic that was previously mentioned, one would assume he is taking a big-government approach which shifts his practice of federalism. However, he is allowing states and territories the ability to be responsible for health matters, similar to the United States (“Australian Government Department of Health”). While this example may seem as though it is contradicting our idea that federalism is partisan and will align with the views of the acting administration, it actually does not contradict it at all. On the Australian Government’s Department of Health website, they state that all states and territories must “work together with the Australian Government” and “ensure the response is consistent...

across the country.” With that being said, Prime Minister Morrison is totally implementing a liberal-take on federalism, mandating that while the states and territories can come up with their best solution, it must be approved by the federal government and thus implemented unilaterally. We could go on listing and discussing other federalist nations and how their responses align with the political beliefs of their administrations, but what is most important to understand is that until this epidemic is over, we won’t be able to fully analyze what subsection of partisan federalism is most appropriate when dealing with a crisis. Many people criticize Trump’s lack of involvement, and accuse him of deflecting possible blame onto the Governors while others believe that not only should Trump not decide regulations, but neither should state governments as they want free will. With that being said, we believe that people’s idea as to what federalism in their country should look like will always be partisan and dictated by their aligning views.

Conclusion

This essay began by going through the existing stages of federalism and the overall history of the important governmental principle. As we progressed through the evolution of federalism, it became more clear to see that federalism is ever-evolving. New administrations, the changing economy, and public health crises, such as the COVID-19 pandemic, have all occurred and changed the mold of federalism in the United States. The motivations of political parties have also been a significant factor for change. In these contemporary times, partisanship has been the driver for change in federalism in the United States. We contend that the current federal government and state governments of the United States are in a stage of partisan federalism. The strong divide that separates the left and right is how and why such abrupt

changes in the nature of federalism have occurred in recent times. Whoever holds the executive power will sway the power in a way that benefits their very views of how the government should be run. It is easy to get caught up in the drama of the current administration and simply claim that the COVID-19 pandemic has changed the nature of federalism in the United States.

However, the examination of the history of federalism in the United States reveals that the transition currently in progress is not an anomaly in the patterns set by history but is rather a continuation of them.

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