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THE NEW FEDERALISM AND THE UNFINISHED CIVIL RIGHTS AGENDA

Marguerite Ross Barnett*

I. INTRODUCTION

Debates about the nature of American federalism date from the founding of the nation. One of the major ideological divisions in the Constitutional Convention of 1776 concerned the nature of federalism. James Madison, Rufus King, Gouverneur Morris, and Alexander Hamilton were a few of the many experienced and distinguished delegates to the Convention who wanted to create a strong national government. James Wilson stated the Federalist position clearly:

Bad [g]overn[ments] are of two sorts: (1) that which does too little. (2) that which does too much: that which fails thro' weakness; and that which destroys thro' oppression. Under which of these evils do the U[nited] States at present groan? [U]nder the weakness and inefficiency of its [g]overn[ment]. To remedy this weakness we have been sent to this Convention.¹

On the other hand the states' rights advocates believed "that the General Government was meant merely to preserve the State Government: not to govern individuals: that its powers ought to be kept within narrow limits . . . [and] that the States like individuals were in a [s]tate of nature equally sovereign and free."²

Like many other aspects of the Constitutional Convention, the resolution of conflicting viewpoints was not complete and, therefore, the pragmatic compromise on federalism which emerged from the Convention was merely a framework to be filled in by historical and political events in the future. And indeed, the direction of American federalism, specifically the relationship between the central government and the states, has remained a topic of lively debate. While the ideological posture of groups favoring or opposing a strong central government may have changed, the fundamental issues have remained the same. The Whiskey Rebellion of 1794 and, more importantly, the Civil War of the 1860s were occasions in the eighteenth and nineteenth centuries in which differences over federalism and conflicting views of the appropriate relationship between the central government and the states resulted in violent conflict.

It is not surprising, therefore, that this issue should arise with such sharp interest in the twentieth century—it remains an unresolved historical

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I would like to thank Charles Hamilton for his helpful comments on this article.

1. DOCUMENTS ILLUSTRATIVE OF THE FORMATION OF THE UNION OF THE AMERICAN STATES 308 (1927).

2. THE FEDERAL CONVENTION AND THE FORMATION OF THE UNION 179-80 (W. Solberg ed. 1958).

dilemma of the American nation. President Ronald Reagan's observation of the problem in his 1981 Inaugural Address would not have been unfamiliar to the participants in the Constitutional Convention:

'It is my intention,' [President] Reagan said, 'to demand recognition of the distinction between the powers granted to the Federal Government and those reserved to the states and to the people. All of us need to be reminded that the Federal Government did not create the states; the states created the Federal Government.'³

II. BLOCK GRANTS AND THE NEW FEDERALISM

As President Reagan's Inaugural Address implied, the new federalism, in its broadest terms, means returning power to the states. A task force, headed by Vice President George Bush, has begun eliminating some of the requirements and regulations associated with federal aid. Another task force is examining the buildings and land owned by the federal government outside Washington with the view of turning it over to the states or localities—possibly for sale. Crucial to Reagan's focus on less government intervention are extensive budget cuts and the Block Grant concept.

The Block Grant Program, which was passed by Congress for fiscal year 1982, converted fifty-seven federal grant programs originally designed to achieve specific goals in education, health, transportation and urban aid, into nine broad block grants, giving the states wide latitude in deciding how to apply the funds. State funding allotments for fiscal year 1982-83 were based on the amount of funds received by a state in fiscal year 1981 for programs that were consolidated into a particular block. Interestingly, this is the same principle of funding based on demonstrated need, rather than raw population or state per capita income that distinguished formula grants. In spending Block Grant funds, states are required to distribute funds in an "equitable manner;" prohibit "for-profit" organizations from receiving Block Grant money; obtain an independent audit of the new grants, and, after fiscal year 1982, hold public hearings on their spending plans for most of the Block Grants. In addition, states and the private non-profit organizations which receive these monies will be subject to roughly sixty government-wide regulations, such as nondiscrimination and environmental protection rules, that apply to all federal grant programs. Funds from some of the Block Grants can be transferred to other Block Grants and money not spent in one fiscal year can be carried over to the next. Some programs that were zero-funded by Congress in fiscal year 1981 and were consolidated into Block Grants could conceivably be funded at the state level in fiscal year 1982.

Although some of the large, important programs which serve low-income communities were excluded from Block Grants (such as Title I of the Elementary and Secondary Education Act), most of the consolidated social programs had previously targeted resources to urban areas or to minorities and/or low income populations. However, under the Block Grants program although funds must be used for the purpose specified in the authorization of the Grant, the kinds of projects developed, the constituencies served, and

3. N.Y. Times, June 1, 1981, at A13, col. 3.

the detailed implementation of the program are all left to the discretion of the states.

III. POLITICAL DEVELOPMENT, POLITICAL CHANGE AND THE NEW FEDERALISM

Although a considerable amount of time may pass before the impact of Block Grants and the new federalism can be precisely described and analyzed, a large body of literature on state politics is available which can help shape our expectations about Block Grants. There are five readily identifiable characteristics of state governments that exist which will shape, influence and may even greatly determine much of the political and policy outcomes after the implementation of Block Grants.

A. *Conservatism*

In the past, state governments have been generally more conservative than the national government. Many would argue, in fact, that most of the programs which increased federal power, influence and expenditures, were created because states could not or would not address the special needs of all types of people—particularly minorities, the handicapped, the poor and others who are similarly disadvantaged.

The greater conservatism of state governments may be structural in character. State politics tend to be less organized than national politics—political parties are weaker, interest groups have a narrower base and focus, and public attention and opinion is not always well aggregated and mobilized on important state issues. One observer argues that this fundamental character of state government benefits powerful local interest, maintains existing political arrangements and stymies change. He states:

The advantages of disorganized politics accrue quite impartially to whatever groups, interests, or individuals are powerful in any way. Where power is not organized in broadly based parties, lesser power organized in smaller and narrower groups suffices. If there is no formal political organization at all, the social and economic ties that exist everywhere are the most important political reality; in general, however, the individuals and groups that benefit from them are those who have some sort of stake in the maintenance of existing arrangements and, thus, are opposed to change.⁴

B. *Administrative and Personnel Deficiencies*

In addition to their conservatism, state governments are generally *less well administered*, less efficient and staffed with less able personnel than the national government. This problem was more severe a decade ago. At that time the late Representative Holifield (D-California) opposed federal revenue sharing on the grounds that it would amount to "pouring money down rat holes."⁵ State governments have vastly improved since then. A 1981 Advisory Commission on Intergovernmental Relations (ACIR) study reports that, in general, state legislatures are more representative; executive powers of government have been strengthened; the tax base of most states has been diversified; and states have taken over many functions once provided by

4. G. McCONNELL, *PRIVATE POWER AND AMERICAN DEMOCRACY* 178 (1966).

5. N.Y. Times, Sept. 27, 1981, at 36, col. 1.

city, town, and county governments.⁶ Nevertheless, to say state governments have improved is far from asserting their ability to provide excellent or even adequate administration of Block Grants. David Cohen, the former President of Common Cause, is less sanguine than the ACIR about the capabilities of state governments. He believes that perhaps half the state legislatures have not yet developed the kind of expertise needed to make independent decisions on today's complex issues, and concludes that "all they know is what the lobbyists and special interest groups tell them."⁷ Although there have been enormous changes in state government in the last twenty years, there are still significant problems.

C. *Disparities in Disbursement of Funds*

Within states, the conflict between rural areas and cities often led to disparities in disbursement of funds in the past. Although the reapportionment decision of *Baker v. Carr*⁸ has had an equalizing impact on state governments, there are still patterns of regional and urban-rural distrust and/or perceived or real favoritism in many states. Where favoritism does exist, it has usually been based on coalitions between suburban and rural legislators against the cities. In general, those coalitions exacerbate tendencies toward preference of higher status groups and more prosperous regions within states.

D. *Narrow Policy Focus*⁹

State policy-making has generally been focused on issues such as welfare, medicaid, programs for the mentally ill and retarded persons, and so on. These policies are mainly distributive and divisible, that is, they distribute benefits to individuals without disturbing existing configurations of power. The federal government, in contrast, has been the locus for the development of indivisible and redistributive policies. Indivisible policies benefit or respond to collectivities without providing material benefits to any one person. Examples of this practice may be found in the treatment of foreign policy, energy policy, consumer policy and many civil rights policies. Redistributive policies, such as affirmative action, alter existing economic, political or social hierarchies or patterns of resource distribution and allocation. They can potentially change inequalities through greater support for disadvantaged segments of the population. While state policy-making processes have in the past focused on distributive, divisible policies, that is not to imply that they could not shift to include more redistributive and indivisible concerns. At minimum, however, state governments will be inexperienced in implementing new redistributive policies, which if proposed and accepted, would be generally more complex, controversial, and difficult to administer.

6. *Id.* The ACIR Report is as yet unpublished but preliminary findings were reported in the New York Times.

7. *Id.*

8. 369 U.S. 186 (1962).

9. See T. LOWI, *THE END OF LIBERALISM: IDEOLOGY, POLICY AND THE CRISIS OF THE PUBLIC AUTHORITY* (1969) for further discussion of redistributive and distributive policy types; and R. DAHL, *WHO GOVERNS?* (1961) for a discussion of divisible and indivisible policies.

E. *Relatively Closed Interest Group Configuration*

Interest groups that lobby on the state level have generally been more parochial in outlook than Washington-based interest groups. Their demands tend to focus on specific rule changes and limited regulations, increases in material benefits, tax changes, and similar issues. Some large corporations, labor unions and other powerful groups have benefited substantially from targeted, effective state lobbying. In general, however, public interest lobbyists working for objectives such as consumer protection; environmental safeguards; maintenance, understanding and extension of civil liberties; civil rights legislation; and the like, concentrate their efforts on the national level. With the advent of Block Grants, the relatively closed interest group configuration wielding power in many state capitals at present will have to be reconstituted and enlarged to include lobbying groups with different policy perspectives and priorities.

We can safely predict, therefore, that a shift in money and any perceived shift in power from the national to the state government, will change the locale and focus for many consumer and public-service-oriented interest groups. New emphasis would have to be given to developing effective lobbying strategies on the state level. This may prove difficult for groups with limited resources. Even well-financed interest groups may find it difficult to locate the staff and financial resources to maintain powerful representation in all of the states and in Washington. Yet many issues of concern to low income and minority populations are nationwide, and in a government with significant power shifted from the national to the state level these issues would have to be lobbied in all 50 states, as well as in Washington.

Even assuming extreme goodwill on the part of state executives, legislators, and administrators, it is possible that shifting focus from the national to the state governments could have considerable negative consequences for blacks. The policies that remain on the civil rights agenda are redistributive in nature, and state governments are not likely to be hospitable to those kinds of policies. In addition, the greater conservatism of state governments and greater tendency for those governments to be controlled by locally-based economic and political forces means the obstacles faced by minorities and low-income groups are formidable. In the federal arena, various competing groups could afford to cooperate and to jointly work for each others' policies and therefore vitiate the competition among equity groups. In contrast, on the state level the same equity groups will compete for shrinking project dollars, perhaps with negative political results. All of the above factors suggest the new federalism is not likely to be a policy alternative of major benefit to the black community. However, it is important to realize that even without the new federalism, the black civil rights agenda may remain unfinished.

IV. THE UNFINISHED CIVIL RIGHTS AGENDA

Prior to completing our assessment of the new federalism and its relationship to the unfinished civil rights agenda, it is crucial to specify the nature of that agenda and the reasons why it is unfinished.

For purposes of this article, the term "civil rights" is used in the broadest terms to mean all forms of policies and strategies designed to end

the collective subordination of the black community. The relegation of the black community to the bottom of society has historically rested on five elements: legal segregation, political disenfranchisement, economic segregation, cultural marginalization and psychological stigmatization. These five elements that compose the structure of racism against blacks affect different systems in the society and also involve divergent levels of analysis.

A. *Legal Segregation*

Legal segregation was an overt marker symbolizing black inferiority. Involving separation of blacks and whites in every conceivable arena, legal segregation was a concrete and comprehensive manifestation of two principles fundamental to maintenance of black subordination: (1) *enforced collectivism* in which all individual blacks are treated according to rules derived from the group—making the phenotypical characteristic of skin color the essential factor in shaping the social interaction. Legal segregation violated, in obvious and deliberate ways, that principle held to be central to American democratic life: *individualism* manifested in public life by the right of individuals to participate in society without restraint based on their primordial characteristics. (2) Maintenance of *hierarchy of one group over others* entails enforced collectivism. Some degree of proximate equality of access to public life for individuals depends on either the elimination or the equalization of collective categories. Realization or even the illusion of individualism hastened the end of enforced collectivism and publically-sanctioned hierarchization of groups.

Legal segregation, then, was extremely important as a public manifestation of the white-black hierarchy. It is important, however, to distinguish between legal segregation as the symbol of hierarchy and hierarchy and collectivism as transcending system elements.¹⁰

B. *Political Disenfranchisement*

Political disenfranchisement of blacks by custom, violence, unequal enforcement of rules governing the franchise and implementation of regulations such as the white primary, poll taxes, and the grandfather clause that were specifically designed to disenfranchise blacks, meant that for most of American history, the majority of blacks (particularly those living in the South) were excluded from the political community. They were therefore unable to work to change laws such as legal segregation. For those blacks living in the South under legal segregation and political disenfranchisement, political life approximated more a closed, totalitarian regime than an open, democratic polity.

C. *Economic Segregation*

A disproportionately large number of black Americans have been economically segregated into what economists term a secondary labor market. This sector of the labor market is characterized by low wages, high instabil-

10. For a discussion and elaboration of the concepts of hierarchy and collectivism see Barnett, *A Theoretical Perspective on Racial Public Policy*, in *PUBLIC POLICY FOR THE BLACK COMMUNITY* 1-53 (M.R. Barnett and J. Hefner ed. 1976).

ity of employment, low or non-existent benefit packages, seasonal work, poor working conditions and low levels of unionization. This constitutes the third element in the structure of racism. Economic segregation and labor market quality led to the oft-heard, painful comment that blacks were and are the "last hired and first fired."

D. *Cultural Marginalization*

In the cultural marginalization of the black community, two forms of stigmatization took place. First, in popular culture, from the middle 19th century throughout the era of segregation, blacks were depicted as inferior—stupid, slow, criminal, bestial. These images, which appeared in advertising, entertainment, household items and in all areas of everyday life were disseminated throughout the nation. Even in areas where no blacks resided, the message of black inferiority was carried through the artifacts of everyday life.¹¹ Secondly, cultural stigmatization occurred through the relegation of black aesthetic contributions to the society to invisibility or irrelevance. Harold Cruse makes this point with power and perceptiveness:

[F]or critics like Seldes, the Negroes were the anti-intellectual, uninhibited, unsophisticated, intuitive children of jazz music who functioned with aesthetic 'emotions' rather than the disciplined 'mind' of white jazzmen. For such critics, the real artists of Negro folk expression were the George Gershwins, the Paul Whitemans and the Cole Porters.¹²

. . . .

[I]t typified the white cultural attitudes toward all forms and practices of Negro art. Compared to the Western intellectual standards of art and culture, the Negro does not measure up. Thus every Negro artist, writer, dramatist, poet, composer, musician, et. al, comes under the guillotine of this cultural judgment. What this judgment really means is that the Negro is artistically, creatively, and culturally inferior; and therefore all the established social power wielded by the white cultural elite will be used to keep the Negro creative artist in his place. But the historical catch in all this is that the white Protestant Anglo-Saxon in America has nothing in his native American tradition that is aesthetically and culturally original, except that which derives from the Negro presence.¹³

E. *Psychological Stigmatization*

Of the five concepts examined, psychological stigmatization is perhaps the most difficult concept to delineate. In essence, it means that skin color, in the American context, has become a culturally pervasive symbol—white skin color denoting superiority and black skin color denoting inferiority. Internalization of this symbolic reference occurs early and is an intrinsic part of the psychic makeup of Americans. Joel Kovel stated:

A really deep survey of white Americans would doubtlessly reveal a great mixture of racial patterns in everyone, but it might be predicted that the substantial majority continue to reserve their most intense feelings for the hallowed racial patterns of yore, that is, they hold to a mixture of dominative and aversive racist beliefs, according, one would expect, to their au-

11. See Barnett, *Nostalgia as Nightmare: Stereotypes of Blacks in American Popular Culture*, THE CRISIS, Feb. 1982, at 42-5.

12. H. CRUSE, THE CRISIS OF THE NEGRO INTELLECTUAL 104 (1967).

13. *Id.* at 105.

thoritarianism and the degree to which their superego has internalized aggression.¹⁴

Kovel also stated that "[T]he best-adjusted, most productive, and most typical of Americans who respond aversively to Black people they have not personally oppressed or even known, are no more than vehicles for the larger and axiomatic ideas of their times."¹⁵

Together these five elements of black subordination constitute the structure of American racism as it existed in its most elaborated form and explain the continued hierarchization of blacks as a collectivity in the society as a whole. To change that subordination *all* of the elements of structural racism would have to be eliminated.

The legal activity leading to the *Brown v. Board of Education*¹⁶ decision and the political activity leading to the important civil rights and voting rights legislation of the 1960's ended legal segregation and political disenfranchisement of blacks (two elements of the structure of racism). Affirmative action policies began to make inroads into the economic segregation of blacks in the secondary labor market.¹⁷ Other legislation aimed at the economic segregation and/or exploitation of blacks was also drafted during the 1970s. The Humphrey-Hawkins Full Employment Bill (HR50) in its original form, for example, had as its purpose the guarantee of employment to all able-bodied workers. This concept, had it been reflected in strong legislation, and passed, would have been of enormous assistance to blacks. The fact that the "civil rights agenda is unfinished" should not obscure the importance of the accomplishments of the 1960s and early 70s. Those accomplishments are reflected most dramatically in the changing statistics on the number of blacks voting, holding office, and employed in important non-traditional occupations.

Unfortunately, while the civil rights legislation of the 1960s ameliorated the collective condition of American blacks, it transformed but did not dismantle, the structure of American racism. Indeed, it was a surprise to many to find that legal segregation was simply one part of a complex structure of racial subordination. Robert Carter makes the point well:

Brown's [*Brown v. Bd. of Education*] indirect consequences, therefore, have been awesome. It has completely altered the style, the spirit, and the stance of race relations. Yet the pre-existing pattern of white superiority and black subordination remains unchanged; indeed, it is now revealed as a national rather than a regional phenomenon. . . . Few in the country, black or white, understood in 1954 that racial segregation was merely a symptom, not the disease; that the real sickness is that our society in all its manifestations is geared to the maintenance of white superiority.¹⁸

Of the elements of subordination that remain part of the structure of racism, two—economic segregation and cultural marginalization—lend

14. JOEL KOVEL, *WHITE RACISM: A PSYCHOHISTORY* 212 (1970).

15. *Id.* at 94.

16. 349 U.S. 294 (1954).

17. For further discussion of the concept of the secondary labor market as well as other approaches to understanding poverty and unemployment, see GORDON, *THEORIES OF POVERTY AND UNDEREMPLOYMENT* (1972).

18. Carter, *The Warren Court and Desegregation*, in *THE WARREN COURT: A CRITICAL ANALYSIS* (R. Saylor, B. Boyer, R. Gooding ed. 1969), quoted in DERRICK A. BELL, JR., *RACE, RACISM AND AMERICAN LAW* 456, 461 (1973).

themselves to partial redress through public policy and legal efforts. However, both political and legal efforts would have to involve innovative approaches to both law and public policy. HR50 is both an optimistic and a pessimistic example. Optimistic because it is an example of the kind of redistributive public policy which needs to be designed, and pessimistic because the fate of HR50 and the effete legislation which finally emerged from approximately six years of effort are discouraging. Similarly, cultural marginalization would have to be approached through legislation to, in the words of Harold Cruse, "democratize the media." This would mean clearly structured legislation to enforce access to the media; stringent rules on negative portrayals of groups, efforts to encourage and even support minority ownership of various media forms, and so on. All of these ideas could be translated into legislation; but, legislation of a more original type that would elaborate and strengthen "group" rights within the individualistic framework of American law and society.

The point is that the items on the "unfinished civil rights agenda" are as difficult, if not more difficult, to address than the dismantlement of legal segregation. It is with that context in mind that we must draw our final conclusions about the relevance of the new federalism to the "unfinished civil rights agenda."

V. CONSTRAINTS ON PROGRESSIVE PUBLIC POLICY FOR THE BLACK COMMUNITY

It comes as no surprise to learn that the budget cuts implemented by the Reagan Administration will have a disproportionately negative impact on blacks. The percentage of blacks who are recipients of many of these reduced programs is far above their percentage in the population: For example, aid to families with dependent children (black percentage 44%); food stamps (black percentage 34.2%); CETA public service jobs (black percentage 33%); education for the disadvantaged (34.5%). It also should come as no surprise that blacks are growing increasingly pessimistic.¹⁹ A recent CBS poll found that "[i]n 1981 . . . only 21 percent [of blacks] saw an improvement [in their lives] while 47 percent [of blacks] said the present was worse than five years earlier."²⁰ Relating pessimism among blacks to the Reagan presidency, psychiatrist Dr. Alvin Poussaint was quoted in the New York Times as stating: "blacks saw Mr. Reagan as 'no friend of black people' and feared the 'country is going to turn its back on them.'"²¹

These fears are not irrational. Considering all of the characteristics of state government politics, the shifting of the locus of fiscal and political authority from the federal to the state level is likely to enhance the political clout and power of more privileged groups of all kinds.

However much the new federalism may add to the problems facing the black community, it should also be clear that the significant constraints on progressive public policy for the black community predate the Reagan Administration, and have causes beyond the ebb and flow of recent political change. One obvious constraint is the embedded character of the structure

19. N.Y. Times, Aug. 24, 1981, at A1, col. 1.

20. *Id.* at B11, col. 4.

21. *Id.* at A1, col. 1.

of racism. But there are other more recent and contemporary constraints. Three deserve particular attention in the context of this discussion: (1) severe national and international economic downturn;²² (2) changing ideological dynamics in American society, including a number of elements such as an increasing politically conservative population and changing perceptions of the United States from an essentially racially polarized, black-white society to a multifaceted social system in which numerous disadvantaged groups of "equivalent" normative claims; and (3) loss of ideological momentum by black leadership.

An analysis of these constraints also helps us understand the genesis of the ideology of the new federalism. The 1960s provide a useful vantage point for beginning analysis. During the 1960s the struggle for the advancement of blacks coincided with American business interests. Reasons for this congruity of interest were rooted in the domestic economic circumstances of that time—there was economic prosperity, a demand for labor and the belief among businessmen that blacks represented a new and untapped potential source of semi-skilled and skilled labor. In that tight labor market, big business sought the development of an educated, aggressive black stratum willing to accept lower wages as a "price" for absorption into the expanding technologically advanced economy. A strong central government grew in this climate. In terms reminiscent of the Federalist logic, the central government was identified with stability and maintenance of a climate for business growth. States rights proponents, on the other hand, were increasingly discredited by the association of states rights with failing efforts to retain legal segregation.

By the time a few gains were registered for blacks, however, the domestic economy had begun to change. Facing strong competition on the world market from other capitalist countries (particularly Germany and Japan); the decline of the dollar; increasing independence of nations in the Middle East, Africa, Asia and Latin America which were controlling and setting prices for their own raw materials; and greater demands for higher wages and lower prices from both organized and unorganized workers at home and abroad, the U.S. slipped into persistent economic crisis.

At the same time the United States was facing economic downturn, the black movement was undergoing transition as black leaders sought a way of formulating demands for progressive public policy for the black community in a post-legal segregation era and as other equity-oriented groups were growing more forceful. As so often happens in situations of social change, one movement sparks another and, in this case, the black movement gave impetus to the peace movement, student movement, women's movement, ecology movement, gay movement, and so on. As each new movement developed, the process which the black movement had gone through over a two-hundred year period was telescoped as these movements substituted analogy to blacks for analysis of their own unique situation. Thus, it became common to hear patently confusing or untrue phrases such as "women are oppressed like blacks" or "students are like niggers" or to see group

22. For further discussion of internationally-generated possibilities for, and barriers to, black advancement, see Barnett and Vera, *Afro-American Politics and Public Policy Priorities in the 1980's*, THE BLACK SCHOLAR, March/April 1980, at 9-21.

names such as the "Gray Panthers" which imitate a part of the black movement. The resulting denuding of the uniqueness of the black movement through imitation contributed to the intellectual crisis of black leadership. In an ideologically individualistic and egalitarian society in which individualism and equality often provide the template for cognitive organization of unrelated activities, it becomes all too easy to equate all groups to each other, to make all forms of disadvantage the same through mere analogy, to make ideological substitution possible among blacks, women, gays, non-black minorities, the handicapped and so on.

By the 1970s, the distressed economy and changed social and political climate had created the conditions for an altered political agenda and a new set of policy priorities. Conservative political forces expanded and redefined the states rights argument returning to the charge, echoed since the anti-Federalists attacked Madison and Hamilton, that a centralized government violated individual and corporate rights and promulgated senseless legislation and regulation which intruded on the rights of the states, corporations, and individuals. Big business interests increasingly became involved in this debate, not on the issue of civil rights per se, but on consumer regulations, environmental protection regulation and on the whole set of regulations which emerged out of heightened public consciousness about the environment, workers' rights, and an expanded notion of the public interest. To put the argument in dialectical terms: the civil rights movement was the catalyst for an expansion of movement activity, political participation and demands for involvement of the government in a range of new areas. This expansion of what was defined as the public interest created its own antithesis, which was the demand for ideological, political and public policy shrinkage. That demand for shrinkage of the public sphere took the form of the ideology of a new federalism. If this interpretation of constraints on black advancement and of the origin of the ideology of the new federalism is correct, then concentrating on the new federalism is useful only insofar as it is seen as symptomatic of more serious underlying problems and is not seen as the totality of the problem.

VI. SUMMARY AND CONCLUSIONS: THE NEW FEDERALISM—OLD WINE IN NEW BOTTLES

Since this has been a somewhat complex argument, it would be useful to summarize and conclude briefly. The argument has centered around four major points: (1) first, the new federalism was defined according to its stated purpose which is to shift greater fiscal responsibility and policy authority from the federal government to the states. It was suggested that that idea had legitimate historical origins and that the Block Grant concept was to be the major instrument used by the Reagan Administration in achieving this goal; (2) second, five typical characteristics of state governance were delineated. It was hypothesized that the power, influence, political base and policy thrust of black organizations and leaders might be weakened in an era of altered federalism and increased state government power; (3) third, it was asserted that even had Reagan not been elected, prospects for new and effective progressive, redistributive policy for the black community were virtually non-existent. Economic constraints meant any president would have had to

engage in budget cutting. Loss of ideological momentum meant it would have been increasingly difficult to create and retain public support for black policy concerns. That argument involved a definition of what precisely was left on the civil rights agenda. It was argued that to destroy the structure of black subordination, all of the elements in the structure of racism would have to be altered or eliminated and that redistributive public policy was involved in that kind of effort; (4) finally, an interpretation of the emergence of certain contemporary constraints facing blacks was proposed and linked it etiologically to the ideological origins of the new federalism—by suggesting that indeed there is a curious dialectical relationship between the civil rights movement as a stimulus for expansion of the public sphere and the new federalism as an effort to contract the public sphere.

In conclusion, I would like to sketch the dimensions of a current black community dilemma: in order to achieve redistributive public policy, blacks will no doubt seek to attack and undermine the new federalism—while all the time working within it. If successful, those efforts would still be only the beginning of a long process of achieving progressive, redistributive policy. For the foreseeable future, therefore, the black community can only hope for distributive, non-system changing policies. As important as these policies are to millions of people, they do not address the overarching question of collective black subordination. Development of a legal, political, cultural, and economic strategy, aimed at destroying the structure of black racial subordination is the next task facing the black community. It requires a revised agenda, innovative, creative thinking and a realistic assessment of the difficulties of bringing about structural change.