

平成30年度短期招聘研究員 コンラン教授の紹介と報告概要

経済学研究科教授

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2018年10月2日（火）から23日（火）にかけて、本学大学院の短期招聘研究員を利用し、ジョージメイソン大学公共政策学部（George Mason University, School of Policy and Government）のT. コンラン（Timothy J. Conlan）教授を招聘した。

コンラン教授は、1977-85年に連邦政府 Advisory Commission on Intergovernmental Relations、1985-86年に連邦上院議会政府間関係小委員会のスタッフとして働き、1987年から George Mason University の助教（Assistant Professor）、1990年に准教授（Associate Professor）、2000年から教授（Professor）になっている。

専門分野は、政府間関係論や連邦制である。たくさんある研究業績の中で、著書を紹介すると次の4つになる。

Timothy J. Conlan, Paul L. Posner, David R. Beam, *Pathways of Power: The Dynamics of Contemporary Federal Policy Making*, Georgetown University Press, 2014.

Timothy J. Conlan, Paul L. Posner, *Intergovernmental Management for the 21st Century*, Brookings Institution, 2008.

Timothy J. Conlan, *From New Federalism to Devolution: Twenty-five Years of Intergovernmental Reform*, Bookings Institution, 1998.

Timothy J. Conlan, Margaret T. Wrightson, David R. Beam, *Taxing Choices: The Politics of Tax Reform*, Congressional Quarterly, 1990.

Timothy J. Conlan, *New Federalism: Intergovernmental Reform from*

Nixon to Reagan, Brookings Institution, 1988.

コンラン教授は、本学に滞在する間に研究活動の一環として、次のようなテーマで、3度の報告を行った。第1回は“American Federalism and Public Finance”である。第2回は、“Decentralization and American Intergovernmental Relations”である。第3回は、“American Federalism and the Trump Administration”である。

各回の概要と内容は以下のようである。

第1回は、平成30年10月15日（月）5時限に1303教室で、本学学部生、大学院生及び教員を対象に、「アメリカの連邦制と財政」のテーマで、アメリカの連邦制の基礎的な内容に関するレクチャーを行った。コンラン先生が連邦政府に重点を置きながらアメリカの連邦制、財政制度について説明し、その対比を意識しながら、筆者である根岸が日本の制度や仕組みを説明するという形を取り、初学者にも分かりやすい内容とした。

レクチャーの目次は、① The Structure of US Federalism（アメリカの連邦制の基礎的な構造）、② Fiscal Federalism in the United States（アメリカの財政連邦主義）、③ Borrowing and Public Finance in the US Federal System（連邦制における財政と公債）、④ Politics and Public Attitudes Towards Deficit Spending（財政赤字に対する政治と世論）、⑤ Future Trends and Fiscal Challenges（財政上の課題と今後の展望）である。

第2回は、10月15日（月）6時限に3405教室で、本学学部生、大学院生及び教員を対象に、「アメリカの政府間関係と分権システム」をテーマに、アメリカの政府間関係における分権的な仕組みをレクチャーした。三階層（連邦・州・地方）の政府についてそれぞれの機能、役割を説明した上で、政府間関係の仕組みを説明した。さらに、中央集権的傾向が強くなる最近の傾向を紹介した。

講演の目次は、① The Decentralized Structure of American Federalism and Intergovernmental Relations（アメリカの連邦制の分権的な構造と政府

間関係)、② Policy Diversity in a Decentralized System (分権システムと政策の多様性)、③ The Theory and History of Decentralization in America (アメリカの分権システムの理論と歴史)、④ The Trend Toward Greater Centralization over time (集権的な政府間関係の傾向)、⑤ Continuing Diversity in a More Uniform System (より統一のシステム下での多様性の確保)である。

第3回は、10月17日(水)0502大学院演習室で、本学学部生、大学院生及び教員を対象に、「アメリカの連邦制とトランプ政権」をテーマに、アメリカの連邦制にトランプ政権がどのような影響を与えているのかに関するレクチャーを行った。印象的であったのは、第1に、連邦政府でも年金や医療への支出が増えて財政赤字が生まれ、それが年々増加すると予想されていること、第2に、トランプ政権の減税により歳入が減り、連邦政府の財政赤字をより大きなものにすることが予想されていること、第3に、この財政赤字の累積が将来に大きな影響を与えることである。

講演の目次は、① Many Trump Administration policies break established norms and are ideologically extreme (確立された路線の崩壊とそれからの大きな逸脱)、② Such policies are accelerating vertical polarization in the U.S. federal system (連邦-州間の政策の相違の拡大)、③ Trump policies are also generating increased intergovernmental conflict (トランプ政権の政策による連邦-州間の対立の拡大) ④ Long term implications include a more conservative Supreme Court and deficit-induced fiscal stringency (保守的な連邦最高裁と財政的な逼迫の長期的な影響)、⑤ The upcoming elections may temper but will not reverse these trends (中間選挙による影響)である。

以下は、第3回の報告の要約である。

報告概要

American Federalism and the Trump Administration

by

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American Federalism and the Trump Administration

The presidency of Donald J. Trump has been precedent setting in many respects. As a political outsider with little knowledge of government, he was able to capture the presidential nomination of a major political party, win election, and lead an astonishing conversion of that party's posture into a divisive blend of conservative economics and ethno-populism. As president, he has repeatedly broken long established norms of behavior and public policy, including a dismissive attitude towards the rule of law, a willingness to undermine the established international order and traditional American alliances, a propensity to take extreme positions with little factual support or strategic analysis, and a willingness to lie openly and communicate those lies directly to his political supporters.

While many of these characteristics are widely recognized and discussed, the expression of these characteristics in the context of American federalism has been relatively overlooked. That is a significant omission, because the federal system is the single most important feature of domestic governance in the United States, and the implications of Trump Administration policies for intergovernmental relations and systemic performance are considerable. To date, Trump administration policies are accelerating vertical polarization in the U.S. federal system, generating high levels of intergovernmental conflict, and shifting the future of the federal system in a much more conservative direction. Each of these developments, as well as the potential impact of the forthcoming congressional elections, are reviewed and discussed below.

Breaking Norms in Intergovernmental Politics and Policy

Most of the attention given to Donald Trump's repeated breaking of established norms has focused on his undermining of the rule of law and his dismissive attitude toward established international commitments and alliances.¹ His willingness to pull out of existing agreements such as NAFTA, the Iran nuclear agreement, and the Paris Climate Accords are representative of this approach. However, the latter case also highlights the overlooked but important intergovernmental dimensions of Trump Administration departures from established and widely accepted policies. The domestic counterpart of Trump's withdrawal from the Paris Accords has been his administration's dramatic program of deregulation in environmental policy. His administration reversed the Obama administration's rules for reducing carbon emissions from electric power plants, rolled back emissions targets for automobiles, and approved drilling in the Alaska Arctic Wildlife Refuge.² Such decisions represent dramatic shifts in policy that have engendered bipartisan criticism, and they are significant from a federalism perspective because environmental laws are generally implemented through a federal-state partnership. The federal government sets minimum national air and water pollution standards, and these are largely enforced by the states, with some flexibility to adapt to local conditions.³ Yet, in the implementation of the Clean Air Act, the Trump administration is not only easing national standards, it is seeking to

¹ Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (New York: Crown Publishing, 2018).

² See, for example, Lisa Friedman and Brad Plumer, "E.P.A. Announces Repeal of Major Obama-Era Carbon Emissions Rule," *New York Times*, Oct 9, 2017, p. A1; and The Coalition for Sensible Safeguards, *The War on Regulation* at <https://sensiblesafeguards.org/>.

³ Denise Scheberle, *Federalism and Environmental Policy: Trust and the Politics of Implementation*, 2nd Ed. (Washington: Georgetown University Press, 2004).

roll back California and other states' option to exceed federal pollution standards—a feature of environmental policy that dates back to the foundational law in this policy field: the Clean Air Act Amendments of 1970.⁴

Environmental protection is not an exceptional case. The Trump Administration has proposed a variety of draconian immigration policies that often intersect with state and local government authorities in law enforcement and social services. Such policies include the so-called “Muslim ban,” sharp reductions in refugee admissions to the U.S., proposed reductions in legal immigration, a proposed “wall” on the Southern border, and draconian family separations within the country and at the border. The administration is also pursuing welfare policies that break with long established norms and practices, such as new and onerous work requirements for many recipients of Medicaid and nutrition programs. And it has advanced tax law changes that appear to target high tax states that elect Democrats—part of a broader propensity to seek policies and practices that punish political enemies.⁵

Accelerating Vertical Polarization and Intergovernmental Conflict

All of the aforementioned policies, and others, have provoked serious intergovernmental conflict and accelerated the propensity toward vertical polarization in the U.S. federal system. The trend toward partisan

⁴ Bob Egelko, “Trump attack on California’s emission standards faces legal battle,” *San Francisco Chronicle*, August 2, 2018, p. B1.

⁵ Alan Greenblatt, “Federal-State Relations: Is Partisanship Putting Governance at Risk?” *CQ Researcher* 28:16, April 27, 2018, pp. 365-388.

polarization is a well known phenomenon in American politics. But such polarization is usually conceived in horizontal terms—between the parties in Congress and between the President and Congress under divided party government. Such horizontal polarization is very real, as evidenced by the widening ideological gap between Democrats and Republicans in Congress.⁶ However, there is also a growing and significant vertical dimension of partisan polarization that is shaping federal-state relationships in important ways, and Trump administration policies are exacerbating this form of polarization.

Vertical polarization emerged as a prominent feature of American politics during the Obama administration. Particularly after conservative Republican victories in the 2010 elections, significant federal-state conflicts emerged between Republican controlled states and the Democratic administration in Washington across a range of issues.⁷ Many Republican dominated state governments refused to implement health insurance reforms and the expansion of Medicaid under the Affordable Care Act—at the cost of tens of billions of dollars in federal aid and the denial of services to millions of citizens--and more than twenty Republican state Attorneys General sued to have the law declared unconstitutional by the Supreme Court. Some Republican governors also refused economic stimulus funds during the Financial Crisis, and others sued to block new environmental regulations.⁸ At the same time, officials in states controlled by Democrats

⁶ Christopher Hare and Keith T. Poole, “The Polarization of Contemporary American Politics,” *Polity* 46 (July 2014): 411-429.

⁷ Timothy J. Conlan and Paul L. Posner, “American Federalism in an Era of Partisan Polarization: The Intergovernmental Paradox of Obama’s ‘New Nationalism,’” *Publius: The Journal of Federalism* 46 (Summer 2016): 281-307.

enthusiastically embraced and implemented all of these policies.

Such vertical polarization has become even more contentious under President Trump, although the roles of Republicans and Democrats have been reversed. Now a conservative populist Republican administration is meeting resistance and law suits from Democratic states. Thus, many so-called “blue” (Democratic) states have vowed to adhere to the goals of the Paris Climate accords and have adopted state policies that will reduce carbon emissions. Many have sued the federal government to block Trump’s rollback of Clean Air standards. So-called “sanctuary” cities and states have refused to allow local law enforcement officials to cooperate with newly aggressive federal efforts to arrest and deport illegal immigrants, even though such cooperation was often customary in the past. Other Democratic states have sued to block Trump administration efforts to restrict implementation of the Affordable Care Act. And, finally, many blue states fought efforts to change federal tax laws in ways that penalize high income earners in high tax states, and they are suing to overturn portions of that law.⁹ In short, intergovernmental conflict and partisan polarization have continued and increased under the Trump administration, and the traditional twentieth century model of “cooperative federalism” is rapidly eroding.

A “Devolution Revolution”? The Long Term Implications of the Trump Agenda

⁸ Timothy J. Conlan, Paul L. Posner, and Priscilla Regan, eds., *Governing Under Stress: Managing Obama’s Stimulus Program*, (Washington: Georgetown University Press, 2017).

⁹ For more details, see Greenblatt, “Federal-State Relations.”

Projections of long term policy and institutional change are always challenging; conditions evolve, leaders change, and decisions can be reversed. Nevertheless, the Trump agenda has the potential to produce substantial changes in the American federal system if it is sustained and fully implemented. This includes substantial decentralization and a significantly reduced role for the national government. Even if it is only partially implemented, important elements of the Trump agenda—including large scale federal tax cuts and changes in the makeup of the Supreme Court—promise to be difficult to reverse.

In fiscal policy, the Trump administration has sought—and partially obtained—policy changes which imply significant devolutionary effects. Reductions in personal and corporate income tax rates, adopted as part of the Tax Cuts and Jobs Act of 2017, will reduce federal revenues by an estimated \$1.9 trillion over the next decade.¹⁰ Combined with the growth of federal pension and health programs for an expanding elderly population, this will place tremendous stress on future funding for aid to state and local governments. With the exception of Medicaid (the federally subsidized health care program for the poor and disabled people) such federal aid programs are already shrinking as a share of GDP, and such shrinkage is likely to accelerate in the absence of new federal revenues. In fact, dramatic cuts and terminations of many of these federal aid programs would already be in place if Congress had adopted President Trump's proposed budget, but thus far Congress has deferred action on many of them.¹¹ President Trump and Republican majorities in Congress did

¹⁰ Congressional Budget Office, *The Budget and Economic Outlook: 2018 to 2028*, (Washington: Congressional Budget Office, April 2018).

support reductions of 25% in Medicaid spending over the next decade, however. Only the defection of a tiny handful of Republican Senators, along with unified Democratic opposition in the Senate, prevented this from happening. The proposal for major cuts and restructuring of Medicaid failed by a single vote.

Recent federal tax law changes have also created obstacles to states raising their own taxes to fund threatened social programs. Caps on how much state and local tax payments citizens can deduct from their income subject to federal taxation will raise the marginal cost of state and local taxes and increase pressure to reduce them over time. This is particularly important in higher tax states that support larger public expenditures and which tend to vote Democratic. At the same time, rollbacks of federal regulations for environmental and consumer protections will devolve more of those regulatory decisions to the states, where interstate competition for jobs and capital increase incentives to keep regulatory standards low. From both a fiscal and regulatory perspective, then, Trump administration policies promise to promote a “race to the bottom” between the states, favoring state reductions in both taxes and regulations.¹²

Finally, the Trump administration and Senate Republicans have worked together to remake the federal judiciary and to install a much more

¹¹ Center on Budget and Policy Priorities, *The 2019 Trump Budget: Hurts Struggling Families, Shortchanges National Needs*, (Washington: Center on Budget and Policy Priorities, February 2018), at www.cbpp.org/research/federal-budget/the-2019-trump-budget-hurts-struggling-families-shortchanges-national-needs

¹² David M Konisky and Neal D Woods, “Environmental Federalism and the Trump Presidency: A Preliminary Assessment,” *Publius: The Journal of Federalism* 48 (July 2018): 345–371.

conservative Supreme Court. Because federal judges serve terms for life, this promises to have far reaching effects on both public policy and federal-state relations. With two Supreme Court appointments in just his first two year in office, Trump has been able to build what promises to be the most conservative majority on the Supreme Court since the 1930s. Based on the legal doctrines these justices advocate, this new majority promises to make decisions that will weaken federal government authority considerably. These decisions are likely to include limiting the scope of the federal government's powers to regulate interstate commerce, elevate the burden of proof for federal regulators, erode voting and civil rights protections for minority groups, and enlarge the sphere of state sovereignty under the 10th Amendment.¹³

Implications of the 2018 Elections

The trajectory toward devolution outlined above may be slowed by this year's congressional elections. Currently, Democrats are favored to win control of the U.S. House of Representatives, although such projections are always uncertain.¹⁴ If they do, this will have important consequences. Democrats are poised to open a range of investigations and aggressively utilize their oversight authority of the Trump Administration. They will also be in a position to block new decentralizing legislation. Depending on the outcome of current investigations of the 2016 election, they may even pursue impeachment of President Trump.

¹³ Ilya Somin, "Federalism and the Roberts Court," *Publius: The Journal of Federalism*, 46 (Summer 2016): 441-462.

¹⁴ Nate Silver, "Forecasting the race for the House," at <https://projects.fivethirtyeight.com/2018-midterm-election-forecast/house/>

However, by themselves, the midterm elections will only have limited effects on several aspects of the devolutionary agenda outlined above. The tax cuts will remain locked into place at least until Democrats are able to gain control of both chambers of Congress and the Presidency. Even then, raising taxes is always far more difficult than cutting them. More immediately, if Democrats fail to win a majority in the Senate this November, as currently appears likely, then the Senate's confirmation of additional conservative judges and cabinet officials will continue apace. Trump will retain control over the Executive Branch, and the Constitution grants presidents enormous authority over defense, foreign policy, personnel, and the administrative state.

Finally, whatever happens in future elections, Trump may have done lasting damage to political norms and practices, the rule of law, and America's standing in the world.¹⁵ This damage may be mitigated by future elections and the behavior of future leaders, particularly if there is a wholesale repudiation of Trump's methods and behavior by the general public. But, so far, he has retained a solid base of support, especially within the Republican party, and he has inspired a coterie of other politicians to emulate his behavior. Such supporters represent a minority of the general public, but if they remain loyal, a wholesale repudiation of Trump becomes less likely. Even if it occurs, once good will has been expended, it is a hard and slow process to regain it. This may be Trump's ultimate legacy, in federalism and beyond.

¹⁵ Thomas E. Mann and Norman J. Ornstein, *It's Even Worse than it Was: How the American Constitutional System Collided with the Politics of Extremism*, (New York: Basic Books, 2016).

