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**Working Paper #101**

**Spring 1983**

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ADMINISTRATIVE PERSPECTIVES FROM THE  
SOUTHWEST**

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ADMINISTRATIVE PERSPECTIVES FROM THE SOUTHWEST

By

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Introduction: The Political Realities of New Federalism

The passage of the Omnibus Budget Reconciliation Act of 1981 by the 97th Congress<sup>1</sup> ushered in wholesale changes destined to affect federal and state government relations through the rest of the 1980s and perhaps beyond. The change in government roles and responsibilities immediately began the unfolding of a new chapter on the administration of civil rights. As the cornerstone policy of President Reagan's "New Federalism," the block grant programs authorized in the Act altered the course of civil rights history by shifting the brunt to civil rights oversight away from a single and central federal system to fifty decentralized programs in as many states plus the two hundred or so state implementing agencies.

While initial reaction to the block grant proposals focused on budget cutbacks, recent attention has shifted to the political realities of program decentralization. Piven and Cloward in a recent book, for example, charge that Reagan's New Federalism in effect launched a "Class War" which threatens to breathe new life in the once discredited doctrine of separation:

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<sup>1</sup>U.S., Congress, Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, 97th Congress., August 13, 1981.

One way is by attempting to decentralize authority over programs inaugurated in response to popular pressures--to strengthen some of the (institutional) arrangements that once restricted popular political participation and influence to the local level.<sup>2</sup>

Piven and Cloward forewarn that a successful policy of decentralization will deflect popular economic demands from the national arena as constituency organizations become fragmented and channel all their energies into the competitive politics at the state and local levels.<sup>3</sup>

Other critics of New Federalism echo Piven and Cloward and charge that the Reagan administration seeks to undermine the community organizations of minorities and of the poor in every way possible. "Behind the apparently capricious and arbitrary cutbacks," claims Harry C. Boyte, "a political pattern is evident....it is this grassroots democratic movement (of community organizations) that the Reagan administration, despite its rhetoric, cannot tolerate."<sup>4</sup> Boyte furnishes an extensive list of assistance programs terminated or targeted for severe cutbacks by the administration, programs which in the past had spearheaded community advocacy, initiative and self-help: VISTA, CETA, Legal Services, the Neighborhood Self Help Development Program, the National Consumer Coop Bank, the

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<sup>2</sup>Frances Fox Piven and Richard A. Cloward, The New Class War, (New York, Pantheon Books, 1982), pp. 128-129.

<sup>3</sup>Ibid., p. 130.

<sup>4</sup>Harry C. Boyte, "Ronald Reagan and America's Neighborhoods: Undermining Community Initiative," What Reagan Is Doing to Us, Alan Gartner, Colin Greer and Frank Riessman, eds., (New York, Harper & Row, 1982), p. 122.

Economic Development Administration, the Farmers Home Administration and the Solar Energy and Conservation Bank.

To Ira Glasser of the American Civil Liberties Union, the disdain of the administration for neighborhood programs such as Legal Services is symbolic of the grander scheme of New Federalism to resurrect states' rights by limiting federal intervention in the area of civil rights:

President Reagan has attempted to erode federal standards and remedies governing race discrimination and has tried to shift discretion in this area back to the states, whose discretion first caused--and still causes--the problem. The resurrection of the discredited ideology of states' rights is a direct assault on the principles of the Fourteenth amendment....<sup>5</sup>

#### The Administration of Civil Rights: An Old Problem with a New Battleground

Block grant implementation has been under study by a variety of sources practically since the issuance of the first group of block grants back on October 1, 1981. The most widely circulated materials at the start focused on the cutback aspects, comparing the new grants with the categorical programs they replaced. The runner-up topic soon afterward became the process and speed of transition as states exercised the option to accept or postpone acceptance of each block grant. The "sleeping issue" of Civil Rights vs. States' Rights only surfaced recently, is gaining momentum, and

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<sup>5</sup>Ira Glasser, "The Coming Assault on Civil Liberties," What Reagan Is Doing To Us, Alan Gartner, Colin Greer and Frank Riessman, eds., (New York, Harper & Row, 1982), pp.241-242.

promises to be the main issue of debate for some time to come, the rest of this year for sure and perhaps well into the 1980's. For minorities and other disadvantaged groups, the gains of the past eighteen years are very much at stake as the federal civil rights establishment applies the brakes to the central system of administration and as the states begin to muddle through their newly acquired discretion.

Evidence that a battle over the administration of civil rights was in the making began in May 1982 when the Senate Subcommittee on Intergovernmental affairs conducted hearings on the first round of block grant implementation. Among the witnesses presenting testimony was the National Association of Social Workers. The NASW staff raised objections to the discretionary nature of civil rights monitoring as described in the Omnibus Reconciliation Act and in the subsequent implementing regulations issued by the federal departments. To correct the perceived weaknesses, NASW called for new federal requirements: (a) a uniform reporting system as to the race, ethnicity, age, sex, handicapping condition, and income level of service recipients; (b) a mandated state procedure for the conduct of impartial hearing of complaints; and (c) a readiness on the part of the U.S.. Attorney General to exercise federal non-discrimination laws in cases of non-discrimination, including action to withhold further block grant funds from the state.<sup>6</sup>.

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<sup>6</sup>U.S. Congress, Senate, Block Grant Implementation, Hearings before a subcommittee of the Senate Committee on Governmental Affairs, 97th Congress, 2nd Sess., May 5 and 11, 1982, p.187 and pp. 193-194.

A few months later, the results of a state-by-state survey of block grant implementation prompted the Center for Law and Social Policy to issue and report with the telling headline: "New Federalism or Old Hoax?: Block Grants in FY 1982." The report listed civil rights protections and grievance procedures among the top four issues which emerged as results from a lengthy survey instrument.<sup>7</sup> While the Center's report was based on a mail questionnaire, the General Accounting Office conducted field visits at a sample of thirteen states also in 1982, leading to the release of a special Report to the Congress by the Comptroller General on August 24, 1982. Whereas most of the report is lenient in its judgments about state progress in the transition from categorical grants to block grants, the Comptroller General did reveal some poignant observations:

Federal agencies have adhered to a policy of minimum involvement.... In several cases Federal authority is limited by statute; but even where agencies have discretion, they often have passed it on to the States.<sup>8</sup> (Emphasis added)

With respect to statutory requirements for the administration of civil rights, the Comptroller General continued by reporting that

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<sup>7</sup>"New Federalism Or Old Hoax? Block Grants in FY 1982," Center for Law and Social Policy, Washington, D.C., October, 1982, p. 18.

<sup>8</sup>Comptroller General, "Early Observations on Block Grant Implementation," Report to the Congress of the United States, Washington, D.C., August 24, 1982, p. 44.



(Federal) agencies are developing procedures for fulfilling their compliance and enforcement responsibilities in such areas as non-discrimination and have stated their intent to rely heavily on States' interpretation of the statutes.<sup>9</sup>  
(Emphasis added)

#### Civil Rights Progress and the Federal Giveaway

The flap over the new state discretion on civil rights matters and other areas originated with the wholesale giveaway embodied in the language of the Omnibus Reconciliation Act and the subsequent implementing regulations of the administering federal departments. The Reagan supported statute relinquished federal control in three short paragraphs contained in Title XVII, Sec. 1742: to receive any of the nine initial block grants, states need only to (a) submit a report on intended use of funds; (b) make the report public to facilitate comments; and (c) hold one public hearing. for compliance purposes, Sec. 1745 simply called for each state to conduct audits of all its block grant funds according, "insofar as is practicable...with standards established by the Comptroller General...."<sup>10</sup> (Emphasis added)

Conspicuous by absence in Title XVII were any recordkeeping or monitoring requirements with regard to civil rights protections guaranteed by all previous legislation: Civil Rights Act of 1964 (Title VI), Education Amendments of 1972 (Title IX), the Rehabilitation Act of 1973 (Section 504), and the Age Discrimination Act of 1975. Title XVII, under Subtitle C, Chapter 2,

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<sup>9</sup>Ibid.

<sup>10</sup>U.S., congress, Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, 97th Congress, August 13, 1981, Sec. 1745, p. 764.

was the only part of the Omnibus Reconciliation Act that established uniform requirements of any kind for all nine of the block grants. Yet no mention was made of civil rights assurances. Instead, each Title in the Act pursued its own course, causing confusion as to intent, consistency, applicability, and so forth.

Five of the block grants prohibited discrimination on the basis of race and color, national origin, sex, age, handicap or religion. Two other contained the same prohibitions except for religion. Another two (Social Services; Elementary and Secondary Education) did not include a nondiscrimination section. As a clean-up gesture, the respective Secretaries for these two block grants eventually issued regulations clarifying that all federal civil rights laws would be applicable. Concomitantly, however, one of the Secretaries (Health and Human Service) took pains to demonstrate the federal decision to provide maximum discretion to the states:

"...we will not burden the States' administration of the programs with definitions of permissible and prohibited activities, procedural rules, paperwork and recordkeeping requirements, or other regulatory provisions..."<sup>11</sup>

The Secretary made it clear that the specific provisions prohibiting discrimination in the Act would indeed be passed on as a responsibility of the states. As with other provisions in the Act, the Secretary interpreted federal enforcement powers with the blanket statement that rang out as the harbinger of a new reality:

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<sup>11</sup>Department of Health and Human Services, "Block Grant Programs; Final Rules," Federal Register, July 6, 1982, p. 29472.

...when an issue arises as to whether a State has complied with its assurances and the statutory provisions, the Department will ordinarily defer to the State's interpretation of its assurances and the statutory provisions. Unless the interpretation is clearly erroneous, State action based on that interpretation will not be challenged by the Department.<sup>12</sup>  
(Emphasis added)

Should a state err in its own interpretation of the standing civil rights laws,\* the chief executive officer of the state would still

\*Include in some titles of the Omnibus Budget Reconciliation Act were references to the Civil Rights Act of 1964 (Title VI), the Education Amendments of 1972 (Title IX), the Rehabilitation Act of 1973 (Section 504), and the Age Discrimination Act of 1975.

have up to sixty days to comply voluntarily. Only in the event of refusal to comply would the Secretary ostensibly initiate federal enforcement actions provided for in prior nondiscrimination statutes. To civil rights advocates, while the boilerplate may have been preserved, the federal civil rights establishment would no longer remain at the helm.

#### The View from the Southwest

The State Advisory Committees to the Southwestern Regional Office of the U.S. Commission on Civil Rights felt compelled to assess the extent of civil rights concerns last spring and summer by holding a series of consultations at the five state capitals.\* In each case the respective Advisory Committee requested and received testimony from federal and state officials, legislators, community leaders, heads of human services organizations, provider group representatives, tribal officers, civil rights advocates and others.

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<sup>12</sup>Department of Health and Human Services, "Block Grant Programs; Final Interim Rules on Implementation, "Federal Register, October 1, 1981, p. 48585.

All testimony was documented by professional court reporters resulting in five separate transcripts. The staff of the Southwestern Regional Office coordinated the consultations and produced a final report on behalf of the Advisory Committees.<sup>13</sup>

\*Austin, Texas, Santa Fe, New Mexico, Oklahoma City, Oklahoma, Baton Rouge, Louisiana, and Little Rock, Arkansas.

The transcripts of the five consultations document the expected lament over cutbacks in program funding. But, as requested by the Advisory Committees, the majority of the testimony focused on civil rights and related issues. The contest between Civil Rights and States' Rights sparked debate and surfaced two major points of view: those of the "believers" and those of the "skeptics," federal and state officials on the one hand and seasoned community advocates on the other.

The federal officials were unanimous in their claim that civil rights protections would not be jeopardized by the block grant program. One official from OMB in fact credited the Reagan Administration with having been calculated and deliberate in its efforts to guarantee no slippage of past federal policies and law:

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<sup>13</sup>The New Wave of Federalism: Block Granting and Civil Rights in the Southwest Region, a Report of the State Advisory Committees to the U.S. Commission on Civil Rights, Southwestern Regional Office, January 1983.

The statutes and regulations definitely call for a very, very strong civil rights provision. They were built into the initial proposals that the administration provided.... The administration ... clearly wanted to demonstrate their commitment to the civil rights guarantees and to make sure that all of the federal requirements would continue in this area unchanged.<sup>14</sup> (Emphasis Added)

Apart from the OMB official, many federal department administrators were present at the consultations, all of whom testified that the federal civil rights enforcement role would continue. Even though the states have the first opportunity to ensure voluntary compliance, clarified a representative from the Department of Health and Human Services, the Secretary still retains the power to enforce the civil rights statutes; "... we have delegated certain authorities to the states, but we have not given up our enforcement powers."<sup>15</sup> A branch Chief from the Dallas Regional Office of Civil Rights (DHHS) described the partial delegation as "partnership," whereby the states will be provided an opportunity "to voluntarily resolve their problems, to investigate, to propose remedy, and to consult with (the HHS) department in order to finalize," and where voluntary compliance does not solve the problem, she continued, "the responsibility for initiating

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<sup>14</sup>Testimony before the Louisiana Advisory committee to the U.S. Commission on Civil Rights in Baton Rouge, Louisiana, April 15, 1982 (hereafter cited as LA. Transcript), p. 26 and p. 30. (Note: The transcripts utilized in this article had not been edited or legal considerations and should not be utilized for purposes of official citation or attributed to the U.S. Commission on Civil Rights or the various State Advisory Committees.)

<sup>15</sup>Testimony before the New Mexico Advisory Committee to the U.S. Commission on Civil Rights in Santa Fe, New Mexico, July 22, 1982 (hereafter cited as NM. Transcript), Vol II, p. 247.

enforcement will remain with our office.... the (DHHS) office for Civil Rights is not abdicating its responsibility."<sup>16</sup>

The "believers" also included the cadre of state executives from governors and their aides to the top administrators of state agencies in charge of implementing the block grant programs. All five governors' offices professed a moral commitment to equal opportunity and assured their intent to comply with civil rights laws. The state agency administrators as a group indicated that all procedures from the past, such as recordkeeping, monitoring techniques, complaint processes, etc., would continue via in-place systems that had already been required under the federal categorical programs.

At the Oklahoma consultation, for example, the Coordinator of Federal and State Relations for one of the agencies assured the Advisory Committee that no changes had been made in data collection or in record-keeping. "The Department has always been involved in assuring compliance with civil rights," reflected the Coordinator, and we have

a fair hearing process which permits an aggrieved individual the opportunity to appeal agency decisions. The Department's Office of Inspector General investigates and assures compliance.<sup>17</sup>

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<sup>16</sup>Testimony before the Texas Advisory Committee to the U.S. Commission on Civil Rights in Austin, Texas, May 27, 1982 (hereafter cited as TX. Transcript), pp. 127-128 and p. 132.

<sup>17</sup>Testimony before the Oklahoma Advisory Committee to the U.S. Commission on Civil Rights in Oklahoma City, Oklahoma, June 21-22, 1982 (hereafter cited as OK Transcript), p. 295

In Arkansas the Legislative and Budgetary Affairs Director claimed that the agencies in that state each handled its own complaints as they developed: "primarily, if someone has a complaint about a program, they make it to the State agency which administers that program, and the procedure is usually handled within each agency."<sup>18</sup> Some state agencies reported very specific review, monitoring and compliance procedures for the categorical programs of the past and were unequivocal in the faith they placed in established mechanisms. In Texas, for example, the Department of Human Resources has had an in-house Civil Rights Division since 1976 staffed by a statewide network of a dozen or so civil rights officers. The Deputy commissioner of that Department assured the Texas Advisory Committee that Title VI (Civil Rights Act of 1964) compliance procedures were still in place and that they "provide for a formal and extensive review of complaints of discrimination in service delivery filed by a recipient."<sup>19</sup>

Juxtaposed to the affirmations that poured out in the statements of federal and state government officials was the testimony expressing disbelief by a multitude of other speakers throughout the five states. The "skeptics" included leaders of block grant coalition groups, directors and staffs of programs for the elderly and the handicapped, legal services advocates, representatives of women's

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<sup>18</sup>Testimony before the Arkansas Advisory Committee to the U.S. Commission on Civil Rights in Little Rock, Arkansas, March 24, 1982 (hereafter cited as AR. Transcript), Panel III, p. 5.

<sup>19</sup>TX. Transcript, p. 205.

organizations and for sure, tribal government officials and spokespersons for Hispanic civil rights organizations.

The league of United Latin American Citizens (LULAC) presented testimony at the consultations in two of the states. In Texas, the past State LULAC Director reminded the Advisory Committee that his state "has historically been far less sensitive to minorities and civil rights than has the federal government" and should not be made responsible for both service delivery and enforcement of nondiscrimination provisions; the latter function should remain a federal charge in order to "insure impartial enforcement divorced from control by the state agencies administering the block grants."<sup>20</sup>

Two other Hispanic organizations testified at the Texas consultation. The San Antonio Director of the Mexican Legal Defense and Educational Fund expressed general opposition by the organization to the block grant program as a whole. At the heart of her testimony, she raised a number of unanswered questions directed at the state of Texas and concluded that:

...we at MALDEF feel the only avenue left to service agencies and advocates is watchdog monitoring. We have no alternative but to monitor the devastating effects and to begin looking at ways to challenge enforcement problems inevitable with the block grant programs.<sup>21</sup>

The American G.I. Forum representative was no more assured of a good faith effort on the part of Texas officials. "State and local

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<sup>20</sup>Ibid., p. 331-332

<sup>21</sup>Ibid., p. 345



authorities will do what is politically expedient," he predicted, and "the poor, elderly, needy, the minorities and handicapped are not a loud voice in the political process"; and even the voices of advocates for disadvantaged groups

will be drowned out by citizen groups that want local control, want states rights .... civil rights compliance will be left to the good conscience of managers and supervisors under pressure of sometimes unconscionable political office holders.<sup>22</sup>

From among the five states in the Southwestern Region, Texas was one of three that reportedly did not have a statewide, central and independent agency to hear alleged discrimination complaints. The consultations in Oklahoma and New Mexico noted the existence there of state level mechanisms to handle human rights issues. But despite this reputed advantage, in New Mexico at least, the State Human Rights Commission was not perceived as a viable replacement for its federal equivalents. "Every time the Legislature meets," said the Executive Director of the Albuquerque Human Rights Office, "a major effort is made to abolish the (state) Commission," a signal that "a significant number of our legislators have not taken seriously the need to protect our Civil Rights, or the enforcement of nondiscrimination."<sup>23</sup> To reinforce his point, the Director reminded the Advisory Committee of the 1982 reapportionment plan passed by the Legislature only to be ruled unconstitutional by the federal courts a few months later. With this fresh example,

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<sup>22</sup>Ibid., pp. 372-373

<sup>23</sup>NM. Transcript, Vol. I, p. 13.

it is plain to see that the states, left to their own discretion will without federal guidelines, continually resort to formulas and measures that are not only in violation of federal statutes, but also in violation of the United States Constitution.<sup>24</sup>

Both the Omnibus Reconciliation Act and the implementing regulations of the Department of Health and Human Services provided for direct funding of some of the block grant programs to Indian tribes and tribal organizations. A total of five were made available for direct funding: (1) community services, (2) preventive health and health services, (3) alcohol and drug abuse and mental health services, (4) primary care, and (5) low-income home energy assistance. The Act itself simply stated that the Secretary held discretion to determine whether a petitioning tribe would be "better served" by means of a direct grant versus state administration of all allotted block grant funds in the state. To be eligible, the tribe or tribal organization has to meet the requirements of the Indian Self-Determination and Education Assistance Act. The one stipulation for the requesting tribe, however, was that the funding amount reserved for the tribe would be on a formula basis as a ratio amount applied against the initial allotment granted to the state.

The implementing rules of the Department included an elaborate statement saying that the Secretary determined that "members of Indian tribes and tribal organizations would be better served by direct Federal funding than by funding through the states in every instance that the Indian tribe or tribal organization requests direct

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<sup>24</sup>Ibid., p. 14.

funding"<sup>25</sup> ( emphasis added). The ruling was prefaced by reference to the Act's provision which recognized the government and tribes as well as the provision for implementing the standing policy on Indian Self-Determination.<sup>26</sup>

Despite the regulation seemingly in favor of direct tribal participation in the block grant program, the consultations in New Mexico and Oklahoma produced a long list of complaints from the invited tribal Governors and other representatives:

1. Tribes were not eligible for four of the block grants at all;
2. Only the community services and low-income assistance programs were automatic since the three health block grants required prior funding under the categorical programs, a condition that excluded the majority of tribes;
3. Eligibility by itself did not provide a great deal of incentive to apply since many tribes could not afford to share in the administrative costs of implementing the programs, a distinct disadvantage when compared with the tax bases of state and local governments;
4. For the smaller tribes, the funding formula channeled awards of worthless amounts, e.g., the Fort Sill Apache Tribe in Oklahoma reported an allotment of \$149 from the community services block grant;<sup>27</sup>
5. Urban Indian organizations were not eligible for direct funding due to the Secretary's determination in the regulations that such organizations do not have a government-to-government relationship with the United States.

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<sup>25</sup>Department of Health and Human Services, "Block Grant Programs Final Rules," Federal Register, July 6, 1982, p. 29480.

<sup>26</sup>Ibid.

<sup>27</sup>OK. Transcript, p. 265

With the many problems associated with eligibility rules and implementation requirements, tribes could elect, of course, not to apply for direct funding but be served by state agencies and their network of provider groups. But this prospect did not generate much enthusiasm either. According to the chairman of the Eight Northern Indian Pueblos Council in New Mexico,

...Indians have traditionally had a hard time getting funds and services from some State agencies. The only recourse (in the past) was to apply directly to the Federal Government for categorical funds or to amass enough evidence of discrimination to force changes at the legislative level.... With fewer Federal controls on State actions, we expect to hear that 'no' more often.<sup>28</sup>

One arrangement allowed for in the block grants was the possibility of provider subcontracts from the state to tribal organizations. This option, however, drew wide opposition. At stake, tribal officials reported, was the foremost priority of all tribes: retain sovereignty as nations via a continued government-to-government relationship with the federal government. "I fear that the Federal government has again approached the Indian people with a plan to further alienate itself from carrying out its trust responsibility," said one tribal Governor in New Mexico, and

If this trend continues and we approved such Block Grant Programs to be allocated by the State, then I believe we would

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<sup>28</sup>NM Transcript, Vol. I, p. 137.

soon become wards of the State.... if those Block Grant Programs fail, where does that leave us?<sup>29</sup>

In Oklahoma, the perceived loss of sovereignty was likewise the main issue in that the block grant program threatened to erase two centuries of unique tribal status:

...the administration...has failed to recognize tribal governments. The treaties and agreements and congressional actions, the court decisions that have transpired for the past two hundred years have verified over and over again that our existence is a true sovereign entity yet we were only given passing recognition in this new federalism....<sup>30</sup>

Tribes in both states were leery of state government requirements that all provider groups form non-profit corporations in order to legally receive block grant funds. "Right now the state...is dangling dollars before the tribes," claimed a representative of the United Indian Tribes of Western Oklahoma and Kansas; "they are saying if you want this money you come in as a private non-private organization or we keep the money."<sup>31</sup> "The States approach of funding Tribes essentially relegates Tribes to the status of a non-profit corporation,"<sup>32</sup> echoed the Mescalero Tribe of New Mexico.

#### Realities and Alternatives: Scenarios for the 1980's

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<sup>29</sup>Ibid, p. 128.

<sup>30</sup>OK. Transcript, p. 256.

<sup>31</sup>Ibid., p. 261.

<sup>32</sup>NM. Transcript, Vol. I., p.145.

The Comptroller General's Report to the Congress cited earlier established that the initial period of transition from categorical to block grants did not produce significant changes in the delivery systems at the state level, except, of course, for the cutback impacts. In the years ahead, however, states stand to gain more experience and confidence in their ability to manage block grant programs. "States can be expected to institute more programmatic and administrative changes."<sup>33</sup>

With experience will come the exercise of discretion over many areas of concern to the ethnic and racial minorities, women, the handicapped and the elderly. Experimentation and subsequent controversy can be expected in critical issues such as

- Eligibility standards and definitions
- imposition of fee for service schedules and other user burdens
- design of program activities and service mix
- targeting of funds including set aside provisions
- fund distribution formulas
- transfer of funds from block grant to block grant
- subcontracting opportunities, costs and trade-offs
- citizen participation processes and mechanisms
- civil rights monitoring, compliance and enforcement systems.

As a minimum, civil rights and other community advocacy groups in the Southwest and elsewhere can be expected to play watchdog roles as changes around the many flexible areas are made in each state. With fifty different state systems and two hundred implementing agencies, odds are that mistakes and arbitrary decisions will be made. Block grant coalition groups have been

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<sup>33</sup>Comptroller General, "Early Observations on Block Grant Implementation, "Report to the Congress of the United States, Washington, D.C., August 24, 1982, p. i

formed at the national level and in most states with monitoring as their principal mission. Some organizations, especially in the provider category, no doubt will be co-opted and find themselves bidding for and accepting subcontracts from the state agencies, serving on state program advisory bodies, influencing state legislatures for more favorable treatment of social programs and generally buying in-to New Federalism and the system of state control. Little support can be expected from national service organizations and support networks as they are eliminated or substantially crippled.

Only the die-hard civil rights organizations that are independently financed can be expected to confront New Federalism through other channels. Some may turn to the courts as they find that the protections called for in the statutes become increasingly jeopardized. This scenario envisions a series of test cases challenging state actions on key issues such as recipient eligibility, targeting criteria, funding cut-offs, citizen participation, access to services and information, adequacy of state systems for the filing and disposition of complaints, due process, uniform standards, and others. Litigation could be costly.

To challenge or to buy-in seems to be the choice of minority and other organizations of the disadvantaged through the rest of the 1980's. The provider organizations of services to the elderly, handicapped, farm-workers, and other disadvantaged groups will have no choice but to buy into the system, unless, of course, they opt

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to dissolve and thereby leave their clients with one less support group. Ongoing and short-term needs no doubt will persuade these organizations to remain in business and strike the best deal they can with the state implementing agencies. Only the most effective programs, politically and in terms of performance, will survive the decade.

The new politics of Civil Rights will be left to an even smaller group of advocacy organizations, fueled largely by membership contributions, private funds, and a lot of volunteer time and in-kind services. By the middle of 1984 the advocates will have mobilized against the cumulative actions of the Reagan administration, from the initial efforts to dilute the Voting Rights Act of 1965 to the more recent attempt by the Office of Management and Budget to debar non-profit organizations who engage in routine advocacy activities while receiving federal funds. As proposed by the Administration, non-profit organizations would face debarment or suspension should they directly or indirectly use federal funds to influence administrative processes, government decision, regulations, guidelines, and policy statements of any level of government, federal, state, or local!<sup>34</sup> This proposed regulation jolted the entire non-profit sector when it was published in the January 24, 1983, issue of the Federal Register, and pressure soon began to mount overwhelmingly to defeat its adoption.

What's next? Civil rights or states' rights? Can we have both? The 1980's will tell the story. Stay tuned.

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<sup>34</sup>See Office Management and Budget, "Cost Principles for Non-Profit Organizations," Federal Register, January 24, 1983, pp. 3348-3351.