

# 1 LEVIATHAN'S RESILIENCE

In the Spring of 2018, a movement for increased education funding arose in a curious constellation of Red states. West Virginia teachers walked out in protest over low wages and health costs, winning concessions from a Republican-controlled state government and sparking a broader wave of protest. Oklahoma teachers walked out as well, winning funding and staffing increases, while also sparking Republican primary challenges and Democratic general election victories in support of better-funded education. In a “Red for Ed” mass mobilization, Arizona teachers won raises and school funding from their Republican-controlled legislature. Kentucky teachers became successful candidates, protesters, and lobbyists, forcing significant changes to pension reforms. Protests in North Carolina and Colorado had more limited success but did help stimulate legislative and electoral backlash. In states like South Dakota, Kansas, and Georgia, pre-emptive concessions limited further teacher mobilization.

Most of these states had limited unionization (with some teachers only organized in associations without striking capacity), but nonetheless union officials and liberal activists nationwide were energized. Even without statewide collective bargaining, activists managed to organize teachers and convince the public and policymakers to support liberal policy positions, often impacting non-education debates by causing taxes to be raised, tax cuts to be scaled back, or state budgets to be revised.

In some ways, these mobilizations and their policymaking success were responses to significant rightward moves in state policy,

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which in turn stimulated a backlash by Democratic-leaning constituencies and voters. The upsurge came at the end of a long period of rising Republican and conservative dominance in the American states. In the eyes of their advocates, teachers were simply responding objectively to the reality they were faced with: that of a stingily funded education system. But the revolt's breadth and success also point to some inherent limits to conservative governance. Cutting back on the size and scope of government is popular in principle, but students being forced to attend underfunded schools without teachers is not popular in practice. The implications of reduced funding for state responsibilities, education and health care chief among them, create predictable repercussions for Republicans focused on cutting taxes and stimulating the private over the public sector.

The conservative movement that took power in the Republican Party in the twentieth century – and the party's politicians and activists that took control of American state governments in the 1990s, 2000s, and 2010s – wanted to overcome these constraints to enact a fundamental restructuring of government, but they have succumbed to the same limitations that have long bedeviled conservative governance. The more pessimistic predictions of liberals resisting increased Republican electoral success have also failed to come to pass. Even in Red America, liberal policy positions remain popular, and liberal movements are able to succeed with Republican politicians and voters. The teachers' uprisings provide an opportune moment to evaluate just what Republicans have managed to achieve in state governments with their increased control, as well as examining why their legislative and policy ambitions have not been fulfilled to the extent many had anticipated.

### **Republican Renaissance or Disappointment?**

By the early 1990s, Republicans had been the minority party in the American states for decades. Since the 1930s, aside from a few brief mid-century periods, they had controlled a minority of state lower (house) and higher (senate) chambers, as well as having a minority of legislators in every year – usually by large margins. Since then, though, they have experienced a sharp electoral rise. From 1990 to 2016, Republicans gained 813 state house seats, 360 state senate seats, and

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23 governorships – moving from full control of just three states to full control of 23 states.

The Republican Party arose in the 1990s not through moderating its positions or adapting to local circumstances, but by becoming a full-throated national conservative party responsive to an activist base. Its call was to roll back decades of liberal advances and remake America into a country of traditionalist values and limited government. Just as Newt Gingrich led a 1990s Congressional Republican resurgence with a detailed agenda, promising a new “Contract with America” and an attendant series of policy reforms, 29 state Republican parties also began the 1990s by committing themselves to comprehensive action plans for conservative government.<sup>1</sup> Proposals from conservative think tanks, activists, and state legislators ripened into a full plate of policies to address education, crime, welfare, health, housing, family decline, the environment, taxes, government spending, gambling, privatization, torts, and political reform.<sup>2</sup> Republicans, as the more nationalized of the two major American parties, had developed mature institutions – such as think tanks, state legislator associations, and grassroots networks – to promote conservative goals. With an extensive array of conservative policy proposals on the table and big promises made, voters were now granting them the power to enact their agenda.

Republicans moved into power as conservatives advanced the objective of making the states the primary sites of their policymaking renaissance. Congressional Republicans sought to devolve power away from national government and toward the states. In his first speech as Senate Majority leader in 1995, Bob Dole said “we will continue in our drive to return power to our states and our people.” New Speaker Gingrich declared “we are committed to getting power back to the states.” Even President Clinton agreed, claiming government should “ship decision-making responsibility and resources” to lower levels, including states.<sup>3</sup> Reporters largely bought the story, claiming that the political action would soon move to state capitols, where the Republican revolution would make its true mark.

What do Republicans have to show for their electoral gains and conservative policy advances? Political scientists Theda Skocpol and Alexander Hertel-Fernandez see a “persistent imbalance between right and left in state-level organizational prowess” with “right-wing political networks [achieving] striking victories.”<sup>4</sup> Republican governors like Wisconsin’s Scott Walker and Kansas’s Sam Brownback,

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according to both their admirers and critics, are said to have fundamentally changed their states. Liberals are now seeking to emulate what they see as conservative success, building equivalent organizations and refocusing on state politics.

When it comes to policy, however, Republican success is overstated. I argue that the Republican Party's widespread gains in state legislative and gubernatorial elections over the past quarter-century have resulted in only limited success in changing state policy direction or affecting social and economic outcomes. Despite a more conservative and ascendant national party, Republican-controlled state governments have not reduced the size or scope of state governments, overcome long-standing state idiosyncrasies in policy and practice, reversed prior liberal gains, or enacted a substantive policy agenda that advances conservative values and goals.

That is not to say that Republicans have had no successes. Instead, Republicans have slowed liberal gains in the states. They have also advanced several important policies, some of which have achieved their proximate goals. Most strikingly, they have been remarkably effective at staying in power. However, both the impact Republicans have had on policy as well as the impact their policies have had on the social and economic life of the states has been surprisingly constrained.

As we shall see, the limited success Republicans have had in translating their electoral gains into impactful policy victories is the product both of inherent governing challenges facing conservative parties worldwide, as well as the dependence of US states on federal policy and national socio-economic trends. Sustained conservative policymaking is difficult: the scope of government tends to expand over time and programs are rarely dislodged, with social changes more often codified than reversed. Of the policies that do come into being, the effects on real-world outcomes such as economic growth and societal well-being tend to be small; conservative policies are limited by design and then tend to be diluted or counteracted by bureaucracies that implement them. This adds up to two critical limits to Republican policy results: policy goals that are often not achieved and policies that pass but fail to have broad social and economic impact. Both make it difficult to translate Republican electoral victories into lasting change.

## Polarization and Power Without Results

Republican and Democratic politicians now present completely different visions of government. Voters have increasingly joined them, splitting along partisan lines across many issues and behaving as if team players in support of their preferred party. Citizens expect positions articulated in election campaigns to translate into real results when a party has an opportunity to govern. But the Republican Party has long had trouble translating its broad campaign messaging into tangible policy results.<sup>5</sup> Its goals of reducing the size and scope of government and limiting social change are inherently hard to achieve. Conservative policy change is difficult worldwide, but even so the Republican Party stands out in the distance between its professed agenda to roll back government's advance and its actual results in office. Both conservative activists and critics from the left complain that Republicans have failed to carry out their promises when in power – at least at the federal level. The American states, at the center of a recent massive political shift to the right, offer a good opportunity to properly assess Republican rule.

Looking at the political map in 2017 compared to 1992, Republicans had gained full control of 23 new states, controlling both houses of the state legislature and the governor's office in states they did not previously control, without losing control anywhere.<sup>6</sup> Policymakers in the states are now much more conservative than their predecessors and Republicans now hold much larger legislative majorities in most states. Some argue that their control has yielded results, pointing to roll-backs in union power and electoral rules that advantage the party. Portraits of the Koch brothers' network even claim that Republicans have transformed the states, urging liberals to copy their tactics in order to compete effectively.<sup>7</sup>

What, though, has the Republican revolution in the states yielded in terms of policy change and real-world results? The picture is mixed. For the most part, Republican-controlled states are not innovating in new policy adoptions or overturning prior Democratic policies. They have made progress on some social issues such as abortion and gun control, but these policies have not had broad social or economic effects and are counter-balanced by nationwide liberal gains in other social-issue areas such as gay rights and drug policy. Republicans have made even less progress in scaling back the size and scope of

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government; long-standing state differences in policy priorities and government's breadth remain while nearly all states are continuing to increase government's share of economic activity. Where conservative policies have passed, there is little evidence that they have made a difference in important outcomes such as economic viability, health, innovation, or quality of life. In determining the relative standing of the states, the limited policy gains made have proved no match for broad regional and national demographic and socio-economic trends.

The results of this book challenge established views of politics and policy. In public debate, Republicans are portrayed as state capitol conquerors, with Democrats protesting against what they see as the exercise of unprecedented Republican power. Academics claim that party control of legislatures matters more than ever for the liberalism of state policy; that although state parties used to adapt to regional cultures, they now pursue and achieve nationalized agendas. All this presents a distorted picture. It is the (few remaining) Democratic majorities that have been more successful than their Republican counterparts in advancing new policies. Neither party has significantly altered state trajectories, but Democratic majorities have continued to expand government's scope at a faster rate.

The results suggest that the conventional policy trade-offs attributed to liberal and conservative policies are no longer evident. There is no clear choice between growth and equality – the normal outcomes supposedly associated with smaller and larger governments – or between economic protection and innovation (as few industries can be effectively protected or stimulated). Policies can work to marginally impact these outcomes, but not to meaningfully alter state trends. Despite regular claims that Texas or California are modeling “Red state” or “Blue state” successes or failures, most state outcomes are the product of either non-political factors or long-standing differences. Newly Republican states have not shifted their policies enough to stimulate socio-economic or cultural change.

### **Why Republican Electoral Gains Don't Translate into Conservative Policy Results**

As early as the nineteenth century, German economist Adolph Wagner proposed that the size and scope of government expand over time in response to economic and social change, political pressure, and

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path-dependent historical development (the phenomenon is sometimes known as Wagner's Law). Libertarian Robert Higgs outlined the many reasons for this built-in pressure for expansion. These include:

- modernization, economic transformation, and urbanization creating new social problems;
- tax collection and program administration becoming increasingly feasible;
- progressive social impulses and democratization leading to new policy proposals;
- wars and economic downturns creating crises, increasing state power without fully reverting;
- political and policymaking activity becoming routinized, making it available for facilitating action;
- new agencies and legal precedents enabling fresh claims for rights or benefits;
- past policies creating bureaucrats and experts who push for new and expanded policies;
- social organizations such as businesses and interest groups enlarging over time, facilitating larger bureaucracy;
- popular expectations adjusting to broader government roles in society.<sup>8</sup>

Early state development is thus path dependent, with increasing returns to continuing down the same path; the large fixed costs involved in the set-up of programs – plus learning, coordination, and adaptive expectations by beneficiaries and implementers – make it unlikely that program development is reversed or past policy regimes are overturned.<sup>9</sup> Because prior government benefits and regulatory regimes create constituencies, programs and roles are difficult to undo. Even in moral and cultural issues, conservatives tend to fight losing battles in their role as protectors of traditional norms facing social change.<sup>10</sup> Americans have collectively liberalized social norms, become more socially tolerant, and grown progressively less constricted over 200 years.<sup>11</sup> As a result, conservative policy achievements are less frequent than liberal victories, and are usually paired with expansions of government and accelerations of social change in other domains.<sup>12</sup>

Though all policy is difficult to enact, the retrenchment of existing policies is thus more difficult than other types of political action. If a health care program is established, it creates or expands the community of beneficiaries, administrators, and experts who are aligned with the policy's goals, and who gain directly from its continuation

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and expansion. It also makes all actors, even those who might prefer an alternative, accustomed to it, with the public and policymakers taking its continued presence for granted when making decisions. Social norms and other programs may also evolve to interface with it. Medicaid, for example, was not initially embraced by every state and was not nearly as expansive as it is today. Now all kinds of actors – from nursing homes to hospitals to short-term employers – are heavily invested in it, and the policy has become overwhelmingly popular. Some states may refuse to expand it (as 14 states did recently), but few actively contract its scope (and as voters in Utah, Idaho, Nebraska, and Maine have shown, voters may eventually demand their preferred expansion). It is a common story of social programs everywhere: they are difficult to create but even more difficult to contract.

Governors, as overseers of state bureaucracies as well as policymaking participants, tend to be wary of cutting programs, curtailing benefits, or taking on their underlings. That matters for conservative policy success because governors are consistently more influential in guiding budgetary choices than other policies. Studies of gubernatorial agendas announced in State of the State addresses show that they obtain about 70 percent of the size of their budget requests, and that successful budget requests account for a large share of the 41 percent of their proposals that legislatures enact.<sup>13</sup> However, these requests are not driven by ideology: 65 percent of requests made by Democratic governors are for increasing spending, but then so are 57 percent of the requests made by Republican governors. A plurality of governors (even in public speeches) also call for tax increases, rather than cuts. In addition, governors are more focused on education and economic development than on social issues or political reforms, but successes in the areas they emphasize are driven more by economic prospects, state institutions, and timing than by their party's legislative seat share or the nature of their proposals.<sup>14</sup> This may be why early studies found little effect of gubernatorial partisanship on state spending, with some even suggesting an inverse relationship with Republicans spending more.<sup>15</sup>

As the federal government expands, it also provides new incentives (even sometimes requirements) for state government expansion. Federal policies have dramatically increased state responsibilities and constraints on state actions, adding state tasks and reporting requirements.<sup>16</sup> Across 22 policy areas, Congress and the Supreme Court have steadily expanded federal authority over time – especially

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during the 1930s, 1960s, and 1970s – with no later return to more limited state oversight.<sup>17</sup> They have even more steadily increased the conditionality of federal grants to states – money now comes with a lot more strings.<sup>18</sup> In addition, Congress has continually increased the federal role in state budgets, the responsibilities of governors to submit plans for federal approval, and the requirements for cooperative state–federal enforcement.<sup>19</sup> Congress anticipates state responses and implements expansionary policies with its own goals in mind, delegating or decentralizing decision-making and authority only where it serves national goals.<sup>20</sup> Even in a polarized era, there is significant bipartisan cooperation in implementing federally pushed policies – partisan allies of federal policy opponents, facing local pressures, cannot be counted on to oppose federal initiatives once they reach lower levels of government.<sup>21</sup> Nationwide organizing by state officials can provide opportunities for new state action (such as the joint state action to resolve tobacco industry complaints), but the results usually serve to extend government's scope.<sup>22</sup>

The largest state policy reform movements of recent decades have all been led by federal policy change. Social welfare spending increased dramatically before the 1996 Personal Responsibility and Work Opportunity Act, a large reform and consolidation that instigated a new round of state welfare roll cuts (but was also associated with an increase in state and federal earned income tax credits). Major state education reforms were required under the 2001 No Child Left Behind Act and its extensions, which increased testing, funding, monitoring, and assessment requirements, as well as specialty programs. The largest changes in health policy were driven by the Affordable Care Act, which, alongside a federalization of insurance regulation, led to huge expansions of Medicaid in most states. The largest components of state budgets – health, education, and social welfare – are thus not fully at the discretion of states, even when powers are allegedly devolved. Overall, despite continued efforts to decentralize decision-making, the United States has slowly centralized over the past 200 years, with centralizing spurts during the 1930s and 1960s–1970s that were never reversed, while states have retained fiscal responsibilities with extra federal strings.<sup>23</sup>

Many nationwide trends also leave states without effective policy options. The population is shifting South and West, regardless of Northern states' efforts to stem the tide. Firms invested in the global

economy are favoring financial capitals and enlarged enterprises, limiting where they want to invest resources. Policies, such as those designed to revive Rust Belt cities or build export industries, often work against these strong headwinds. Meanwhile, society is diversifying and secularizing, with population growth driven by recent international migrants and religious institutions losing membership nationwide. Conservative desires to resuscitate large and traditional families or small-town religious piety do not suggest obvious policy levers to affect these long-term trends.

At the federal level, conservatives respond to the infeasibility of shrinking government or reversing social change by focusing on policy priorities that are not subject to these difficulties, such as increasing defense spending and cutting taxes without cutting social spending (thereby increasing the deficit). But neither of these policies is available in the states, nearly all of which have balanced budget requirements and where there is no obvious category of spending that conservatives are in agreement on expanding. This means states cannot easily focus on popular Republican policies (such as tax cuts) without also making changes that are substantially less popular (such as cutting education).

State institutional trends also contribute to conservative difficulties. By the time Republicans gained power in the 1990s, state legislatures had undergone a “professionalization revolution” between the 1960s and 1981, becoming more like Congress with developed committee systems, electoral careers, and increased workloads.<sup>24</sup> Nearly every state professionalized dramatically over the twentieth century, increasing legislative time demands and salaries, as well as building centralized legislative institutions.<sup>25</sup> Increasing professionalization led to more complex regulatory policies, more progressive immigration policies, and higher education funding.<sup>26</sup> Professionalization increased government capacity and stability, while courts and federal mandates also increased policymaking requirements.<sup>27</sup> In short, professionalization produced liberal governments of expanding capability.

Other institutional changes also mitigated conservative success. Term limits, even though often implemented by conservatives, raised the costs of legislating while increasing the role of other long-term state actors.<sup>28</sup> State lawmaking institutions remain complex and difficult to navigate, with new legislators facing challenging work adjustments and competing time demands due to constant fundraising and campaigning. Supermajority requirements to raise taxes, another