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ACTING LOCALLY

Stuart S. Malawer: Trump's foreign policy and the new federalism.

By Stuart S. Malawer (June 17, 2017)



A new aggressive and proactive federalism seems to be evolving in the United States.

This newer federalism promotes global engagement and observation of international rules. This is remarkably different from the older version that supported states' rights and segregation and was primarily based in the South.

Today, we see a rapidly evolving anti-Trump resistance in the widespread movement for “sanctuary cities” and the more recent “city-state climate coalition.” Virginia is one of the most recent members of that coalition.

These local actions by cities and states are in opposition to President Trump’s national policies relating to immigration enforcement, the rejection of the Paris Climate Accord, and a general contempt for a rules-based international order.

In particular, these policies relate to trade, climate change, immigration, multilateral alliances, and almost any international agreement that restricts the United States from taking unilateral actions. These historical changes have occurred under the claim by President Trump of protecting the United States and its national sovereignty.

Cities, counties, and states are taking the lead in interfacing with the global economic system to promote local economic development and jobs.

What else can be said?

This incipient development on city and state levels results from President Trump’s isolationist retreat from America’s engagement in the global system. This engagement has been a hallmark of U.S. foreign policy since before 1945. This incomprehensible retreat by the world’s most powerful nation has seemingly been done with little thought and even less collaboration with Trump’s key national security, military, and foreign policy advisers. Some advisers, however, have seemingly betrayed their own competence by recently declaring there is no longer a global community.

This atavistic retreat to isolationism is a rejection of the rules and institutions that have marked U.S. engagement in international relations since the end of World War II. That engagement had its earlier grounding in the United States’ participation in World War I and then in the 1930s under President Roosevelt’s Open Door Policy and his revamping of U.S. trade policies under Secretary of State Cordell Hull.

Those policies espoused open trade, adhering to the most-favored-nation principle as a life-saving antidote to the competitive tariff hikes globally, which had led to the Great Depression. That principle was later multilateralised in the post-war international economic system. This system persists today, but it is under attack by the Trump administration. Most recently, this is seen in its refusal to sign the historic OECD treaty on multinational tax avoidance and bilateral tax treaties signed by 70 other countries recently.

With only a slight knowledge of U.S. diplomatic history, one can draw a straight line from President Woodrow Wilson’s plea to Congress to stay involved in the global system after the Great War (only to see the League of Nations, the Permanent Court of International Justice, and the Versailles Treaty defeated in the U.S. Senate) to President Trump’s

nihilistic foreign policies today. Of course, nothing good came from the failure of President Wilson's efforts. Twenty years later, German troops marched across Europe.

The resurgence of the states' and cities' roles in foreign affairs is reminiscent of the role states had under the Articles of Confederation immediately after the Revolutionary War in the 1780s. This is seen even going back to the Middle Ages, when states and cities were the central players in international trade, as part of the Hanseatic League within the Holy Roman Empire.

Today, it is the global city and cities of all sorts that are powering international engagement, innovation, and economic development. Cities, counties, and states are taking the lead in interfacing with the global economic system to promote local economic development and jobs.

What we see today are unprecedented actions by the United States on the global stage causing more disorder and insecurity. Just witness the recent flare-up in relations with Qatar and growing Saudi-Iranian hostilities instigated by President Trump's visit to Saudi Arabia. To many, these actions and policies evidence failed national leadership and bizarre foreign policies.

We are now encountering unprecedented actions on the sub-national level, among city and state governments as a reaction to failed national governance and as blowback to skewed populism. These actions have been powered by extensive and broad-based individual and corporate support.

These activities are growing in intensity. For example, state attorneys general have been energized in bringing judicial challenges to Trump's policies, most notably to immigration. Canada has begun negotiating directly with the states and cities that are members of the new climate coalition. Cities and states are expanding their sister-city and sister-state relations abroad. Most recently Virginia, completed a memorandum of understanding with the Mexican state of Baja California to promote trade.

Whether the Trump administration and its Justice Department will attempt to block these grassroots political actions by resorting to the federal courts is another question. Of course, these courts have not been very favorable to the administration's actions and its reliance on national security and the president's foreign policy powers, under either the principles of the separation of powers or federalism.

Thus, the growing opposition of cities and states to President Trump's failed foreign policies are spawning a new proactive federalism focusing on locally generated foreign policies. This is setting up a legally and politically historic battle over the new federalism.

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