

BOOK MARKS

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Book Review

Scandal Proof: Do Ethics Laws Make Government Ethical?

G. Calvin Mackenzie

2002, the Brookings Institute, Washington, DC.

Calvin Mackenzie's book, *Scandal Proof: Do Ethics Laws Make Government Ethical?*, is a concise, yet comprehensive, retrospective analysis of the development of ethical policy in the American federal government from the time of the American Revolution to present day. The author focuses his examination on ethical legislation that has limited executive branch employees, particularly appointed administrators, in the performance of their duties. He describes the impetus for restrictive ethics regulation at the federal level as the perception of scandalous behavior in public office, which brings about new legislation with every newly elected presidential administration.

Mackenzie says an expanding cycle of legislative control, in an effort to deter corruption, has created an illusion of regulation by failing to address the actual behaviors that comprise corruption in government. Instead, a bureaucracy of perpetuating enforcement has created an unending appointment process that burdens every presidential administration with a culture of continuous investigation. Added to this equation, is the changing standard of acceptable behavior in government office and in society as a whole. Fueled by multiple policy windows that have altered the methods of influencing policy, ethics regulation has become more encompassing. And, the nature of corruption has adapted to these expanding standards. Mackenzie says population growth accompanied by an increase in government services, and the financial liability that goes with them, have complicated the situation to a point of inefficacy.

The author presents two pivotal moments in time as the main springs to the current situation that surrounds ethical regulation in government. The first is the growth of government that began with President Franklin's 1930's New Deal followed by the expansion of the American role in the world after the Second World War. New social welfare and world stewardship roles were assumed to have stimulated growth in government not previously experienced. Mackenzie accentuates this point by declaring, "Big government arrived in mid-century, and has never left" (p. 5).

The second is President John Kennedy's 1961 initiative for new ethics legislation based on his Ethics and Conflict of Interest in Government advisory panel's denunciation of the "inconsistent, overlapping, and, in some cases, contradictory" (p. 22) ethics regulations existing at that time. Congress responded with new enforcement legislation. Since then, each succeeding presidential administration has added to the ethical requirements for public service in the federal government through a stringent reliance on enforcement regulations. Ironically, a reciprocating cycle of presidential emphasis on ethics to appease public sentiment has limited the flexibility of the president.

The momentum begun by President Kennedy culminated in The Ethics in Government Act of 1978. This law was aimed at restoring the confidence of the American people in government following the Watergate Scandal of the early 1970's. It established a framework of ethics regulation that has since been continuously amended in piecemeal fashion. The author maintains that the resulting outcome is an overabundance of regulation that does little to address the misbehavior characteristic of the Watergate Scandal, but tightens the regulatory net of enforcement that invades every aspect of federal employment. The end result is a declining pool of candidates for presidential appointments and a reduction in the implementation of public mandates.

Mackenzie presents a justifiable argument in support of his premise that the excessive ethical regulation of federal employees is smothering government efficiency and effectiveness. He proposes that trust in government officials by the American people has declined despite the immense infusion of ethics regulation. In conjunction with this phenomenon, political party affiliation has steadily declined in the face of rising political controversy. Ultimately, he says the accumulation of ethical regulations has not improved the level of government integrity.

New regulations are creating an enclave of special prosecutors dedicated to the investigation and enforcement of possible violations, whose costs are increasingly measured in agency growth and workload. The emotional burden and embarrassment of an encumbered appointment process has discouraged some of the most qualified candidates away from government service, especially in scientific and technical areas. Mackenzie describes a "winnowing" process that deters not only qualified individuals, but also the types of people who can be considered for presidential appointment. Out of apprehension for certain aspects of their lives, the most desirable appointees refrain from participating in the Congressional appointment gauntlet. While, the "indecisive, incompetent, or boring" (p. 136) take their place. In the meantime, presidential staffing becomes muddled, drawn out, and unceasingly transitory.

The first of three hidden costs of the ethics policy is described as an investigative culture in American politics that adds to the bureaucratic inefficiency of government. Constant oversight produces overcentralized structures and procedures based on massive administrative duplication of effort. A second hidden cost is continuous partisan combat distinguished by character assassination. The presumption of innocence until proven guilty has been reversed by premature public

disclosure of charges in the media. The third cost of current ethics policy is the damage it inflicts on presidential leadership. As a result of their own contributions to ethics policy, presidents have found it more difficult to recruit and retain talented appointees. Additionally, each successive presidential administration is kept on the defensive by a constant barrage of ethics probes that challenge the moral authority of the office.

Mackenzie concludes his review by stating that government cannot be made scandal proof, and the costs of trying to do so far outweigh the benefits. Political accountability of the executive branch is undermined by current ethics policy and needs to be restored through deregulation of these policy constraints. The author provides several sound and justifiable recommendations to correct the situation. The most prominent of which is responsible accountability at the top levels of government for the actions of their subordinates. He says trust has been lost with the accumulation of ethics restrictions placed on federal employees and can only be restored by a redirected reliance on the electoral process to ensure accountability.

The book is well organized and written with detail for factual reference that logically supports his premises on ethical regulations in the federal government. It is a book that can be recommended for the study of ethics history, its development, and the current status of ethics regulation. The author contributes viable solutions to the foremost problem that he perceives as affecting the executive branch in the execution of its public obligation. *Scandal Proof* is well worth reading and would make a worthy addition to any course syllabus.

Biographical Sketch

Randall Miller is an Assistant Professor of Public Administration at Augusta State University. A retired fire service officer and Army Reserve officer, Dr. Miller's research interests are in leadership, organizational structure and ethics in the public sector. Randy can be contacted by email at rdmiller@aug.edu