

BOOK REVIEW OF *REORGANIZING GOVERNMENT: A FUNCTIONAL AND DIMENSIONAL FRAMEWORK*, BY ALEJANDRO E. CAMACHO AND ROBERT L. GLICKSMAN

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The perennial question of how to allocate authority among different governmental entities is as important as it is complex. For many years—often in specific contexts—this issue has attracted considerable interest among congressional policymakers, executive branch officials, scholars from various disciplines, regulated parties, journalists, and entities responsible for evaluating governmental performance (such as the Government Accountability Office). In fact, policymakers and scholars have presented a number of differing normative concepts intended to guide government reorganizations. These include, among others, the legal process school¹ and the “structure and process” approach,² in addition to policy analysis that draws heavily upon economics and statistical analysis.³ In *Reorganizing Government: A Functional and*

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1. The legal process school urged that decisionmaking authority should be allocated to “the institutions best suited to decide particular questions.” See HENRY M. HART, JR. & ALBERT M. SACKS, *THE LEGAL PROCESS: BASIC PROBLEMS IN THE MAKING AND ALLOCATION OF LAW* (10th ed. 1958); Ernest Young, *Institutional Settlement in a Globalizing Judicial System*, 54 DUKE L.J. 1143 (2005).

2. Advocates of the structure and process approach argued for enhanced political control of administrative decisions through increased legislative monitoring of agencies and the use of administrative procedures to enfranchise various constituencies. See, e.g., Matthew McCubbins, Roger G. Noll & Barry Weingast, *Administrative Procedures as Instruments of Political Control*, 3 J.L., ECON. & ORG. 243 (1987).

3. See Gillian E. Metzger & Kevin M. Stack, *Internal Administrative Law*, 115 MICH. L. REV. 1239 (2017); Richard Elmore, *Graduate Education in Public Management: Working the Seams of Government*, 6 J. POL’Y ANALYSIS & GOV’T 69 (1986); Lester M. Salamon, *The New Governance and the Tools of Public Action: An Introduction*, in *TOOLS OF GOVERNMENT: A GUIDE TO THE NEW GOVERNANCE* (Lester M. Salomon ed., 2002).

Dimensional Framework, Professors Alejandro Camacho and Robert Glicksman present an original and fine-tuned approach to assessing proposals to reorganize government institutions and distribute regulatory authority among them. The authors assert that policymakers should separately consider the different functions that governmental entities perform (e.g. gathering information, analyzing information, disseminating information, planning, setting standards, and enforcing regulations) when policymakers deliberate potential allocations of governing authority. Additionally, the authors argue that policymakers should focus on three separate, but related, spectrums, referring to them as the “dimensions of authority.” These include centralization, overlap and coordination.

As the authors see it, policymakers who make organizational design decisions should consider the extent to which regulatory authority should be “centralized,” in a single agency or level of government, or “decentralized,” divided among multiple agencies or governmental levels. In effect, this categorization parameter is concerned with the scale of the regulatory authority that could be allocated.

Decisionmakers must also discern where, along a continuum of overlapping and distinct allocations of authority, a reorganized governmental arrangement should be located. At one end of this range, governmental authority is lodged in one or more agencies, each holding a regulatory authority that is entirely different from that of any other agency. At the other end of the spectrum, two or more agencies share undifferentiated “overlapping” regulatory authority over the same field; their regulatory authority is entirely concurrent. In contrast to the centralization-decentralization parameter, the overlap-distinction dimension concerns the extent to which regulatory authority co-exists.

Finally, the authors urge that policymakers focus on how—and how much—multiple regulatory authorities are commanded or encouraged to communicate, collaborate, and coordinate their activities when addressing a substantive problem. Here too, a reorganized institutional proposal must be located along a spectrum. At one end of that scale there is a framework in which regulatory entities are highly isolated and independent as to their regulatory activities. At the other end, agencies are engaged in close coordination and collaboration in their regulatory work.

The authors perceptively recognize that there is no perfect arrangement for organizing government, and that efforts to do so inevitably involve tradeoffs. Thus, for example, centralization of authority may take advantage of economies of scale, yet decentralized authority seems better suited to leveraging local knowledge and expertise and adjusting regulation to local conditions. Overlapping authority may increase the likelihood of regulatory action, yet clearly delineated jurisdiction may be more swift and efficient.

Coordinated government authority may promote interagency dialogue and coordination, yet excessive coordination may discourage a healthy competition that can promote regulatory innovation and desirable experimentation. *Reorganizing Government* prudently refrains from expressing a global preference for any one approach within each category. Instead, the authors recommend approaching every organizational decision separately, in its unique context. This is an especially logical approach given the immense variety of issues and factors that policymakers typically face.

Moreover, the authors persuasively contend that past efforts at government alignment have failed to account for the full array of possible alternatives. In their view, unsystematic reorganization efforts have often led to mismatches between perceived structural defects and the allocations of authority selected to remedy them. To illustrate this critique, the authors present an enlightening and thoroughly documented set of case studies, drawn from disparate areas of governmental regulation, that vividly portray past failures (and some successes) in restructuring the responsibilities of government entities. The authors' case studies consider issues of decentralization of food safety regulation, overlapping responsibilities for pollution control, interagency coordination under the National Environmental Policy Act and the Endangered Species Act, derivative swap regulation, coordination of national intelligence organizations, and agency overlap in federal banking regulation. In each case, the authors demonstrate how their own analytical framework could have been employed to avoid the shortcomings of well-intended, yet poorly thought-through, attempts to reorganize the government agencies in question.

In addition to providing case studies of inadequate past reorganization efforts, the authors skillfully employ their own tools of analysis to evaluate alternative jurisdictional arrangements for regulating the increasingly urgent problem of climate change. They address three distinct climate change-related challenges: adaptation (i.e. reducing the level of harm from climate change), mitigation (weakening the extent and force of climate change), and geoengineering (counteracting climate change by large scale manipulation of the global environment). The authors' discussion of these challenges wisely notes that each one needs to be addressed in a different way with respect to issues of centralization or dispersal of authority, exclusiveness or overlap of authority, and how much interagency coordination is desirable. They observe that, in each area of climate regulation, initial allocations of authority should subsequently be evaluated and adjusted where needed, taking account of the successes or failures of the organizational structure previously selected and implemented.

The authors' careful, detailed approach to reorganizing government will undoubtedly consume additional time for policymakers, since in nearly every

case it will reveal multiple possibilities for addressing widely-recognized organizational flaws. However, given the vital importance of how governmental agencies are ultimately structured—along with the benefits that will result from identifying the hidden difficulties that ill-considered reorganization proposals may create—the extra time that systematic, detailed analyses could entail is likely to be time well-spent.

Beyond presenting a valuable, workable framework for creating and examining proposals to reorganize government, *Reorganizing Government* has other important features. The authors soundly urge that additional empirical evidence should be gathered regarding how well institutional arrangements of authority are working in different areas. Building on this recommendation, the authors advocate for an adaptive, pragmatic, experimentalist approach to governance that allows government structures to be re-examined periodically and adjusted where needed. Moreover, throughout *Reorganizing Government*, the authors focus on the practical question of whether proposed reorganizations are reasonably designed to address the problems that led to the reorganizational efforts. These appropriate considerations are likely to benefit policymakers, regulated parties, and the general public.

To their credit, the authors also modestly concede that their work can only yield moderate normative guidance for future reallocations of regulatory authority. They openly acknowledge their general preference for progressive, proactive, and precautionary regulatory policies. Nonetheless, the thrust of the authors' work is unrelated to their confessed biases. Instead, this book is a creative attempt to fashion an objective framework for analysis that systematically illuminates the range of choices facing policymakers who are writing, or considering, government reorganization proposals. Rather than specifically promoting progressive regulatory policies, the authors' approach serves to further effectiveness, responsiveness, fairness, and efficiency—all of which are widely, if not universally, accepted values.

In the end, *Reorganizing Government* is a crucial contribution to the scholarly literature concerning how policymakers should allocate governmental authority. The pioneering analytical framework it crafts has the potential to make government reorganizations more rational and justifiable. If adopted, its approach can spur much-needed open discussion, clarity, and transparent justification with regard to institutional arrangements.