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Commentary: Without trust, how can people give their consent to be governed?

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'Governments are instituted among Men, deriving their just powers from the consent of the governed.'

Thomas Jefferson penned these words 240 years ago in the Declaration of Independence to justify something that was nearly unprecedented in human history: replacing a monarch with a government chosen by the people. And the only thing that could justify this, or any government, was the consent of the governed.

Consent is about constitutions, and the consent of the governed strikes at the very heart of the government itself - its structure and processes, and what powers the people allow it to have. The consent of the governed hinges on Jefferson's question: Does the government secure the safety and happiness of the people?

For most of the past 240 years, Americans' consent was rarely in any real doubt, except under our first, failed constitution, the Articles of Confederation. People lost faith because the articles created a federal government that simply was not up to the task of governing. This came to a head with Shay's Rebellion, a farmers' uprising in Massachusetts in 1786. The threat to the nation was so great that George Washington came out of retirement to help steer the young nation back to political health, something that could only be accomplished by writing a new constitution.

But today there is good reason to believe that there is again a problem with consent. The people no longer trust their government, and what is consent if not trust?

Late last year, a study conducted by the Pew Research Center found that almost 90 percent of Republicans and 72 percent of Democrats say they trust the federal government "either never or only sometimes." Whatever else it means, when better than two-thirds of both liberals and conservatives believe that the government cannot be trusted, consent is at issue.

And while things remain relatively peaceful - Black Lives Matter, Occupy, and Western ranchers' movements notwithstanding - it's not our government so much as our economy that we have to thank. People tend to tolerate tyrants when food and shelter are plentiful. Should our economic engine fail, however - as it threatened to do just a decade ago - the withdrawal of consent may become overt. Bread and circuses are great, until there are no more bread and circuses.

The last half-century serves as a warning to those who rule. In 1964, fully 77 percent of the American public trusted the government to do the right thing "nearly always or most of the time." That number is now 19 percent.

What happened in those years? The government happened, and it happened a lot.

It is no accident that the precipitous decline in the federal government's trustworthiness coincided with a massive and sustained growth in the size and scope of the regulatory state. Since 1964, unelected regulators have added almost 150,000 pages to the Code of Federal Regulations, which has grown more than 450 percent. Over that same period, federal spending (adjusted for inflation) grew 1,500 percent. The United States government has become an expensive, burdensome, authoritarian mess. More government, it should be clear, is not the solution to the problems of government.

The United States declared its independence 240 years ago, and in 1787 the people adopted a constitution of their own volition. The people consented to be governed by its provisions and became the envy of the world. But as the government the Constitution created started to overstep its prescribed bounds, faith in that long-established government waned significantly and quickly.

We are now at a dangerous crossroads, and it is time to ask seriously how the consent of the governed can be reestablished and fostered. It cannot and will not be reestablished by blindly walking the same regulatory road we have been traversing for the better part of the last 50 years.

In the end, we will either need to adhere to the Constitution we the people, over generations, ratified and amended, or admit that the document serves no practical purpose in modern governance and write one that does. What we have now is the worst of both worlds: the appearance of a constitutionally constrained government but the reality of a totalitarian bureaucracy. And who would consent to that?

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