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**Rousseau and His State:
A Review of the Politics and Rhetoric of *The Second Discourse***

by Russell Arben Fox

The writings of Jean-Jacques Rousseau can be powerful and moving in their criticisms of modern society. His insight is still disturbing to us today in that it forces us to rethink our notions of society, government, and freedom. Yet examined closely, his *Second Discourse* contains important contradictions about human possibilities and human freedom. In the end, accepting his conclusions might require that we indulgently overlook these contradictions. But perhaps the power of his ideas is precisely in his passionate, romantic, and even contradictory rhetoric.

If we follow the progress of inequality in these various revolutions, we shall find that the establishment of laws and of the right of property was its first term, the institution of the magistracy the second, and the conversion of legitimate into arbitrary power the third and the last; so that the condition of rich and poor was authorized by the first period; that of the powerful and weak by the second; and only by the third that of master and slave, which is the last degree of inequality, and the term at which all the rest remain, when they have got so far, till the government is either entirely dissolved by new revolutions or brought back again to legitimacy.

(Rousseau 33:32-39; hereafter, references to Rousseau's *Second Discourse* will be by page and line number only)

Jean-Jacques Rousseau has always been a fascinating figure, for his lifestyle as well as his ideas. But while his lifestyle (which apparently consisted of a good many romantic walks around the countryside of France and Switzerland) is perhaps unique amongst Enlightenment thinkers, the reception of his oftentimes radical and occasionally brilliant ideas by modernity has been unique as well. Allan Bloom, author of the profoundly conservative *The Closing of the American Mind* has nonetheless dedicated a good portion of his career to Rousseau, and admits that, upon reading his work, "one feels that (Rousseau) presented the human problem in its variety with greater depth and breadth than any of his successors" (Bloom 1987, 579). Robert C. Solomon labeled Rousseau a "socio-

path," while simultaneously pointing out that he inspired "some of the most spectacular and successful philosophy that the world has ever known" (Solomon 1988, 2). (Will Durant, the eminent historian, suffers from none of these contradictory feelings, and simply calls Rousseau "queer"--Durant 1933, 187.)

What did Rousseau do? In a nutshell, Rousseau presented a radical rethinking of what it meant to be human, to be rational, and to be free. His version of the Enlightenment did not celebrate the powers of reason to cure human injustices, but rather the expressive ability of the human self to transcend the complexities and (numerous) injustices which inevitably arose from the very application of "reason." Unlike most that came before him, Rousseau denied

that society and government (particularly the government of his day) was a sign of the progressing human condition. Nor did Rousseau accept the idea of an Enlightened government as the guarantor of basic rights ever-threatened by humankind's "baser nature." His claim that human beings are truly free--free to be ethical, to choose between good and evil--*prior to* the development of civilization or reason raised a challenge to modernity reflected in the work of Kant (who desired to make Rousseau's "self" rational, and thus preserve both reason and passion, science and religion) as well as much of the political tradition that followed.

Rousseau's first substantial work is titled *A Discourse on the Origin and Foundation of the Inequality of Mankind*, commonly referred to as *The Second Discourse*. In the *Discourse* (written as an entry in an essay contest which asked "Have the Sciences Improved or Depressed the State of Man?") Rousseau challenges the "states of nature" presupposed in the writings of empiricist thinkers like Hobbes and Locke, claiming that their analysis of the development of the human animal simply sustained and justified politics as it then existed. On the one hand, Hobbes saw human nature as vile, with a strict material dominion over man by a ruler being the only plausible political alternative; on the other, Locke saw humankind as possessing natural rights and inherent characteristics which government must ratify and adhere to. But both of these writers, argues Rousseau, made human beings *political* even in their primitive, natural, "original" state, thus justifying rational, political answers to the human problem. Rousseau claims to take another route, to another state of nature, one that shows humans as peaceful animals, eventually robbed of their natural

freedom by "civilized" government. On this model, Rousseau builds his case against government and the state.

Unfortunately, Rousseau's state of nature--and the very way he argues for it--is problematic, and sometimes outrageous. Is he trying to tell us that "returning" to the state of nature as he describes it is the only solution to oppressive government? That is how many understood his work, originally: Voltaire viciously satirized the *Discourse* as "a book opposed to the human species" (Durant 1933, 188). However, Rousseau concludes his essay by claiming such a return to nature is impossible (41:32-36). He even precludes the possibility of returning to the state of nature he describes by declaring (inconsistently with what follows) that his primitive state isn't really a "real" one (3:2)--except, of course, in terms of his argument.

So the best question, when approaching Rousseau and the influence he has had on modern political thought (an influence which began with *The Second Discourse*), is perhaps one of rhetoric: what is Rousseau's argument, and how well does it stand up? I believe that an examination of the essay will reveal numerous difficult contradictions and assertions in its reasoning, but that such problems do not undermine the work as a whole. Rousseau, ever the romantic, was far more interested in rhetorically prompting a rethinking of the role of government than in building a sound argument against a historical interpretation that assumed freedom *required* politics. By firmly associating government and rational society with that which is debilitating, unequal, immoral and wicked, Rousseau hoped to bring about a crisis of faith in regards to existing institutions. Hence, the importance of this paper's introductory quotation, in which Rousseau (perhaps illogically) places the blame for

all evil and inequality at the feet of government . . . or at least, points to government as the manifestation of that which led humankind to discard liberty for the sake of "laws," "property," and "rulers," all of which unfortunately have come to appear as necessary, and all of which Rousseau paints in uncompromisingly ugly terms.

Rousseau's essay is broken up into four parts. First his Preface, in which he lists the sorts of inequalities that exist amongst mankind, and how other attempts to assess the human condition (and thus, the source of these inequalities) "have inquired into the foundations of society...but not one of them have got there" (2:30); following that, there are the First and Second Parts, which describe man in his primitive natural state, and follow through those circumstances which have "made man wicked while making him sociable" (19:30-31). In his Appendix, he sums up his argument by stating that while men are "actually wicked," they are (or were) "naturally good" (37:47-48), and concludes by anticipating that many will read into his essay a call to "totally abolish" society; a call which he says one cannot follow, though he does not entirely dismiss it (41:16-18). Exactly how Rousseau manages to (or fails to) make all these points coherent must be examined.¹

A Critique of Rousseau's *Second Discourse*

Preface and The First Part

Rousseau's first goal is to establish the importance of his argument. In describing the characteristics of mankind, he lists inequalities which should be apparent to all, one of which he calls "natural, or physical" and the other "moral or political" (2:8-10). Not "legal," not "civil," but

"moral." Rousseau is consciously framing the debate in a very fundamental, very passionate way. Legal or civil inequities may be addressed dispassionately, but by placing the "privileges which some men enjoy to the prejudice of others" (2:12) in the moral realm (something never considered by Hobbes and other supporters of the rulers' "divine" right to rule over--and in that way, serve--his subjects), Rousseau engages the emotions, in a overtly serious manner. This is what he wants. By using moral imperatives, he allows himself maximum room to delve deep into an obviously hypothetical past, and root out the source of government itself.

What follows is an immediate deconstruction of mankind. Rousseau's human is spoken of in terms one would usually associate *with animals*: "natural fertility," "instinct," and so forth. Man was, Rousseau claims, as far as animals go, "weaker than some, and less agile than others; but, taking him all around, the most advantageously organized of any" (4:5-6). Such men are secure in their simplicity, afraid of storms and pleased by fresh water. In nature they are not weak, as Rousseau believed his fellows were, since the "effeminate way of life totally enervates . . . strength and courage" (6:41-42).

And yet, Rousseau is apparently not entirely comfortable with all this...nature. His frequent references to the Greeks (Plato, Machon, Hippocrates, Xenocrates, etc.) begin immediately and continue throughout the text. This reveals more than Rousseau's familiarity with the classics; his reliance on them in constructing his argument reveals his sympathy for the ancient virtues the classics teach. Criticizing the "modern communities" which create servile characters, Rousseau looks fondly towards the example of ancient Sparta, comparing that city with nature in

her treatment of her citizens: "those who come well-formed into the world she renders strong and robust, and all the rest she destroys," instead of "making children a burden to their parents, kill[ing] them indiscriminately before they are born" (4:26-30).

Sparta, incidently, is the only government or state, ancient or modern, to receive a good word from Rousseau. Two good words, in fact. Later in the essay, when Rousseau gives a description of yet another of early governments' failings--due to mistakes in policy and organization it is "continually being patched up," which was made difficult because of the government's unfinished previous policies--he states that "the first task should have been to get the site (for a society) cleared and all the old materials removed, as was done by Lycurgus at Sparta" (29:24-26). Rousseau did not necessarily see the ancient Greek *polis* as an answer to the human problem, but he drew much inspiration from it, and was profoundly influenced by the Greek emphasis on, not comfort or material gain, but certain natural virtues, in his choice of what he would later call "the most stable of epochs" (24:10).

First, however, Rousseau must construct as pleasing a state of nature as possible, so as to make more pitiful the fall man suffered when he left this state, and thus to have a stronger argument against existing governments. It is here where we encounter the foremost of the essay's contradictions: his creation of mankind as a passionate, yet passionless, animal.

Rousseau wants to claim that primitive man was absolutely *not* a political creature, so as to not allow for making freedom or rights in any way dependent upon government or rulers. Doing such was a materialism common in Enlightenment thought: freedom and political rights were

considered to be, if not outright created by, than at least made real and available solely through Enlightened politics. Rousseau himself believed that individual power originated in the natural, ethical, human self, and that government and society have nothing to do with it. (Rousseau elsewhere would argue that the power of free action is constituted by the "general will," which is only found in freely entered into communities; however, he maintains that these potentialities originate in human being itself, sans politics.) People who engage in Hobbesian reasoning, Rousseau believed, were imposing concepts that originated with civilization upon primitive creatures who lacked any such ideas (see 2:34; 14:20; 18:49).

Of course, in order to escape the same charge of investing his state of nature with "civilized concepts" (whether liberal or otherwise), Rousseau needed to describe a state of nature that is without passions. As he writes, "nothing could be more unhappy than [a] savage man, dazzled by science, tormented by his passions, and reasoning about a state different from his own" (13:41-43). Thus, he necessarily must place humankind in a state of independent simplicity, instead of in a state where man is obligated by (made dependent upon--see 14:25-36) his self-interested (read: political) emotions. Unfortunately, such a wild animal would appear to be completely outside the realm of human existence; in order for his argument to make *any* sense to his readers, Rousseau must show how these simple human animals became like he is--a modern, wretched, government-ruled creature. A bridge must be built between the past and the present for his story of man (hypothetical or not) to be anything more than science-fiction. In building this bridge, however, Rousseau *does* subject his primitive hu-

mans to passions--two, in fact. They are compassion and self-perfectibility.

Consider the second first. In what sense is the essay's much-discussed "faculty of self-improvement" (8:8) a passion? Originally it does not appear to be one; it is simply a developmental capacity which man has to a degree which brutes do not. But later in the essay Rousseau describes this characteristic in terms of an emotional state, a driving force behind human action. And what is the origination of this driving action?

Difficulties soon presented themselves, and it became necessary to learn how to surmount them: the height of the trees . . . the competition of other animals . . . all obliged him to apply himself to bodily exercises . . . Natural weapons, stones, sticks, were easily found: he learned to surmount the obstacles of nature, to contend in case of necessity with other animals . . . or to indemnify himself for what he was forced to give up to a stronger [man]. (20:30-41)

In the *Discourse* Rousseau defines self-preservation (which, in the face of the natural competition that Rousseau describes in the preceding quote, often means "improvement") as "man's first feeling" (20:22). Surely Rousseau is describing an element of character that is more than simply physical; feeling implies emotion, or passion. Rousseau's humans are passionately self-perfectible.

The same may be said for compassion, only more so. Consider the language of the essay:

. . . What is generosity, clemency, or humanity but compassion applied to the weak, to the guilty, or to mankind in general? Even benevolence and friendship are, if we judge rightly, only the effects of compassion, constantly set upon a particular object: for how is it different to wish that another person may not suffer pain and uneasiness and to wish him happy? Were it even true that pity is no more than a feeling, which puts us in the place of the sufferer...this truth would have no other consequence than to confirm my argument. Compassion must, in fact,

be the stronger, the more the animal beholding any kind of distress identifies himself with the animal that suffers. (15:35-44)

All sorts of virtues are connected by Rousseau with this one passion: generosity, benevolence, friendship, clemency, etc. This one "natural virtue" (14:49) may be good and praiseworthy; however, it, like the previously mentioned passion for self-improvement, only compromises Rousseau's position. A human being who feels compassion for his fellow beings will inevitably want to aid them in a more proactive sense--he will gather the wounded together after an avalanche, he will make sure no one falls behind during a relocation to another cave, a mother will feed her young (something that Rousseau, in one of his more tremendously bizarre assertions, claims is originally done only to relieve discomfort: "a mother [gives] suck to her children at first for her own sake; and [only] afterwards, when habit had made them dear, for theirs"--10:43-45).

The problems these passions pose for Rousseau's humans are, at least at this point, primarily stylistic: to what extent can Rousseau effectively create a non-political, state of nature Paradise when he gives his creatures the sorts of passions that have naturally pushed mankind towards the sorts of cooperative problem-solving which is plainly the source of civilization--and government? By allowing for any passion to exist in primitive man, much less two, he allows for the contention that his state of nature wasn't such a happy place after all. Imagine a man struggling to resolve his inability to keep himself warm, feed his children, light his way, build a bridge, or kill a woolly mammoth--and remember Rousseau's statement about men being "tormented by his passions" (13:43). Obviously then, if humans are in fact the way Rousseau describes

them, the advancement of civilization in some ways *did* lessen humankind's misery. And civilization, for all intents and purposes, means government (or at least, Rousseau never argues that you can have one without the other).

How to resolve this? Rousseau doesn't, insisting that the passions he has given primitive man are simply part of his make-up, and in spite of them mankind remains in a state of happiness. The term used to describe these passions by Rousseau is the neutral "possibilities." But that definition only opens up a line of thought with even greater problems, which are best considered in connection with the essay's Second Part and the question of freedom.

While all this bad logic does not obviate the validity of Rousseau's argument against the depressing assertions about mankind made by Hobbes, it does make his work of conjecture that much more inconsistent. It emphasizes some of Rousseau's more absurd contentions, including the radical anthropomorphism he engages in while describing animals, and makes more obvious the condescending admiration he has for "primitives"--African natives who can see as far as the Dutch can with telescopes, American natives that can trace Spaniards by their smell as well as any dog, and those "savages" who can "drink the strongest European liquors like water" (7:22-28).

Rousseau, in crafting *The Second Discourse*, attempts to make a distinction between the natural man and the natural equality and happiness which he apparently believes existed in mankind's primitive state, and the inequality and unhappiness which inundated the civilization all around him, all for the purpose of attacking existing institutions in favor of creating others. Unfortunately, in order to accomplish both required ends (i.e., to demonstrate the

peace and happiness of the natural state, and to show how the natural state degenerated into the modern one, thus constructing an argument that is more than simply fantastic and irrelevant), he had to create a man who moved from one state to the other, and that required a man that was free from painful, stressful passion, but who had some passions for civilization as well.

Despite these flaws, Rousseau's construction of history is persuasive, at least in a romantic sense. It does seem, allowing for all possible qualifications, that mankind was in a happier state when there was no government. What remains now is to examine how Rousseau uses language to demonstrate that the establishment of government as it was known in his time prevents any return to that state, and whether or not mankind is, in actuality, free to make such a choice.

The Second Part and Appendix

The Second Part of *The Second Discourse* is much different in tone than the first: it is rapid, moving mankind in a downward spiral towards government and all its ills. It engages in far fewer leaps of logic than the first, for presumably, if the reader can accept the assertions of the First Part, if only hypothetically, then the tragic story of mankind's Fall is only logical. Rousseau's story, however, also includes a subtle yet bothersome contradiction, one that threatens to undo far more than simply the author's condemnation of Enlightenment society.

Rousseau begins mankind's descent towards government by supposing that various difficulties (the same difficulties made bearable thanks to mankind's passion for self-perfectibility) encountered in the act of preserving one's own existence

would eventually force primitive man to recognize the existence of others of his own kind--in fact, recognize, become familiar with, and eventually discern conformities and distinctions between them (21:17-27). In other words, like deer, men and women would bump into each other, and develop a primitive sense of how to relate. In time, Rousseau claims, humans will naturally gather themselves together, though Rousseau believed that at first they were perhaps less than adept at joint operations:

If a deer was to be taken, every one saw that, in order to succeed, he must abide faithfully by his post: but if a hare happened to come within the reach of any of them, it is not to be doubted that he pursued it without scruple, and, having seized his prey, cared very little, if by so doing he caused his companions to miss theirs. (21:41-45)

It was this "first revolution" (22:11) that initiated a change of monumental proportions. Men, who before this point had existed in pure simplicity, began to build houses (well, huts) and to live in close proximity to each other (22:5-12), presumably so that it wouldn't be difficult to round up a bunch of the fellows for a hunt. While Rousseau does employ some surprising language to dramatize this shift, it is at first not at all negative: "these first advances," "first expansions," "this novel situation" (21:5, 20). He writes that human beings living in proximity "soon gave rise to the finest feelings known to humanity, conjugal love and affection. Every family became a little society, the more united because liberty and reciprocal attachment were the only bonds of its union" (21:22-24). Certainly, this hardly seems to be a harbinger of damnation--in fact, it seems a positive step.

The problem with communities, however, is that they give rise to leisure time,

which gives rise to a desire to fulfill superfluous wants (22:32-36). Given differences in environment and climate, certain communities of men will emphasize certain things, and these distinctions will give rise to the ideas of "difference" and "comparison" (23:11)--of course, comparisons of a sort were already taking place, but these earlier distinctions were benign. Even these later distinctions, however, were not yet fulfilling Rousseau's bloody prophecy of intimacy leading to "human blood [being] sacrificed to the gentlest of passions" (23:17), for he qualifies himself at this point by saying that this "just mean between the indolence of the primitive state and the petulant activity or our egoism, must have been the happiest and most stable of epochs" (24:9-11). There are two reasons why this is so.

First and foremost, primitive society was fundamental to the introduction of morality (24:1). While Rousseau's language may seem to play up the sanctity of a passionless state, without morals or virtues, he is actually very interested in virtue, a virtue which can be best established by a certain moral sense. (Remember his respect for the Greeks.) This need for morality is most obvious by looking at Rousseau's essay in reverse: his every criticism of government involves the corruption and decay of respect and decency, the degeneration of manners and honesty (see, for instance, 26:19, 34-39; 27:43-47; 31:38; 33:23-31; and many, many more). These virtues, Rousseau claims, are not present in primitive man, who is just as likely to strike out at a physical affront as to forget it, who is simple, pleasant, peaceful, but not suitably passionate (forgetting here that he has already given men passions). It is only after the "first revolution" that we see the appearance of "industrious[ness]" (22:6), which seems to be in

Rousseau's eyes a fulfillment of personal worth. These virtues are, of course, to be found through society (not through government--they are found *in spite* of that institution, Rousseau insists), which has, in at least a minimal way, the approbation of the Divine Creator. (This is a sample of Rousseau's later writings about the importance of *community*, if not *society*.)

Mentioning God brings us to a second reason why Rousseau believed this strange primitive society was the "happiest" of all possible epochs--it is in accordance with the law of nature, which, to a wandering (literally and theologically) theist like Rousseau, is the same as being in accordance with the law of God. Throughout the essay, Rousseau employs the term "law of nature" as a tool, much as he does "natural liberty." The laws of nature and God are the same; in honoring the laws of nature we are honoring the purpose of our creation (see 3:7; 28:31; 41:33). It is this sort of virtue and nobility which is shown in the actions of the man of primitive society; it is also the sort of nobility that Rousseau apparently saw as present within certain ancient societies (like Sparta) that did not deny the difficult path to virtue proscribed by nature (4:26).

Rousseau argues that since most tribal people "have been found [already] in this state . . . men were meant to remain in it, that it is the real youth of the world" (24:15-16). So basic is this idea of basic, natural, "primitive" virtue to our very reason for existence that Rousseau describes the world as so created that this state could not be departed from, except through unfortunate accident (24:11-13).

Of course, apparently such accidents did in fact take place, for we are no longer utopically primitive, nor living in a primitive Utopia. How does Rousseau explain this?

With the development of society, simple communication, Rousseau claims, gave way to complex intercourse, prompted by the distinctions and affections which men feel. While this does not in turn lead to evil, it does lead to trade and commerce, and to the development of economy. Rousseau characterizes this development in terms of "iron and corn" (24:36). The growth of metallurgy and agriculture in turn prompts specialization and separation, and ultimately competition. After this, exploitation. This meant that the natural distinctions which remained intact in primitive states become tools for gratifying wants at other's expense.

In this state of affairs, equality might have been sustained, had the talents of the individuals been equal, and had, for example, the use of iron and the consumption of commodities always exactly balanced each other; but, as there was nothing to preserve this balance, it was soon disturbed; the strongest did the most work; the most skillful turned his labor to best account; the most ingenious devised methods of diminishing his labor; the husbandman wanted more iron, or the smith more corn, and, while both labored equally, the one gained a great deal by his work, while the other could barely support himself. Thus natural inequality unfolds itself insensibly with that of combination, and the difference between men, developed by their different circumstances, becomes more sensible and permanent in its effects, and begins to have an influence, in the same proportion, over the lot of individuals. (25:47-26:5)

The end result of all this, of course, was "avarice, ambition and vice" (27:8), the results of the frustration mankind felt when confronted with claims which are patently against the laws of nature. As Rousseau wrote, "however speciously they [the rich] might disguise their usurpations, they knew that they were founded on false and precarious titles" (27:24). Man, within his primitive, virtuous society, would naturally have challenged any unnatural accumulation of wealth, for it

would be taking place without the "express and universal consent of mankind," and in the face of poverty and starvation to boot (27:32). And indeed, unless the situation brought by the specialization of economy was institutionalized, man would certainly have eventually overthrown the exploiters. This is why government, the bastion of the wealthy, the self-aggrandizing class, was created: so as to legitimize existing inequities, and to perpetuate them.

With this point, Rousseau's *Discourse* reaches its climax; everything after this is addendum. And having read this far, one cannot escape the feeling that Rousseau has made mankind's corruption an inevitability. Certainly saying so makes the human predicament all the more pitiful; and yet, in view of his rhetoric, one must wonder: what hath Rousseau wrought? His human beings have moved from a state of passionless (yet oddly passionate) existence to a more conventional state, and from then on to civilized government and all its ills. Why? The question is an important one... Rousseau wants to argue for the true freedom of mankind, for the idea that political possibilities do not exist *because* of government and society but rather exist within the community-based *context* of government and society, prior to its actual formation. But if humans moved without real choice towards such an end...what does it all matter, anyway?

The freedom that Rousseau gave mankind was laid out early in his essay:

Nature lays her commands on every animal, and the brute obeys her voice. Man receives the same impulse, but at the same time knows himself at liberty to acquiesce or resist: and it is particularly in his consciousness of this liberty that the spirituality of his soul is displayed. (7:50-8:1)

However, if mankind was truly free, fundamentally, wouldn't those passions of

self-improvement and sympathy for one's fellow had urged mankind away from this dreadful path? Why is it that, as soon as government was proposed as a solution to primitive man's ills:

All ran headlong to their chains, in hopes of securing their liberty; for they had just wit enough to perceive the advantages of political institutions, without experience enough to enable them to foresee the dangers. The most capable of foreseeing the dangers were the very persons who expected to benefit by them; and even the most prudent judged it not inexpedient to sacrifice one part of their freedom to ensure the rest; as a wounded man has his arm cut off to save the rest of the body. (28:6-12)

It seems that men were unable to return to their former state, or at least slow down the approach of that which would destroy their paradisiacal existence forever. And yet...if they were unable to avoid it, how is it that mankind is free? In the face of Rousseau's outrageous explanations accounting for the development of language (revolutions of the globe and earthquakes tore off land masses and made islands, forcing frightened groups of humans to hurriedly develop means of communicating with those they were stranded with) and metallurgy (volcanoes spout molten lava and pieces of melted rock, sparking the idea that fire, if hot enough, can be made to do the same thing), it seems that humans truly were instinctual animals, without the ability to withstand the changes life forced upon them (22:45-50; 24:49-50).

One might claim that Rousseau meant that these and other amazing situations forced the development of humans accidentally--that what he called mankind's "possibilities" (still insisting they are not passions) were merely activated in a certain way by the situation, but that things needn't have resulted the way he described them in his essay. However, if this is so,

and human beings *might not* have developed towards modern society as a result of global accidents, then we can only assume one of two things: First, primitive man's reactions could have been *entirely* accidental, in which case his passions aren't really passions at all--aren't even true *possibilities*--but simply random actions. This completely throws Rousseau's argument in jeopardy, preventing as it does any connection with the plight of modern man and hence any salient argument against the governments of the day or Hobbes's theories. If man was this way, and then, through happenstance (there was a flood, man did this, and look what came of it) developed into a wonderful primitive society and from there into a terrible modern one, why shouldn't we have the governments we do now? There is no reasonable historical standard or ethical principle against which to critique them.

The other possibility is that men *might not* have become modern, but didn't become so accidentally--when faced with difficult situations, they made unwise choices, and in that way we arrived in our present state. This does preserve man's freedom of will, as well as the salience of Rousseau's attack on those with negative views of man and his governmental needs. However, such an assumption necessarily means Rousseau's *Discourse* is a call to return to a state of nature. If man in fact made his present state (through the operation of their non-passion passions), then obviously, if what Rousseau says about a more primitive state is correct (or even partially so), we ought to re-make ourselves and society in that direction. Claiming that man is free and has chosen his path but now, because of the power of government, is limited in his ability to escape, simply contradicts Rousseau's very eminent desire to make men *free*. And

yet, if man is free, then Rousseau's *Discourse* would apparently want us to revolt against the cities, and flee.

This is a difficult, yet intriguing position. Rousseau concludes his essay saying, as has been pointed out, that returning to a state of nature is impossible . . . for him and "men like me" (41:26). (Another question: If anti-social romantics like Rousseau can't get "back to nature," then who could?) However, as was plainly mentioned in the introductory quotation, he does not dismiss the possibility of "new revolutions" (33:39). Where could such revolutions take man except back to nature? In which case, Rousseau's argument *is*, in fact, as aggressively anti-intellectual, anti-social and anti-science as it has been so frequently characterized. What use is Rousseau to us then? Obviously, society is not about to disappear, and his claims that things were at their very best when mankind was back in huts would require a major renovation in thought, one that would dismiss the importance of life-saving and crop-growing technologies in favor of the freedom to go naked. A possibility, perhaps, but a difficult project just the same. Does he want humankind to take said project on? If not, is it because we aren't free? Is our passionless primitive state forever lost to us? If so, then why should we believe we are free? And if we are free, is it because our passions enable us to act for ourselves? If that's so, then maybe we *wouldn't* want to go back, because civilization and government help soothe our passions. Don't they? In the final analysis, Rousseau hints at many things, but comes clear on very little. Perhaps he himself hadn't thought it through entirely.

Conclusion

Rousseau has remained, over the centuries, a vital and disturbing thinker because his thought, like *The Second Discourse* itself, is filled with romantically imagined contradictions, which simultaneously reveal and undermine numerous insightful observations on the Enlightenment and the human condition. His language--his reasoning--is poetic, passionate, perplexing and often extremely nonspecific (the word "government" only appears 14 times in the whole *Discourse*). However, especially when one is discussing that which is actually introduced as a hypothetical, that may be the very best language to use. Does Rousseau's rhetoric hold water? It does,

but only if one is willing to overlook several strange assumptions, and bear with a contradictory conclusion in regards to freedom. The question as to what Jean-Jacques Rousseau really wanted to accomplish when he sat down to write this essay will probably remain unresolvable: while it is a emotionally powerful indictment of the materialistic, scientific, political world which he saw dragging men down, it is also inconclusive as to whether or not man can actually escape that dragging, or would want to. Both Rousseau's state and his state of nature remain out of the reach of both reason and passion. But, if nothing else, *The Second Discourse* remains one hell of an example of reaching.

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NOTES

1. In *The Second Discourse*, Rousseau nearly always uses the masculine in describing humankind. In order to avoid continual grammatical correction, I will (under protest) generally follow the pattern of his essay.)

"If Men Were Angels": The Normative Role of Schools in Fostering Civic Virtue

by
William M. Bryner

The April 1992 riots in Los Angeles, California reemphasized a decline in the American social environment and highlighted the need for new methods by which to remedy this degradation. For a solution to this problem, this paper looks to the Founding Fathers' conception of civic virtue, the voluntary moderation of one's self-interest for the good of the community. Further, a functional rethinking of the role of public schools is set forth in which schools play a key role in fostering civic virtue. Finally, a moderate reform of constitutional adjudication is proposed which would enable public schools to more adequately accomplish this task.

I. Introduction

The title of this essay conveys a special and perhaps ironic significance in modern American society. The phrase, first employed by James Madison (writing under the pen name Publius) in *Federalist, Number 51* ("If men were angels, no government would be necessary" [Hamilton, Jay, and Madison 1987, 281])¹ inspires two key observations. First, simply put, men are not angels, as the very existence of government testifies. Second, because of this, one of the necessary functions of government is to guard against man's imperfections. Angels presumably require no supreme authority to ensure adherence to law; they are entirely self-governing. Error-prone humans, on the other hand, do require just such an authority.

The tragic 1992 riots in Los Angeles have added a fresh meaning to Madison's words. Perhaps no other event in recent years has verified Madison's statement more than the spirit of anarchy which overtook and ruled that city before government could restore order. Nowhere were man's "less-than-angelic" qualities more

evident than in the city whose name literally means "The Angels."

The Los Angeles incident raises the question: What can be done to prevent such a situation from recurring? This essay will attempt to answer this question by constructing a theoretical framework within which many of the ills of the socio-political environment would be abated. As the subtitle indicates, the essay will look to the normative power of schools as an instrument to nourish the civic virtue upon which American political institutions rest.

This thesis--that schools can and must play a key role in fostering civic virtue if the social condition is to improve--provides the essay's basic structure. Part II will attempt to define civic virtue and emphasize its primacy in the American Founding. Part III will then analyze the special potential of schools, assess their unique position which makes them key actors in encouraging virtue, and suggest some specific measures which ought to be considered to enable schools to reach their normative potential. Part IV will offer some general conclusions arising from this discussion.

One important caution must be offered before commencing. This essay does not advocate an approach that fits perfectly within the current conception of the American political structure. Instead, it deemphasizes the positive (what *is*) and focuses primarily upon the normative (what *ought to be*). If the events in Los Angeles teach nothing else, they unequivocally indicate that change of some sort is not simply a good idea, but a political necessity. Thus, this approach requires a rethinking of certain positions as well as some accommodations by several parties; yet the price to pay is a minimal one if the nation is serious about improving its social environment.

II. Civic Virtue and the American Founding

The term "founding" captures the essence of our nation's beginnings. "To found" means principally "to lay the base of" something (Guralnik and Friend 1968). In the political sense, the American Founding refers to the way in which the "Founding Fathers" (men such as James Madison, Alexander Hamilton, Benjamin Franklin, and others) "laid the base of" the American form of government, particularly the Constitution. Yet, a "founding" implies a "foundation," or a set of basic principles upon which the superstructure rests. As Professor Martin Diamond has indicated:

. . . *foundation* must be understood quite literally: American institutions rest upon it. Those who wish to improve American life . . . must base such improvement upon the American foundation; and this means to come to terms with the "policy" that is an essential part of that foundation. (1986, 95)

This section of the essay will explore civic virtue as a foundational concept for American society. Indeed, virtue was "a

theme that was paramount at the time of the American Founding but . . . has since receded from public discourse" (Pangle 1987, 105). It represents the very principle whose absence the Founders believed would doom the American republic to government by "accident and force" instead of by "reflection and choice" (1.2).

A. From Aristotle to America: Civic Virtue Defined

In order to grasp the core of civic virtue in America, one must return to Aristotle's concept of what constitutes virtue. Aristotle argued that "moral virtue . . . is a mean between two vices, one involving excess and the other deficiency" (1963, 41). Thus, the excesses or deficiencies of attributes were considered vices and opposed to one another; but the mean between the two poles opposed both ends and defined virtue. For example, the classic virtue of courage rested at the mean between the vices of cowardice (a deficiency) and recklessness (an excess). In Aristotle's view, "a master of any art or craft shuns excess and defect, but seeks the intermediate and chooses it" (34). Virtue can therefore be viewed as a continuum, and the closer to the midpoint an individual is, the more virtuous that individual will be.

Admittedly, Aristotle and the American Founders differed on many issues, particularly the role of virtue in the *polis*. For instance, Aristotle saw virtue as the ultimate end for which government existed; to the contrary, the Founders viewed it as a useful means toward good government (Pangle 1987, 110). Nevertheless, the Aristotelian concept of virtue as the midpoint between two poles will be an invaluable component and a recurring theme throughout the remainder of this essay.

Throughout *The Federalist*, Publius echoes this same sentiment under the title of "moderation." In fact, moderation, or the willingness to compromise and move toward the "middle," provides the latent framework of this commentary on the Constitution. In *Number One*, Publius contends that:

... we, upon many occasions, see wise and good men on the wrong as well as the right side of questions of the first magnitude to society. This circumstance, if duly attended to, would furnish a *lesson of moderation* to those who are ever so much persuaded of their being in the right in any controversy. (1.7; emphasis added)

Later, we find him lamenting "that public measures are rarely investigated with that *spirit of moderation* which is *essential* to a just estimate of their real tendency to advance or obstruct the public good" (37.2; emphasis added). Finally, he asserts that the "judicious reflections" of *The Federalist* in themselves "contain a *lesson of moderation*" (85.18; emphasis added) to those who read them. For example, that Madison and Hamilton, who disagreed greatly on the nature and extent of national power, could set aside their differences to corroborate in writing *The Federalist* is just such a lesson of moderation.

Aristotle's concept of virtue as a mean and Publius' extolment of moderation are particularly useful in understanding the metamorphosis of ancient virtue to modern American virtue. Richard Vetterli and Gary Bryner, in their comprehensive study of virtue and the American Founding, contend that American civic virtue is essentially a synthesis of the classical virtues (courage, moderation, justice, and wisdom) and the Pauline virtues (faith, hope, charity, and benevolence). Thus, while "[classical] civic virtue . . . meant the patriotic subordination of one's person-

al interests to the common welfare" (1987, 20) and the Judeo-Christian virtues dictated that "[people] were to be motivated by a sincere interest and love for others" (1987, 4), what they call "a modern *republican* virtue" (1987, 4; emphasis added) rested somewhere between the two.

American civic virtue, then, can be seen as the Aristotelian mean between the classical and Pauline poles of virtue, and contains three key components. First, virtuous citizens must, when necessary, temper their individual self-interest when it threatens the public order. Second, virtuous citizens must practice something akin to the biblical Golden Rule, being motivated by a benevolent concern for others (Vetterli and Bryner 1987, 50). Finally, "their . . . self-interest [must] be *voluntarily* channeled and constrained" (4; emphasis added); government should not take an active role in compelling citizens to be virtuous. In a certain sense, American civic virtue is nothing more than the practical application of Publius' "moderation."

B. "How Firm a Foundation?": The Need for Civic Virtue in a Republic

This concept of civic virtue--restriction of individual self-interest when it threatens public order, benevolence toward others, and a voluntary undertaking of these--provides the essential groundwork upon which American institutions rest. In framing the American system of government, the Founders necessarily assumed that these characteristics existed in sufficient measure to provide a firm foundation for the republic. Simply put, they believed that republican government presupposed a moderately virtuous people.

Publius preceded his aforementioned statement concerning men, angels, and

government with a significant rhetorical question which ultimately guided the Founding: "But what is government itself, but the greatest of all reflections on human nature?" (51.6). If government mirrors the natural characteristics of its citizenry, then to attempt to found a government that is inconsistent with human nature is an exercise in futility. Thus, the Founders' first step was to evaluate the nature of man.

In this assessment of man, the Founders again took the moderate course, adopting a realistic view of man's potential. Individually, man was "ambitious, vindictive, . . . rapacious" (6.2), possessed an "ordinary depravity" (57.16), and often allowed "the clamors of an impatient avidity for immediate and immoderate gain" to suppress "the mild voice of reason" (42.11). In collective bodies, men were not much better. They would often engage in "improprieties and excesses, for which they would blush in a private capacity" (15.15) and would often sacrifice "the great interests of society . . . to the vanity, to the conceit, and to the obstinacy of individuals" (70.12). Clearly, men were not angels; if they were, "no government would be necessary" (51.6).

Publius' grim realism concerning the nature of man must, however, be tempered in order for free government to succeed. Indeed, readers of *The Federalist* are counseled "to view human nature as it is, without either flattering its virtues or exaggerating its vices" (76.11). While it is true that "there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust," it is also true that "there are other qualities in human nature which justify a certain portion of esteem and confidence" (55.15). Thus, the Founders held a moderate view of human psychology, seeing man as an amalgam of both "good" and "evil."

Such a view of humanity acted as an important catalyst for the structure of government which emerged from Philadelphia. Publius saw "[a] dependence on the people" as "the *primary* control on the government; but experience has taught mankind the necessity of *auxiliary* [meaning secondary and supporting] precautions" (51.7; emphasis added) to protect against man's shortcomings. Moreover, while it was "evident that no other form [than a republican government] would be reconcilable with the genius of the people of America [its character and nature]" (39.2), it was also true that "[republican] government presupposes the existence of these [virtuous] qualities in a higher degree than any other form" (55.15). Ultimately, self-government "[implied], that there is a portion of virtue and honor among mankind, which may be a *reasonable foundation* of confidence" (76.11; emphasis added).

Two salient points emerge from this discussion. First, the institutional arrangements embodied in the American Constitution require a moderately virtuous citizenry. The Founders were emphatic in stressing this necessity. Publius argued that if "there is not sufficient virtue among men for self-government," then, "nothing less than the chains of despotism can restrain them from destroying and devouring one another" (55.15). Later, Madison asked in the Virginia State Ratifying Convention:

Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks, no form of government, can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people is a chimerical idea. (McClellan 1989, 280)

Other Founders also supported this position (Vetterli and Bryner 1987, 69-71).

Second, while not glorifying man, the Founders evidently believed that the Amer-

icans of 1787 possessed sufficient civic virtue to make republican government work. Were Americans without government as naturally corrupt as Hobbes saw them, then only a despotic sovereign of the Hobbesian order would be able to control them (Hobbes 1968). Conversely, "[if] men were angels, no government would be necessary" (51.6). Instead, the Founders based American institutions upon a moderately virtuous citizenry. Without a sufficient degree of civic virtue, the republican structure would ultimately crumble.

At this point, the principal question which remains to be answered is how civic virtue can be perpetuated from generation to generation. In opposing the Constitution, the Anti-Federalists argued that civic virtue would actually be undermined in the extended, commercial republic that the Constitution established. Instead, they contended that only an "intimate government" (McDowell 1987, 127) "over a relatively small territory with a homogeneous population" (Storing 1981, 15) would be conducive to virtue. The national government would simply be too distant to foster effectively the virtuous citizens who would voluntarily restrain their self-interest for the good of the republic.

The supporters of the Constitution were in qualified agreement. The extended national government was a political necessity to check the evil nature of man, to control the effects of factions (see *The Federalist, Number 10*), and to allow "[ambition] . . . to counteract ambition" (51.6). However, virtue would instead be fostered by "primary institutions" (Vetterli and Bryner 1987, 52) or "private associations" (Brown 1987, 39) at the state and local level. In fact, if "the state [assumed] the primary directive role" in inculcating virtue "through indoctrination and propaganda, . . . it [would] be unable to count

upon the genuine spontaneous response of its people over time," and would be obliged "to resort to a high level of administrative direction of society and greater degrees of force and coercion" (Vetterli and Bryner 1987, 53) if public order was to continue. Thus, while the national government was a negative political necessity, local institutions were to play a positive role in fostering the requisite virtue in the citizenry.

This discussion's impact on the current sociopolitical environment should be clear: this foundational aspect of American republicanism has changed little since 1787. A sufficient degree of civic virtue--the voluntary moderation of individual self-interest for the good of others and of society--is still a prerequisite to political success. Events of the last few decades, with the Los Angeles incident being only the most recent, have heightened the need to reemphasize the importance of civic virtue and develop ways to generate it.

How might this discussion help to prevent another situation similar to Los Angeles? In examining the riots, it was evident that the most damage was done by completely self-interested individuals who felt no need (nor desire) to moderate their passions for the sake of public order. In short, such an episode would never have occurred among citizens possessing a moderate degree of civic virtue. Civic virtue, then, represents the fundamental control against such destructive behavior.

III. Schools as Promoters of Civic Virtue

Whether they are known as "primary institutions" (Vetterli and Bryner 1987, 52), "private associations" (Brown 1987, 39), or some other title, families, schools, churches, neighborhoods, and other local

structures carry the principal responsibility for fostering civic virtue. Because of their direct contact with citizens in their formative years, schools in particular can play a unique role in transgenerationally nourishing virtue. Unfortunately, the teaching in public schools of those values which constitute civic virtue has recently fallen into disrepute (Bauer 1986, 24-27; Cannon 1981, 3-7; Hafen 1987, 677-695; Janowitz 1983, ix-xiv; Wildavsky 1991, 46-54).

This section will seek to accomplish three objectives: (1) to examine objections to teaching the values inherent in civic virtue, (2) to submit a functional rethinking of the school's role in American government, and (3) to propose some recommendations that will allow schools to more fully reach their normative potential. This reevaluation and its subsequent solutions will be founded upon the principle of moderation outlined in Part II.

A. Objections to Moral Education

American civic virtue is, by its nature and definition, value-laden. While teaching the mechanics of American government is a necessary component of nourishing civic virtue, independently it is not a sufficient aspect. Indeed, "the action of one person toward another" is "the central concern of morality" (Heslep 1989, 15). Thus, inculcating civic virtue inherently involves a type of values (or moral) education.

Opponents of moral education object to it on several grounds. Many commonly respond, "'Whose morals are you going to teach?'" (Etzioni 1991, 9); others contend that certain values (i.e., sexual restraint, abstention from drug use, and others) are not as "valuable" as traditionally believed (Bauer 1986, 24); and some argue that values are intrinsically subjective and

cannot be verified by empirical testing (Bauer 1986, 24; Bohn 1990).

Underlying all objections, however, is the belief that teaching values is somehow inimical to the First Amendment, particularly the guarantee of freedom of speech and the protection against the establishment of religion. Efforts at moral education, critics contend, inhibit students' free expression (*Bethel School District No. 403 v. Fraser* 1986), simply reflect tenets of the Judeo-Christian ethic (Bauer 1986, 24-25; Wildavsky 1991, 47), or both. Invariably, opponents of moral education focus upon individual constitutional rights (a topic which will be taken up in Part III.C.). By doing so, they almost automatically look to the courts for a remedy.

B. Rethinking the Public-Private Dichotomy: Schools as Mediating Institutions

Any legal opposition to moral education that is rooted in individual rights must inevitably focus upon constitutional language, namely, "*Congress* shall make no law . . ." (Amendment I; emphasis added); and ". . . nor shall any *State* . . ." deny any person due process of law or equal protection of the laws (Amendment XIV, Section 1; emphasis added). Within this framework, the Supreme Court has recognized an "essential dichotomy" between public and private acts (*Flagg Bros., Inc. v. Brooks* 1978, 165). Currently, the public-private dichotomy is an all or nothing proposition: if state action is involved, the courts balance the individual rights and government interests involved and render a decision; if the act is private, there is no constitutional limitation and the individual has no recourse (Worthen 1991, 1306). While determining what exactly constitutes state action can be difficult—for example, actions by a private restaurant leasing its

building from a state agency (*Burton v. Wilmington Parking Authority* 1974) and court enforcement of a private property agreement which discriminates based upon race (*Shelley v. Kraemer* 1948) are both considered state action; acts of a utility company operating under a state-granted monopoly (*Jackson v. Metropolitan Edison Co.* 1974) are not--the Court has consistently held that actions by public schools are considered state action (*West Virginia State Board of Education v. Barnette* 1943; *Tinker v. Des Moines Independent Community School District* 1969; *Everson v. Board of Education* 1947; and many others) and that public school teachers perform a government function (*Ambach v. Norwick* 1979).

By employing this formal framework, the Court is forced to emphasize the dichotomous poles and somehow to draw a line between public, government institutions and private ones. Within this structure, government institutions--including public schools--cannot (and should not) impose value systems upon their members because, as mentioned earlier, to do so would preclude a *voluntary* reaction of the citizens and would necessitate a greater degree of government coercion to obtain the desired response (Vetterli and Bryner 1987, 53). Therefore, within the public-private dichotomy, such actions are appropriately left entirely to the "private" realm.

The difficulty, however, is that the Court has concurrently recognized the special importance of education as "the very foundation of good citizenship" (*Brown v. Board of Education* 1954, 493). Moreover, "a State properly may regard all teachers as having an *obligation to promote civic virtues* and understanding in their classes" (*Ambach v. Norwick* 1979, 80; emphasis added). Within the polar public-private framework, it seems contra-

dictory to see public schools as promoters of civic virtue (a "private" function) and as a "function of state and local governments" (an obviously "public" task) (*Brown v. Board of Education* 1954, 493).

Though referring specifically to the normative power of cities and Indian tribes, Brigham Young University law professor Kevin J Worthen² has proposed a resolution to this conflict by advocating a

Figure 1. Normative Role of Various American Institutions.

Organization	Normative Role
1. The Family	High
2. Private Voluntary Organizations (social clubs, churches, etc.)	
3. Public Schools	Moderate
4. Nonconstitutional Governments (cities, Indian tribes, etc.)	
5. Federal Government	Low

perspective akin to the Aristotelian mean. He argues:

The extent to which modern American organizations are morally justified in imposing norms on their members can be plotted on a continuum. More voluntary organizations, such as purely social clubs, are at one extreme of the continuum, and the federal government is at the other. States are close to the federal government extreme of the continuum, but do not reach it because one can more easily switch states than countries. Local governments, while closer to the states than social clubs, nonetheless fall more to the voluntary side of the continuum than do state governments. Thus, some group value decisions are more appropriate for local governments than for either the federal or state governments. (1991, 1286)

As "public intermediary institutions" (Worthen 1991, 1290), standing between the individual and the state, local governments can play a role in giving "meaningful voice to disparate value systems" (Worthen 1991, 1312) and fostering civic virtue.

Bruce Hafen, former dean of the Brigham Young University School of Law, points out that public schools, like local governments, possess the unique ability to act as "mediating institutions." Hafen argues that, traditionally, "schools have been, at times quite literally, *in loco parentis*: in the place of the parents" (1987, 673). As an extension of the family, schools were called upon to reinforce the values fostered in the home. Indeed, "the traditional commitment of the schools to teach children such civic and moral virtues as integrity, cooperation, self-reliance, and responsibility remains central to the task of public education" (700).

Nevertheless, Hafen asserts that since *Brown v. Board of Education* "called upon the public schools to assume the role of direct state agents in the desegregation of society" (674), schools have moved "even further from the localized world of home and family toward the nationalized world of federal policy" (1987, 674). Within the public-private dichotomy, in the last half-century the courts have moved schools firmly onto the public side.

From the perspective of Worthen's functional continuum, however, the Supreme Court has placed public schools somewhere between local governments and purely private organizations. In its 1973 decision in *San Antonio School District v. Rodriguez*, the Court held that local control over education is a legitimate government interest which can rationally justify certain inequalities in funding public schools. Earlier, in *Wright v. Council of City of Emporia*, both the majority and

dissenting opinions recognized the vital importance of local control of education (1972, 469, 478). Finally, in *Wisconsin v. Yoder* (1972), the Court acknowledged the critical role parents play in assessing their children's educational needs and interests, and that such decisions are a matter of individual and family privacy.

In light of these rulings, Worthen's original continuum, extended to its fullest degree, would yield something similar to Figure 1. As mediating institutions, schools and local governments fall at the midpoint--the Aristotelian mean--between the federal government and the family. Consequently, schools and local governments, possessing a moderate normative role, are uniquely suited to promote the moderate degree of civic virtue necessary to preserve the political system. With the continued weakening of the American family, the normative function of schools becomes that much more important.

Ultimately, it is in the public schools where both the Federalist and Anti-Federalist positions converge to make American republicanism possible. Because of the relative homogeneity of schools (Worthen 1991, 1294), they can easily "function as 'little republics'--tiny communities of learning in which all participants have the interactive opportunity . . . of developing those 'habits of the heart' *without which there is no larger community*" (Hafen 1987, 701; emphasis added). Thus, encouraging schools to function as "small republics" fulfills the Anti-Federalist vision of intimate government and makes the Federalist objective of effective government possible (McDowell 1987, 127).

C. The Other Two "R's": Schools as "Moderators" Between Rights and Responsibilities

In addition to teaching the original three "R's"--"reading, 'riting, and 'rithmetic"--schools also must perform the special task of instructing students in two other "R's": rights and responsibilities. Schools, however, have followed the modern trend of "[enhancing] citizen rights without effective articulation of citizen obligations" (Janowitz 1983, ix). Such a propensity has inevitably shifted the balance toward the federal government end of the spectrum, a move ill-suited to the promotion of civic virtue.

The philosophical liberalism which imbues the language of rights is based upon a key assumption. As illustrated by Michael J. Sandel (1984), in its purest form, the liberal view of rights presumes that there is no overarching purpose or end to any action; "the good" is simply nonexistent. Instead, the grounding principle is the absence of any higher end prior to rights: the right precedes the good. In short, Sandel contends, "what matters above all. . . are not the ends we choose but our capacity to choose them" (1984, 86).

Values clarification, the approach to moral education currently in vogue (Wildavsky 1991, 46-47; Bauer 1986, 24-25; Heslep 1989, 183-86), and the "behavioralization" of social studies (Janowitz 1981, 145-52) both echo these assumptions of liberalism. Values clarification denies any preset collection of ethics which should guide individual behavior; instead, it privileges the students' abilities to make their own normative decisions. Teachers simply ensure that students' ethical choices are internally consistent. The behavioral approach to social science assumes that

people are simply objects in motion who can be understood only through empiricism because there is no volition guiding individual action.

While appealing, in this form the liberal view of rights--with its corollaries of values clarification and behaviorism--is significantly flawed. It ignores the sharing of traditions and community necessary in a world where no individual is self-sufficient. Thus, "[denied] the expansive self-understandings that could shape a common life, the liberal self is left to lurch between detachment on the one hand, and entanglement on the other" (Sandel 1984, 91). At its highest, the language of rights permits no meaningful interaction with others, interaction which dependent individuals require. Ironically, this autonomy, taken to its extreme, destroys even the rights upon which it is grounded; of what benefit, for instance, is freedom of expression without an audience or forum--a community--in which to express one's views?

Robert J. Nash and Robert S. Griffin aptly summarized this position:

If individuals are only what they choose to be, if they can detach themselves from social and historical roles at will, if they can ignore their embeddedness in those traditions from which they derive identity, and if there is no telos to give life direction and purpose, then society is little more than a collection of strangers, bereft of community and tradition, each pursuing private interests with no restraints or sense of transcendence. *We believe that this is the sum and substance of a life without a sense of civic virtue.* (1987, 561; emphasis added)

As has been true throughout this essay, the fullest value to both individual rights and community sharing can be found at the midpoint between these two ideals. This requires that rights be tempered and balanced with responsibilities. Schools and local governments are both tailored to strike that balance, to teach students effec-

tively the "lesson of moderation" (1.7) which Publius envisioned. Returning to Professor Worthen's continuum, at one end, families and voluntary private organizations can be seen as promoters of responsibility; at the other, the federal and state governments take on the role of protectors of rights. Schools and local governments, once again, lie in the middle and provide the best opportunity for the rights and responsibilities necessary for republican government to coalesce and thrive. With the continuing disintegration of the family, even more of the weight for promoting responsibility falls upon schools and local governments.

Values clarification and behavioralism, however, only serve to place further weight on the rights side of the scale, altogether ignoring the requisite responsibilities (Janowitz 1983, 146). Unless measures are taken to restore the necessary balance, the deleterious effects and over-emphasis of rights will continue to be felt throughout the sociopolitical environment. For example, speaking of the need for greater emphasis on responsibility in race relations, Justice Dallin H. Oaks argued, "Instead of exploring new ways to enforce non-discrimination *rights*, we might be more effective by exploring new ways to win hearts to the proposition that each of us has a *responsibility* to treat persons on their own merits as children of God, whatever their race, creed, color, sex, or national origin" (1985, 431; emphasis in original). I believe the same can be said of most other aspects of social interaction.

D. Restoring the Rights/Responsibilities Balance: A Proposed Solution

In order to be consistent with the preceding analysis, any solution to the imbalance of rights and responsibilities must be a moderate one, lying at the midpoint

between unfettered, individual autonomy and the complete, authoritarian control of education advocated by Plato in Book V of his *Republic*, where the children were removed from the society and subjected to rigorous paramilitary training (1980, 244-86). Instead, a moderate rethinking of constitutional adjudication would allow schools to perform their function in fostering civic virtue.

One solution which would meet this criterion synthesizes Worthen's proposed approach to local governments with the method Hafen has advanced. Worthen (1991) points out that courts already vary their method of decision making depending upon the right involved--some rights (for instance, freedom of expression) receive more weight than others. He would "merely authorize the same consideration for the nature of the governmental interest" (1991, 1307). Thus, in deciding if a right has been violated, the courts would give additional weight to a local government or school interest involved than it would to, say, a state government because of the greater normative function of local governments and schools.

Hafen's (1987) proposal, though dealing specifically with freedom of expression, could easily be applied to most school situations involving values education. He argues that the courts should recognize an "institutional academic freedom" (1987, 722) for public schools, in which the decisions of educators would be presumed valid unless they go "'beyond the pale of reasoned academic decision-making'" (1987, 723; quoting *Regents of University of Michigan v. Ewing* 1985, 515). In essence, he would advocate a good faith exception for the institutional decisions of educators. Any constitutional challenge to values education simply must meet a more stringent legal burden in order for the program to be declared

invalid. These two considerations would return enough weight to the responsibility side of the scale and would restore the balance without mortally wounding individual rights.

Under this proposal, school districts, with input from local citizens, would be able to institute programs to teach certain positive values, if they so decide. Values which merely coincide with specific religious tenets would generally be permitted; clear attempts at advancing sectarian doctrine, however, would necessarily meet a higher standard of judicial scrutiny. Nevertheless, through moderate public debate, communities would be able to control what values are being taught in their schools. Such an experience in itself would be an exercise in civic virtue, an activity in which citizens would be able to think through, change, and refine their opinions for the good of community (McDowell 1987, 142). Shared values such as "honesty, justice, integrity, respect for the environment, respect for others, respect for self, compassion, due process, equality of opportunity, peaceful resolution of conflict, loyalty, responsible citizenship--and much, much more" (Wildavsky 1991, 48), as well as community meanings of their practical applications, could be taught and fostered. Moreover, courts would still be able to address those cases in which decisions have not been made in good faith.

The ultimate result of such an approach, however, would be much greater than simply allowing moral education in public schools. The vices linked to the unrestrained self-indulgence which plagues our society--crimes of all types, pornography, irresponsible sexual promiscuity, drug use, gambling, welfare dependence, and many, many more--would all be reduced (Cannon 1981, 3-7; Bauer 1986,

24). A situation such as the Los Angeles incident--in which one perceived injustice was compounded by hundreds, if not thousands of others--would be much less probable. The moderating effects of civic virtue would restrain such individuals from ignoring their internalized value system and engaging in such destructive behavior.

E. Responding to the Objections

Adopting such an approach to moral education would also effectively respond to the aforementioned objections to teaching values. First, the question, "Whose morals?" would no longer carry the weight it now does. Because of our pluralistic society, values and morals would inevitably differ from community to community. Those who disagree with the values of the community in which they live have the option of either persuading others to allow their views to be heard or relocating to a community which shares their values. Pluralism, instead of being stifled, would actually be fostered and strengthened (Worthen 1991).

Second, the current approach could withstand an Establishment Clause challenge because it meets the judicial test set forth in *Lemon v. Kurtzman* (1971). The moral education programs in the various communities have a "secular legislative purpose" (1971, 612): promoting civic virtue and citizenship, which the Court has already recognized as a legitimate and crucial function of schools. They "neither [advance] nor [inhibit] religion" (1971, 612); and, unless academically unreasonable measures are undertaken, they do not "foster an excessive government entanglement with religion" (1971, 613).

Moreover, though certain religious precepts (such as the Christian concept of the Golden Rule) may be promoted, "the

'Establishment' Clause does not ban federal or state regulation of conduct whose reason or effect merely happens to coincide or harmonize with the tenets of some or all religions" (*McGowan v. Maryland* 1960, 442).

Finally, the objection based upon the fact-value dichotomy is fatally flawed. Elimination of all biases and preconceptions in any mode of discourse is simply impossible because all use of language has been previously conditioned by individual experience. Professor David Bohn indicates:

Because there is no unconditioned language in which an unconditioned or objective truth could be a possibility, [postmodern philosophers Gadamer and Ricoeur] . . . recognize that the horizon of understanding or tradition of discourse within which we actually do scholarly research could never constitute a "free market" or be characterized as a "neutral space" in which atemporal truth reveals itself within a controlled language of competing theories and against indubitable methodological criteria. For this very reason, . . . every effort to make a distinction between facts and values collapses, for values are necessarily implicit in and a guide to every mode of discursive activity. They are an enabling condition of every exercise of reason. (1990, 3)

Thus, certain values will always be taught, even if by default. The approach advocated here would simply allow a full hearing for all value systems without precluding those that happen to coincide, for example, with the Judeo-Christian ethic.

IV. Conclusion

The American republic was founded upon certain ideals and principles, concepts which gave meaning to our national experience. Unfortunately, some of those tenets--namely, civic virtue and modera-

tion--have given way to a self-indulging and polarized society in which dichotomous thinking prevails. In short, the American foundation is firm in the middle but very weak at the "edges" (no matter which "edge" might be popular at the time).

By shifting the weight of our institutions away from the center of moderation to the outside edges, the structure of our social institutions has begun to crumble under the pressure. As a result, the social environment reflects serious fault lines in American institutions. Unless America learns the "lesson of moderation" (1.7), particularly concerning its public schools, the next generation will continue to learn lessons of self-indulgence from the mass media, youth gangs, or other misguided institutions. By moderating our view of the function of public schools and allowing them to teach that same moderation in the form of civic virtue, we can perhaps return to the firm foundations which our institutions presuppose. Publius makes a final, all-important admonition which may determine our success or failure:

Hearken not to the unnatural voice which tells you that the people of America, knit together as they are by so many cords of affection, can no longer live together as members of the same family; can no longer continue the mutual guardians of their mutual happiness; can no longer be fellow-citizens of one great, respectable, and flourishing empire. (14.14)

Absent some effort to strengthen those "cords of affection" (14.14), the prospects of an enduring American polity seem bleak indeed.

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NOTES

1. All subsequent references to *The Federalist* will be given parenthetically by number and paragraph, according to the 1987 edition, edited by Michael Loyd Chadwick.
2. I express special appreciation to Professor Worthen not only for his assistance in the research for this essay but also his willingness to act as a sounding-board for my ideas and to review the first draft. But, what is an uncle for (if one can't rely on family, on whom *can* one rely)?

Japan, Rice, and Super 301

by Randall Allen

Japan is an important American partner in both security issues and economic-trade issues. But closed Japanese markets, especially in rice, are a bone of contention between the two countries. America's "Super 301" could be used to pressure Japan towards more open markets, but that pressure could potentially sour U.S.-Japanese relations. The potential costs and benefits of using Super 301 to force a more open rice market are assessed both in terms of the economic and trade implications and in terms of the potential security implications. The effects of Super 301 on the General Agreement on Tariffs and Trade (GATT) negotiations is also assessed. Finally, the overall effects are examined in an effort to develop a policy recommendation.

Thesis

Super 301 could produce positive net effects with regard to forces for change in Japan. Its enactment would most likely lead to U.S. penetration of the rice market.

However, Super 301 would damage U.S. leadership capabilities in GATT and represents an undemocratic approach to international conflict resolution.

Comparative studies of 1988 Super 301 and GATT market-opening efforts suggest that Super 301 would not be any more effective than GATT, which has already taken up the issue of liberalizing Japan's rice market. Thus, even if Super 301's unique net benefits in terms of effects on forces for change within Japan were judged to rival the damaging costs to U.S. overall democratic-international leadership capability, enactment of Super 301 would be unnecessary. That is to say, with comparative results in terms of exports being basically equivalent, the broader objectives of strengthening and sustaining the United States' leadership of global *democratic* efforts such as GATT should take priority over the possibility of affecting rice-related forces internal to Japan. It

is arguable, however, that at least the current *threat* of a rice-targeted Super 301 has prompted Japan's willingness to support the rice-liberalization negotiations in GATT. Thus, this threat should be maintained, for example through the activity of pro-Super-301 elements within Congress.

I. Comments on Methodology

This analysis attempts to produce a policy recommendation with regard to United States international trade, ideology, and security interests. It does not examine why Super 301 is enacted, in terms of various political forces internal to America.

The data upon which much of the discussion rests is subject to some error, both in the way it is presented and the way in which it is used. No fundamental arguments in this essay, however, rest on fine-line distinctions in quantitative data, but rather on general trends, ensuring that the logic of the essay can withstand possible margins of error in data measurement or interpretation.

Although the author began his research with a personal political viewpoint basically in opposition to Super 301, every

effort was made to provide fair analysis and conclusions.

The secondary issue of ideology, which involves the discussion of democracy, is certainly value-laden; the assumption is that democracy is inherently good and worth supporting not only within the United States but as much as possible in the context of international relationships as well. This assumption will be shaped and defined at the appropriate point in the paper. It ought to be frankly stated from the onset, however, that although the assumption is debatable--even to the point of providing an excellent topic for future research--it is accepted *prima facie* in this paper and forms an important part of the thesis.

II. Background, Framing the Issue

The Importance of Japan, Primary Issue: Economics/Trade

Japan has the world's third largest economy, behind the United States and the former Soviet Union, with a Gross National Product of two trillion eight hundred and ninety billion dollars (Farnsworth 1992, 11). Apart from Canada, Japan and the United States are each other's greatest single-nation trading partners. Table 1 compares U.S.-Japan trade and trade with some other nations. (Farnsworth 1992, 31).

Japan is the largest market for U.S. agricultural exports, taking in over eight billion dollars value in 1990, with the next country in line, Canada, only importing half as much, approximately four billion dollars (CRS 1992b, 1).

The sheer magnitude of Japan-U.S. trade alone would establish a sufficient backdrop to elevate discussion of Super

Table 1. Japan/U.S. Trading Partners, 1989, in U.S. \$ billions.

Export --to: Japan/U.S. --from		Germany	U.K.	France	Italy	F.S.U.
U.S.A.	45	17	21	12	7	5
Japan	94	15	11	5	3	4

Source: Adapted from Farnsworth 1992, 31.

301 to a place of keen interest, but the grave problems within the overall trade relationship serve to further intensify the setting. The primary difficulty facing the relationship is the trade imbalance, as shown in Table 2.

The causes of the trade deficit are several: macroeconomic factors such as imbalanced interest rates and capital flows, manufacturing quality and marketing techniques, and internal and external barriers to trade. The importance of Super 301

Table 2. Japan-U.S. Balance of Trade, 1982-92 (in \$ billions U.S.)

<u>Year</u>	<u>Exports</u>	<u>Imports</u>	<u>Balance</u>
1982	20.7	37.7	-17.1
1983	21.6	41.2	-19.6
1984	23.2	57.1	-34.0
1985	22.2	68.8	-46.6
1986	26.6	81.9	-55.3
1987	27.8	84.6	-56.8
1988	37.4	89.8	-52.4
1989	44.5	93.5	-49.0
1990	48.6	89.7	-41.1
1991	48.1	91.6	-43.4
1992*	16.0	31.0	-15.0

*January - April

Source: Cooper 1992, 1.

rests in part in its potential to bring about a reduction in the trade imbalance through eliminating external barriers to trade, such as Japan's rice-import ban.

Certainly, the economic level of interdependence as well as the difficulties of the relationship reflected in the summary figures above serve to define Super 301 as a policy option dealing with high stakes and thus calling for careful and judicious analysis.

The Importance of Japan, Secondary Issue: History/Ideology

Japan has particular importance to the United States as a nation whose basic governmental and economic structure was put into place by U.S. occupational leadership after World War II. As such, it represents an experiment in the viability of American Constitutional ideals, as well in the adaptability of those ideals to forms of culture and society drastically different from those found in North America. It is interesting to note the difficult struggles erupting in several Eastern European nations as each attempts to adopt democratic and capitalist ideals similar to those traditionally upheld and proclaimed by the United States. Certainly the U.S. has an interest in the successful adoption and establishment of such ideals globally. Although Japan is unique in many ways and thus not a completely universalizable model of transition from centralized power to freedom and democracy, it serves as one example of a very successful transition, as guided and aided by the United States.

Here, as with the trade issue discussed earlier, it becomes clear that the continued alliance and successful interaction between the United States and Japan is of great importance; thus, careful consideration of

Super 301 as a dynamic policy option becomes an exciting and critical task.

The Importance of Japan, Secondary Issue: Security

Japan is a vital ally for the U.S. in the Far East; the health of Japan-U.S. relationships is a key factor in maintaining stability throughout the Pacific Rim. While Japanese invasions of China and Korea during World War II still leave trailing elements of distrust, Japan's neighbors have slowly opened productive diplomatic and trade relations with their former aggressor, assured by the commitment to non-militarism established by Japan's Constitution and supported by the extensive system of surrogate defense forces placed on strategic Japanese soil by the United States, based upon the Mutual Security Treaty for Strategic Protection signed in 1955 (CRS 1992a, 1).

With the fall of the Soviet Union, the long-standing alliance lost one of its initial purposes for existing as well as a dynamic unifying threat throughout the Cold War period. While Japan and the U.S. have traveled almost far enough as global partners to forget the enmity and military monstrosities they exchanged during World War II, the absence of Soviet threat coupled with a general decline in bilateral economic relations, as epitomized in the United States' festering trade deficit, threatens to endanger the productive and useful security alliance.

An interesting 1990 *Business Week* poll found that 68 percent of Americans consider the Japanese economic threat to U.S. interests greater than any military threat from the former republics of the Soviet Union. A different poll conducted by the *New York Times* in 1989 found that almost half of Japanese citizens believed

that if Japan were attacked, the United States would not help militarily (JEI 1990, 4). This polling data clearly reflect the existence of animosity and doubt within the U.S.-Japan security relationship. Likewise, the symptoms of recent breakdown in the overall Japan-U.S. relationship clearly appear in the polling

Basic Description of Super 301

Super 301 is an amended form of Section 301 of the Trade Act of 1974, which originally authorized the President, through the United States Trade Representative (USTR), to investigate unfair foreign trade practices and increase duties or other restrictions in retaliation when deemed appropriate. Super 301 has only been enacted once, as part of the 1988 Omnibus Trade and Competitiveness Act. It represented Congress' reaction against what was perceived to be the too feeble and too infrequent employment of Section 301 action by the executive branch. It mandated that the USTR annually list priority unfair trading partners with their respective unfair trading practices. After announcing this list, the USTR was given a 12 or 18 month deadline, depending on the type of practice, by which it had to either acquire sufficient concessions at the negotiating table or recommend appropriate retaliatory actions (Nanto 1991, 1-2). The 1988 Super 301 expired after two years of implementation in 1989 and 1990. The dominant proposal in the 102nd Congress to re-enact Super 301, House Resolution 5100, vied to bypass the discretionary list-making powers of the USTR in posing mandates to specifically investigate several nations' trade restrictions, including Japan's import ban on rice. Although H.R. 5100 failed to pass, its Democratic sponsors are expected to push similar Super 301 legislation to the decision-making agenda in the 103rd Congress.

Super 301 is perceived generally as a hard-hitting, decisive means of prying open unfairly restricted foreign markets for increased U.S. exports. This perception stems from the condemnatory tone of the unfair trading partner/practice list, the

Table 3. Poll: Japan-U.S. relations.

How would you describe relations between Japan and the United States today?

Very Friendly	23 %	17 %	5 %	11 %
Somewhat Friendly	65	62	68	57
Somewhat				
Unfriendly	6	10	20	25
Very Unfriendly	1	2	1	4
No Answer	5	9	6	3

Source: Adapted from JEI 1990, 3-4.

data in the form of general decline over time in positive impressions held by Japanese and U.S. citizens toward each other. One *New York Times* poll found a discouraging trend (with one exception in the Japanese "Very Friendly" category) between 1985 and 1989, as reflected in responses to the question in Table 3.

It is clear that although Japan and the United States depend on each other as economic, historical/ideological, and security partners, growing ill-will--in part, no doubt, from tension over trade--threatens to weaken the relationship. The following analysis of Super 301 must take into account this reality.

affixing of strict deadlines, and the threat of retaliation.

Japan and Rice: The History and Reasons Behind the Rice Import Ban

Following World War II, Japan faced a severe food shortage caused by forced repatriation of Japanese nationals formerly living outside Japan and by the collapse of Japan's productive colonial ties throughout the Pacific Rim. Food consumption dropped below 1400 calories through 1950. The United States instituted land reform, creating a small-plot farming system with rice as the primary crop and dietary staple. This system remains largely intact today, with part-time rice farmers managing a meager 2.5 acres on the average. In order to protect this small-time farming operation as a guarantee of at least basic food security and to avoid any repeat of the terrible post-war years of hunger and dependence upon foreign food aid, Japan closed its borders to any importation of foreign rice. Though producing a high-quality rice, the Japanese rice industry passes on a consumer price of five to six times the current world price of rice due to the import-ban (USDA 1992, 5).

Protecting domestic rice production is not only a reflection of food-security concerns, but also of Japanese culture. Rice plays a central role in many Japanese religious festivals and ceremonies, including the daily offering of bowls of rice to deceased ancestors at family in-house shrines known as *butsudan*. Many Japanese city-dwellers maintain strong ties to original family homes in rural areas supported in part by the income transfers caused by the protection of the small-scale rice farming industry. The rice-import ban reflects a desire to maintain cultural

sovereignty through conserving traditional domestic production of rice (CRS 1992b, 1).

Japan and Rice: Forces Against Change

Both the concern for basic food security and the desire to protect home-production of one of Japan's principal cultural items, as described above, work as strong forces against revoking the rice-import ban. Other forces against change exist in addition to these two.

The Political Power of Agriculture

Despite a drastically lower level of overall agricultural output, Japan has twice as many farmers as the United States, 85 percent of whom are part-time farmers of small home fields (USDA 1990, 3). The sheer number of farmers, as well as the cultural and historical significance of their product, has created an entrenched political interest group which holds tightly to the strings of the Liberal Democratic Party (LDP), which has commanded a majority in the Japanese Congress or "Diet" for the last 35 years. Additionally, the Ministry of Agriculture is vehemently opposed to trade liberalization, as it serves a basic constituency which is internationally non-competitive. Pressure from the ministry, coupled with long-standing financial and voting support of the LDP by the agricultural community have proven to set Japan's rice ban up as a firm and lasting symbol of resistance to change (Ahearn 1989, 24). To appease the agriculture lobby, the Diet has adopted several resolutions expressing opposition to rice liberalization (Asahi 1992, 3). The defeat of a pro-rice-market liberalization LDP candidate by a somewhat obscure

opposition party candidate this year was precipitated by a backlash against the LDP candidate in nine out of ten rice-producing counties. Hiromu Nonaka, chief of the LDP election bureau observed, "[The] major factor responsible for the defeat of the LDP . . . candidate in the . . . election was the rice issue" (2).

It is very difficult for pro-trade liberalization politicians and bureaucrats in Japan to formulate a strong enough coalition to overcome the agricultural interest's hold over such status quo protectionist policies as the rice ban. When Keidanren, the largest big business advocacy group in Japan, openly opposed protectionist agricultural policy in 1984, a grass-roots movement mobilized to boycott all products produced by companies affiliated with Keidanren, promptly producing a formal apology and a recanting of the suspect criticism (Ahearn 1989, 56-7).

The Power of the Status Quo

A final broad force against rice liberalization is the inherent Japanese societal esteem for the status quo. A May 1990 poll conducted by the Japanese Prime Minister's office found that approximately 90 percent of Japanese households consider themselves "middle-class" (Farnsworth 1992, 86). Raymond Ahearn, a specialist in trade relations at the U.S. Library of Congress, observes, "[t]his has been interpreted to mean that the vast majority of Japanese have achieved a measure of material well-being and are basically satisfied with the way they live" (Ahearn 1989, 57).

This contentment translates into a force against economic change and the feared upheaval of rural communities economically tied to the import ban.

Japan and Rice: Forces for Change

Food Security and Trade

Despite resistance, several forces for liberalization of the rice market exist. To begin, with regard to the food-security justification for the rice ban, it is notable that rice consumption has fallen by one-third since 1960, while other dietary elements such as meat, eggs, and dairy, have tripled and quintupled (See Table 4.)

As Japanese citizens substitute foods such as beef and bread as significant elements in their basic food plan, rice loses ground as the mainstay of the Japanese diet and, thus, the main source of basic nutrition and food-security.

Additionally, Japan runs an approximate annual trade deficit of 30 billion dollars in basic foodstuffs (Farnsworth 1992, 33). Coupled with dietary shifts explained above, this serves to deflate the arguments in favor of the protection of rice as a food-security guarantee, in that true food security is becoming increasingly dependent upon diverse food products and thus reliant on secure and healthy trade relations, which the ban works against. This translates into a force in favor of flexibility and cooperation with important agricultural trading partners like the United States.

Table 4. Japanese dietary characteristics (kg/yr).

	<u>1960</u>	<u>1985</u>
Meat	5	25
Eggs	5	15
Dairy	22	67
Fish	28	36
Rice	117	75
Wheat	26	32

Source: USDA 1990, 9.

The "Me" Generation

The cultural underpinnings of rice protection are challenged by rising consumerism, or the "Me" generation. The post-World War II generation has known less of hardship or sacrifice, and is bent on consuming as much as possible, regardless of whether a good is domestically produced or imported. It feels less loyalty to traditions of *domestic* production of goods such as rice, and is not easily reconciled to the enormous costs of Japan's rice policy (Ahearn 1989, 46). The average yearly transfers to rice farmers paid by consumers through higher rice prices was estimated in 1986 at approximately 2,621 billion yen, or roughly 14 billion dollars according to the exchange rate at that time (USDA 1990, 23). High yen rates have also had a significant impact on the general attractiveness of imported goods, adding to the overall consumer leanings toward support of trade liberalization (Ahearn 1989, 61).

Public Opinion

Polling data reveal the existence of a significant though not majority level of Japanese public sentiment against protectionist trade barriers in general. Although relatively equivalent pro-protection sentiment exists, the polls reflect a slightly greater orientation toward free trade among Japanese than among Americans (Table 5), supporting the hypothesis that Japanese public opinion will tend to be a force for change in the future.

Among Japanese, protection of the agriculture industry, however, seems to enjoy considerably stronger support than protectionism in general (Table 6).

The question of removing Japan's rice-import ban in order to improve trade relations with the U.S., however, summons criticism but shows a smaller differential between basic supportive and oppositional opinions toward protection (Table 7) than Table 6 shows in dealing with agricultural in general.

This data suggests that removal of the rice ban, although not supported outright by dominant public opinion, finds noteworthy support and a less daunting level of resistance than with agricultural market liberalization broadly speaking.

Table 5. Poll: Japan, U.S. attitudes toward protectionism in general.

As a measure for protecting [Japanese/American] industry, there are such ways as to impose a high tariff or a surcharge on imported goods, or restrict imports in quantity. Do you think that these measures are to be taken as a matter of course, or do you think that [Japan/America] ought not to do so? (Japanese were asked about Japan's trade policies; Americans were asked about U.S. trade policies.)		
	<u>Japan</u>	<u>U.S.</u>
Measures ought to be taken as a matter of course	43.2 %	66.1 %
Ought not to do so	40.5	23.2
Other	2.5	1.1
No Answer	13.8	9.7

The Strong Yen

An additional force for change exists in the strong value of the yen. Beginning in 1985, the value of the yen increased drastically, nearly doubling in three years. This led to relative drop in the price of imports generally, followed by a corresponding boom in demand. This has contributed to rising consumer consciousness and changing consumer tastes, with a general movement toward greater levels of awareness,

acceptance, and preference of foreign goods (Ahearn 1989, 30, 61).

Table 6. Poll: Japanese attitudes toward protection of agriculture.

About "importing agricultural products," there are two opinions. A: 'It will be better to go on importing inexpensive agricultural products.' B: 'In order to protect the country's domestic agriculture, it is a matter of course to restrict imports.' Which opinion is closer to your view (1989)?

Closer to opinion A	32.4 %
Closer to opinion B	59.4
Other	2.0
No Answer	6.1

Source: Adapted from JEI 1990, 8.

Table 7. Poll: Japanese attitudes toward removing the rice import ban.

Now, do you favor or oppose the Japanese government taking any of these measures to improve relations with America?

Removing the ban on imports	Favor	Oppose	Not Sure
	39 %	48 %	13 %

Source: Adapted from JEI 1990, 8.

Views and Decisions of Some Japanese Political Leaders

Some political momentum for change has been created in recent statements of prominent Japanese political figures. In January of 1992, for example, Kiichi Miyazawa, Japan's prime minister at the time, argued publicly that rice imports would not damage the agricultural incomes significantly. Also, Michio Watanabe, Japan's Foreign Minister, argued in favor of rice market liberalization. Additionally,

factional heads of the LDP reportedly entered into an informal agreement to support rice liberalization. However, due to the constant threat of backlash from the agriculture lobby, such statements of support have been followed by equivocation (Asahi 1992, 3).

In April of this year, for the first time ever, the Japanese government allowed the U.S. Department of Agriculture to include rice in an annual food fair exhibition in Tokyo. Just one year ago at the same event, U.S. officials were forced to remove U.S. rice from the exhibit at the threat of arrest. This change seems to reflect a weakening in the severity of traditional government opposition to the possibility of foreign rice importation (Tokyo Kyodo 1992).

III. Cost/Benefit Analysis of Super 301

Vis-A-Vis Effects on Forces For/Against Change

Super 301 and Forces for Change

Because of its confrontational tone, Super 301 is a very dramatic and highly publicized policy movement. A rice-targeted Super 301 would affect and increase in the volume of Japan's public debate about the rice issue in general. To the extent that such public debate were to include accurate reflections of the overall food security situation, including figures on Japan's heavy dependence on U.S. imports of various basic foodstuffs, and increase in concern for healthy and peaceable agricultural trade relations could increase pressure to appease the U.S. and allow rice importation. To the extent that such public debate were to stress the extremely high comparative price Japanese consumers pay for rice because of the

import ban, the "Me" generation could respond with additional pressure to open the border to imports in hopes that despite likely high tariffs, prices would eventually decrease.

It is possible that the threat of retaliation implicit in Super 301 could play into the hands of LDP leaders who favor elimination of the ban. The political damage inherent in offending the agriculture lobby if trade concessions were extended to the

Table 8. Poll: Japan-U.S. relations, 1985 and 1989.

How would you describe relations between Japan and the United States today?

	U.S.		Japan	
	1985	1989	1985	1989
Very Friendly	14 %	17 %	2 %	11 %
Somewhat Friendly	59	62	52	57
Somewhat Unfriendly	14	10	40	25
Very Unfriendly	3	2	3	4
No Answer	10	9	3	3

Source: Adapted from JEI 1990, 3-4.

United States could be lessened if the press were to emphasize the costs to national prosperity that could be incurred if Super 301 demands were unappeased and punitive measures such as increased trade restrictions on Japanese exports followed.

Each of the above scenarios is speculative and, thus, less than ideal grounding for a supportive recommendation of Super 301. However, a closer look at two conditions in Japan suggests that the scenarios may be less speculative than they originally appear. First, key elements within the

LDP have expressed qualified support of rice-market liberalization, as described earlier. Second, the Japanese press is highly influenced and monitored by government leadership. Newsworthy events are funnelled to the press through exclusive reporter clubs organized and maintained within each government entity or agency (Gibney 1985, 244). Powerful government officials in favor of liberalization could use the leverage inherent in this governmental press club structure to disseminate information helpful to their cause.

However, the unilateral, bully-like approach of Super 301 could damage Japanese public sentiment toward the U.S., inciting a Japanese nationalist backlash strong enough to eclipse the above forces for change. As Table 3 indicates, goodwill between the United States and Japan has been declining. Table 3, however, shows only the first and last years of a five-year annual survey; goodwill actually showed an increase between 1988 and 1989 (Table 8), suggesting that the 1988 Super 301 at least did not cause immediate harm to public opinion; it could have even had a positive effect, although the reasoning behind response data is not indicated, so any link to Super 301 one way or another is less than sure.

The only force for change yet to be discussed, the strength of the yen, does not lend itself to this analysis of the positive and negative effects of Super 301. The impact on exchange rates and thus on import prices would most likely be ambiguous, depending on numerous variables beyond the scope of this research.

Super 301 and Forces Against Change

As describe above, Super 301-induced media discussion of the rice-import ban

could heighten the realization of Japan's import dependence on the United States for significant levels of basic food-stuffs; this could weaken the long-standing resistance to change based on increasingly outdated conceptions of food security based on rice alone, as described earlier.

On the other hand, despite shifting dietary patterns, rice remains a central player in the food security *tradition* of post-World War II Japan and is perhaps inseparably linked with the poignant memory of Japan's struggle to overcome post-World War II helplessness. Rice, with its peculiar historical role, coupled with its cultural and religious significance, may provide for a different, more defensive public response as a Super 301 target than did the 1988 Super 301's targets: super-computers, satellites, and wood products. However, the polling data seem to indicate a decrease in the likelihood of such a special case. As described earlier, the comparison of Table 6 and Table 7 reveal a slightly smaller differential between support and opposition of protection with regard to rice than with regard to agriculture in general; thus, rice, despite its historical and cultural distinction, does not seem to enjoy *special* public deference when it comes to the import-ban policy.

The political power of agriculture is likely to oppose trade liberalization regardless of the way in which it is brought to the decision-making agenda. As described earlier, even when the largest indigenous business advocacy group in Japan sought to wield its power against agricultural protectionism, grass-roots lobbying crippled the effort and brought Keidanren to its knees. The unbending resolve of entrenched agricultural interests will not respond positively to proposals to weaken protection regardless of location or struc-

ture of the source, foreign or domestic, Super 301 or GATT negotiations.

The only force against change yet to be discussed, the power of the status quo--as defined and developed in this paper, would likely see only negligible effects due to the introduction of Super 301; for it to be otherwise, a significant number of Japanese would have to be affected by the Super 301 effort adversely enough to change their basic perceptions of their own socio-economic status. Such perception shifts are possible in the long-run if Super 301 were to induce rice-market liberalization and cause some economic adjustments in rural communities (although it should be remembered that on the average, 85 percent of farming households' income comes from non-farm sources; thus, the effects of lower rice prices due to replacing the ban with tariffs and allowing some imports, could arguably be modest). To restate, after-effects of actual policy changes could cause some shifts in the support of the status quo, due to perceptions of relative economic well-being, but the direct impact of Super 301 initiation on the same would be ambiguous. Even if there were to be a certain long-term socio-economic perception shift as hypothesized, it would be difficult to predict how that shift would pan out with respect to public policy; for example, if farming households were hurt significantly enough, change in the direction of returning to heavy agricultural protection may be sought. Alternatively, shifts in the economy may produce a more general weakening of the Japanese resistance to *change in any form*, thus opening the door wider to debate on various market reforms.

Costs/Benefits Vis-A-Vis Secondary Issues

Super 301 and History/Ideology

The ensuing discussion rests on the following assumption: democratic principles can apply in similar ways to the governing relationships *between* nations as it can to the governing relationships within nations. The position of this paper is that to some extent, this assumption is true. There is considerable support of such in the establishment and activity of such governing systems as the United Nations and the General Agreement on Tariffs and Trade, both of which were founded and are sustained through the significant involvement of the United States.

Because of unique post-World War II interaction, the United States and Japan together exemplify the expansion, adaptation, and success of democracy. The fundamental principle of democracy could be defined as follows: *Equal standing, consent, and participation of the basic entities governed, both in the original structuring of rules and in the ongoing decision-making processes.* If Super 301 creates a situation which contradicts this, it represents in some ways a departure from democratic ideals. The cost of such a departure would be difficult to quantify. At this crucial time in global history, however, when numerous new nations are experiencing bitter struggles on their individual roads toward democratic reform, an example of steadiness and strength from Japan and the United States, the world's most prominent leaders, in their commitment to the fundamentals of democratic conflict resolution even in the face of difficult economic tensions, would be of great value.

Inasmuch as the goal of Super 301 is aimed at creating equal standing and par-

ticipation in the *economic* relationship, it could be said that its end is the perpetuation of the fundamental democratic principles as defined. However, the means of Super 301 represent a stark departure therefrom. First of all, the rules of the game, involving definitions of unfair trading practices and the deadlines for concessions are made strictly unilaterally, by the United States. Although the definitions may arguably be accurately assigned and the deadlines fairly chosen, Super 301 is undemocratic in that the basic structure of the negotiation process is not formulated with equal standing and consent of one of the basic entities to be governed thereby: Japan. The United States has the ability and liberty as a sovereign nation to make such demands on Japan, but those demands are not *democratic* in nature and thus represent a possible ideological shift of sorts. If Japan were to refuse to engage in more democratic negotiation, such a unilaterally directed course of action would be more justifiable. However, several existing avenues for more democratic negotiation are welcomed and fully participated in by the Japanese, including the Strategic Impediments Initiative and GATT.

The failure of these forums of debate to adequately or fairly address the rice issue would likewise provide greater justification for the United States to vie for the unilateral approach of Super 301. However, rice is currently a primary subject of negotiation in the Uruguay Round of GATT. The Dunkel proposal, which was agreed upon by the nations of GATT in January as the working basis for final rounds of negotiation, includes a proposal for the elimination of Japan's rice-import ban, the very goal of Super 301 (Hanrahan 1992, 10).

Super 301 and Security

It is difficult to assess the impact of Super 301 on the important security relationship shared by the United States and Japan. This paper will only touch briefly one possible Super 301-security link provided by public opinion, with the following assumption: Healthy security relations are supported by positive public opinion reciprocated between the nations in the security relationship.

As discussed earlier, there has been a steady decline in optimism regarding U.S.-Japan relations. If Super 301 were to open markets such that U.S. exports increased significantly enough to ease the trade imbalance and, thus, the overall tension of the economic relationship, the indirect impact on the security relationship through improved public opinion would be positive.

As described earlier, public opinion showed general improvement between 1988 and 1989. It appears, then, that Super 301 at least did not have any significant negative impact on public opinion.

Although the importance of Japan with regard to stability in the Pacific Rim and the maintenance of U.S. bases on strategic Japanese territory is great enough to warrant the examination of the possible impact of Super 301 on security, public opinion provides only an indirect impact assessment. Nevertheless it is worthwhile to state that the data seem to vindicate Super 301 of at least the potential cost of negatively impacting public opinion significantly enough to cause any decline in the health of the security relationship.

Costs/Benefits Vis-A-Vis the Primary
Issue: Economics/Trade

Super 301 Effects on U.S. Exports and the Trade Imbalance

Estimates of possible sales of U.S. rice in Japan if Super 301 were to succeed in pressuring Japan to lift its import ban run as high as 656 million dollars (Cooper 1992, 3).

It is possible, however, that other countries, especially countries like Thailand who produce a type of rice very similar to Japanese rice, could seize a significant portion of a newly opened market. Also, U.S. exports across the board could suffer slightly if Super 301 action, which might not deal only with rice, but with other sectors such as automobiles as well, served to reinforce a general perception among Japanese consumer that only through hard-line government pressure can U.S. goods be moved in Japan, that U.S. goods seem incapable of selling themselves based simply on quality. Dick Nanto, a Specialist in Industry and Trade at the U.S. Library of Congress sees evidence of this perception in the comparative success of U.S. auto sales. In 1990, for example, the U.S. Big Three sold 15,975 autos, the British 19,653, and the Germans 127,442 (Nanto 1991, 23). With respect to rice specifically, however, U.S. government action to overturn Japan's complete *ban* and allow the *introduction* of U.S. rice into the market would be less likely to reinforce such consumer doubts of quality. Thus, it would be a mistake to assign Super 301 with respect to rice (the focus of this paper) costs of this kind.

Additional costs, however, to U.S. exports could be incurred were Super 301 on rice to fail to produce concession and

thus follow its own designated course to retaliatory trade restrictions which could lead to an international trade war, and thus to decreased U.S. exports. In the case of 1988's Super 301, however, no such retaliatory actions were taken in the case of India, which along with Japan, had been targeted, but who unlike Japan, refused to produce concessions. The USTR simply refused to recommend sanctions. Although a repeat of this balk would serve to create an image of Super 301 as an idle threat, it is important to note that precedent provides the USTR with considerable discretion, such that a trade war resulting from unappealed Super 301 action is not unavoidable.

A final question of costs involves Super 301's focus on obvious, external barriers to trade. While a large portion of the problems faced by U.S. exports to Japan lie with direct and indirect internal barriers to trade such as Japan's distribution system, land-prices, anti-trust laws, and savings rates, Super 301 would serve to shift the focus away from these key items. However, the heated interchange between U.S. and Japanese trade officials which immediately resulted from 1988 passage of Super 301 spawned the Structural Impediments Initiative, a bilateral negotiation forum whose purpose was to focus on these very internal barriers. Therefore, Super 301's potential costs in this area ought rather to be expressed as potential indirect benefits (Ahearn 1990, 29).

Even if Super 301 is successful in creating the estimated 656 million in U.S. rice exports, that would only amount to a 1 percent reduction of the overall U.S. trade deficit. Accordingly, Super 301 should not be viewed as a means to decisively turn-around the troubled Japan-U.S. economic relationship. Nevertheless,

the incremental effect would be a positive step, and the increased sales would provide specific benefits to the rice-growing industry in the United States.

Comparative Analysis: 1988 Super 301 v. GATT Agreement

The ability of Super 301 to produce Japanese market access in specifically targeted areas can be analyzed by comparing the corresponding ability of an alternative method of negotiation. Such an alternative model was provided in the same year as the enactment of the original Super 301, 1988, when the GATT-11 Agreement was secured. Super 301 centered on three U.S. export sectors deemed to be unfairly inhibited in Japan: supercomputers, wood products, and satellites. GATT-11 dealt with eleven agricultural products.

Both the Super 301 and the GATT processes have produced some positive results. A cross-analysis of quantitative data is difficult for two reasons, however. First, although Super 301 was enacted in 1988, it produced only agreements to *negotiate* at the time, rather than actual trade agreements as with GATT (which had been debated for two years previous to the agreement) (Nanto 1992, 14). The Super 301-spawned negotiation process then took two to four years until specific settlements in each sector were signed. Not enough time has passed to know the actual quantitative effects of those settlements. Second, because the Super 301 and GATT agreements dealt with different economic sectors, comparing results even when enough time passes will be a difficult task, since numerous variables affect different economic sectors in unique ways. For example, ketchup imports may show a greater increase than satellites, yet the reason for this may not be the comparative

effectiveness of the different negotiation forums but rather the impact of direct national security concerns on the satellite market, wherein the Japanese government must protect viable domestic production capabilities. Even more fundamentally, export quantities are not affected only by trade agreements, but by overall fluctuations in the international market, including changing exchange rates and levels of supply and demand.

It can be demonstrated, however, at least, that both methods of trade negotiation seemed to have produced some positive results. At the same time, neither seemed to have produced all of its goals fully. GATT-11 directed the removal of some quotas and the liberalization of most other import restrictions on 11 agricultural products. Experts in the Library of Congress provide the following summary analysis of available data:

U.S. exports of most of the negotiated GATT agricultural products have increased since the agreement was signed in 1988. Some exports have increased significantly, while several have declined. Since the GATT-11 agreement, the ketchup and tomato sauce category increased the most dramatically, by 107 %. Other category increases were much less significant, such as sugars and syrups increasing by 16 % and fruits and purees increasing by 34 %. The overall change in U.S. exports of these 11 agricultural categories from 1988 to 1991 amount to a 10 % increase. U.S. exports in the dried beans, peanuts, and pineapples categories declined since 1988. (Nanto 1992, 14)

It is apparent that effective results were gained with some notable exceptions. Restrictions, however, remained on some dairy products, despite the formal 1988 agreement, and negotiation to remove these were ongoing as late as April of 1992 (Nanto 1992, 14).

Similar results occurred in the case of Super 301, where the original enactment against Japan first aroused a refusal to

negotiate according to the U.S.-determined deadlines for concessions and retaliation; the Japanese, however, agreed to at least discuss their disagreements at the negotiating table, if the U.S. agreed to abandon the Super 301 structure. Thus, although altered from the original course, negotiations produced some progress.

Since that original period, a preliminary wood-product agreement was reached in 1990 (JEN 1990, 10). Insufficient subsequent market penetration, however, spawned continued negotiation in 1991 (JEN 1991, 39) and in 1992 during the Bush trade mission (Whenmouth 1992, 24). Thus, Super 301 led to negotiations, an agreement, and some initial penetration, but that penetration failed to reach ideal levels that the USTR negotiations had targeted; arbitration continued and more conclusive results are yet to be seen.

An agreement on supercomputers was reached in March of 1990 which provided for the opening up of eight major governmental contracts to bids from U.S. firms (Connelly 1990, 1). Despite the agreement, however, bid-rigging in favor of domestic firms reportedly continued and was under investigation by the House Government Operations National Security subcommittee in July of 1992 (Robertson 1992, 6). Similar to GATT-11 and to the Super 301 wood-products scenarios, the Super 301-induced supercomputer negotiations have produced some progress but have failed to produce ideal levels of free market access and export penetration.

The same type of pattern appears in the Super 301 satellite sector. Whereas March of 1990 brought the Japan Satellite Accord Sales Pact with promised open competition for U.S. satellite firms in Japan, April of the same year saw controversy regarding a Japanese government contract offered only to a domestic firm. Only with threats of

general trade retaliation did the Japanese government agree to open the contract to bids from U.S. firms (Jones 1991, 3).

In conclusion, it is difficult to discern distinct differences in result when comparing the different forums for negotiation, Super 301 and GATT. A similar pattern of gained concession coupled with drawn-out negotiation and conflict resolution develops in either case.¹

Effects of Super 301 on GATT

Proponents of H.R. 5100 argue that one benefit of Super 301 would be to "...get the Uruguay Round moving forward..." (U.S. Congress. House 1992, 60). Raymond Ahearn of the Library of Congress, however, points out the alternative viewpoint that "...Super 301 could torpedo the GATT" (Ahearn 1990, 42). The likely effect of a present-day Super 301 can be analyzed by exploring the effect of the 1988 Super 301. In a special session of GATT in June of 1989, over forty countries, including Finland, Canada, Mexico, Hong Kong, South Korea, Brazil, Japan, Israel, and the European Community made statements condemning U.S. use of Super 301, claiming it violated the rules and spirit of cooperative negotiation under GATT. Although technical debate over the statutes governing GATT has failed to produce any definitive ruling on the legal propriety of Super 301, the overwhelming rejection of its unilateral tactics by members of GATT suggest at least a high degree of hostility, though it may likewise suggest the true pressure-creating capability of Super 301 which could force compromise in the GATT. This pressure, though, has created what Raymond Ahearn describes as "...suspicio[n] and in some cases. . . derision. . . [from] many U.S. trading partners" (Ahearn 1990, 25).

Thus, it appears that Super 301 damages the overall respectability and cooperative influence of the United States, though it may provide some leverage.

With regard to Japan's rice-import ban specifically, Japanese officials have recognized that the desired successful completion of the Uruguay Round (which would benefit Japan immensely with regard to various aspects of the proposed agreement -- for example, GATT regulation of intellectual property protection and the formulation of a Multilateral Trade Organization designed to administer trade-dispute resolution) might require Japanese compromise on the rice issue, thus Super 301 pressure seems to be unneeded. However, it could be alternatively argued that the positive posturing of Japan with regard to rice compromise in the round is a result of fear of Super 301 action were the round to fail. Thus, although it appears that Super 301 undermines the overall negotiating leadership position of the United States in GATT, it is possible that at least the threat of Super 301 might contribute some positive pressure for compromise.

Net Effects: Toward a Policy Recommendation

To recap, Super 301 could produce some positive net effects on forces for change with regard to rice in Japan. The high-profile approach of Super 301 could lead, through media coverage of the overall rice issue, to a heightened public awareness of both Japan's reliance for food security on healthy trade relations as well as the costliness of the import ban. Pro-rice market liberation elements within the LDP could foster and utilize such opportunities for media influence to create a political atmosphere more open to change despite the entrenched and unmov-

ing agriculture lobby. Although it is possible that the unilateral attack of Super 301 on rice, one of Japan's cultural icons, could induce a public backlash, the last Super 301 enactment in 1988 saw no such negative reaction, and polling data indicate no uniquely high levels of public resistance to removal of the rice ban.

Super 301 would likely have no significant effect on security relations, based on the indirect link of public opinion.

When comparing the 1988 Super 301 and GATT efforts, a equivalent pattern of qualified success coupled with frustration and dragged-out negotiation develops. That is to say, despite its ambitious, hard-line approach, Super 301 appears to be no more effective in terms of increased exports than GATT. (When enough time passes to reveal sufficient quantitative data in the more recently settled Super 301 sectors, a more detailed comparison would be helpful in testing this conclusion.)

Enactment of Super 301 in 1988 brought widespread protest against the United States in GATT, damaging the United States' general position of respect and leadership. (Here, as well, a more detailed analysis of the negotiation dynamics of GATT would be a helpful avenue of further research.)

Furthermore, Super 301 represents an undemocratic approach to international conflict resolution. Super 301 benefits with regard to forces for change must be weighed against these costs. Additionally, it must be taken into account that Japan has expressed qualified support of rice-liberalization provisions presently before GATT in the form of the Uruguay Round's Dunkel proposal. This suggests that a GATT agreement on rice is attainable, and that if the 1988 GATT-Super

301 comparisons are accurate, such a GATT agreement would likely yield roughly equivalent *results* as would a rice-targeted Super 301. Thus, even if Super 301's unique net benefits in terms of effects on forces for change within Japan were judged to rival the damaging costs to the U.S.' overall democratic-international leadership capability, enactment of Super 301 would be unnecessary. With the comparative results in terms of exports being basically equivalent, the broader objectives of strengthening and sustaining the United States' leadership of global *democratic* efforts should take priority over the possibility of affecting rice-related forces internal to Japan.

It is arguable that at least the current *threat* of a rice-targeted Super 301, however, has prompted Japan's willingness to support the rice-liberalization negotiations in GATT. Thus, this threat should be maintained, for example through high-profile activity and lobbying of pro-Super 301 elements of Congress, though these efforts must not be allowed to lead to enactment of Super 301.

IV. Conclusion

Although the secondary issue of ideology seems only to offer an abstract context for discussion of Super 301, it provides, in a way, the basis for the policy recommendation of this paper: that Japanese rice-liberalization be sought through GATT rather than through Super 301. That is to say, because GATT seems to be no more effective than unilateral actions such as Super 301 in producing specific sector export-expansion results, the ultimate foundation of an argument against Super 301 rests on the assertion that democratic

conflict-resolution is worth maintaining and exemplifying in the global setting. A comprehensive study of the philosophical considerations as well as the broader quan

titative implications (beyond the narrow context of increasing export penetration) of this assertion constitute an important avenue for further research.

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NOTES

1. It should be noted that the Strategic Impediments Initiative (SII) also began largely due to pressure created by the enactment of Super 301 in 1988. The subject matter of these negotiations, however, focused more on indirect barriers to trade within the Japanese economy rather than more obvious governmental barriers which are the subject of this comparison. Although noteworthy market-opening progress has been made under the SII process, it is arguable that a similar pattern to Super 301 specific sector negotiations and the GATT-11 has arisen: limited success coupled with failure and drawn out negotiation.

Term limits: A Message to Congress

by Robert Karlinsey

Over the past few years public sentiment has rapidly grown in favor of limiting allowable terms in office for elected federal officials. In many states measures have already passed limiting senators or representatives to a specified number of terms. Understanding term limits requires an understanding of the arguments proponents use to support their passage and of arguments opponents use to resist their passage. While term limits will probably decrease "careerism" and incumbent return rate in national politics, they constitute only a brief and periodic solution to the problem. Reforms in campaign finance laws might strike closer to the cause of careerism that has so many Americans upset.

On 7 November 1991, the most stinging term limit initiative ever to be considered was on the ballot in Washington State. Setting a record for statewide turnout during an off-year election, Washington voters decided against having term limits imposed on elected federal officials (Egan 1991). Washington's United States Representative and Speaker of the House Tom Foley worked hard for the measure's defeat--if passed, the term limitations would be retroactive, meaning that Tom Foley, a long time United States Representative since 1965, would be automatically ousted in the next election. Knowing this, Foley campaigned vigorously, using scare tactics such as the possibility that the Washington delegation would lose its seniority and influence in Congress. Speaker Foley didn't have to say much to get his point across; in fact, his most effective speech was just one word: "California." This word was especially poignant because most everyone knew that California was a huge, powerful state that had the potential to walk all over smaller states like Washington. Foley claimed that Washington's only defense against states like California, its seniority power in Congress, would be lost if Washingtonians

voted "yes" on the proposition (Will 1992, 222).

This was not the first time that term limits had appeared in state-wide elections. In 1990, California, Colorado, and Oklahoma voted in favor of term limits. Colorado, however, was the only state out of the three that voted to limit the terms of federal offices.

Thanks to the term limit measure's defeat in Tom Foley's state, proponents of term limits nationwide learned a valuable lesson: If term limit measures are to pass, they cannot be too harsh (i.e., retroactive). Following the Washington episode, advocates of the term limit movement rolled up their sleeves and went to work. By the 1992 general election, 14 states had term limit measures on their ballots, and none of them were punitive or retroactive like the guinea pig measure that had failed the previous year in Washington.

Never before had the same issue been voted on at the same time in so many states (Gross 1992). This clearly reflected a sour mood and a desire for change that had been accumulating throughout the nation. In particular, the public was tired of a Congress that was seen as an entrenched institution in need of a major overhaul. The House Banking and Post

Office scandals, the embarrassing way in which Senators handled the Clarence Thomas hearings, a national debt of \$4 trillion (Rudolph et al. 1992), pork-barreling, and other practices contributed to the ubiquitous, anti-incumbent atmosphere.

On the day of the general election, 3 November 1992, all 14 of the term limit measures passed. Colorado was no longer the lone federal term-limit state; it was now one among 15 states that had passed term limits for federal offices. However, voters of those same states who said "yes" to term limits also sent their incumbent candidates back to Capitol Hill. Nationwide, 93 percent of the incumbents seeking reelection won their races. It was as if voters were sending the bizarre message, "Stop me before I vote again" (Woshinsky 1992, 19).

All 15 of the term-limiting states prevent Senators from serving for more than 12 years, and the limitations on House members varies with each state. Eight of the 15 states restrict their Representatives to serving for no more than 6 years, 4 set the limit at 8 years, and 3 prevent ballot access after 12 years of service in the House.

With advocates in Utah working to have a term limit measure on the ballot in time for the state's next election, Utahns will begin to see the debate gain more prominence. As it does gain more attention, the arguments for and against term limits will be made, and Utah voters will have the chance to weigh both sides. This paper will explore four areas of the term limit issue. First, it will examine the popularity and success of the term limit movement. Second, the relationship between ideology and term limit approval will be explored. Third, arguments for and against term limits will be presented.

Fourth, a case will be made in favor of alternative measures to term limits, with an emphasis on campaign finance reform.

The Success of the Term Limit Movement

The term limit movement has definitely gained momentum. Term limit groups are already circulating petitions in the six remaining states that have initiative access. Although proponents are pleased with their initiative success, their ultimate goal is a constitutional amendment that would legalize term limits for federal offices throughout the entire nation. Since the 1992 term limit measures passed in all 14 states, the possibility for an amendment is greatly enhanced. "I would be very surprised if Congress had the nerve to deny it [passage of the amendment] at this point," said James Coyne, co-chairman of an interest group called Americans to Limit Congressional Terms (Holmstrom 1992, 5).

Whether or not term limits make it through the amendment process, the public seems to be in favor of them. In the 1992 KBYU/Utah Colleges Exit Poll, 82 percent of Utah voters said "yes" to term limits (margin of error is about 2 percent). Therefore, it is likely that if Utah held an off-year election today, a measure limiting the terms of federal officials would pass. Similarly, voters nationwide also seemed to be in favor of term limits. A national survey conducted by the Gallup Organization showed that 67 percent of those polled were in favor of term limits (Jimmerson 1993).

It is also interesting to note that Utah's first congressional district voters were in harmony with the "stop me before I vote again" paradox common to other states in the nation: Jim Hansen, a Congressman

going into his seventh term, was reelected. Of those that voted for Hansen, 84 percent approved term limits. This type of behavior is found in many American voters that say "Clean up Congress! Get those bums out of there--except for my Congressman, of course. He's the only honest one in the bunch."

Although the term limit movement has gained nation-wide popularity, some feel that this momentum is based on a shaky foundation, namely, public discontent with government. If the Clinton Administration can change the public's current view on government, term-limit supporters may dissipate quickly (Galvin 1992).

The Influence of Ideology on the Term Limit Movement

Although the length of term limits varies from state to state, the proponents seem to share common attitudes, and in particular, the movement sends a whiff of conservatism. This conservative influence exists for at least two reasons. First, many if not most conservatives are of the Republican persuasion; lawmakers of this party have been unable to control Congress for quite a while (except for their brief stint in the Senate in the early 1980's), and they hope that term limits will help to shift the majority into Republican hands. Second, conservatives believe in the concept of limited power in government; enacting term limits, they believe, will put a stop to the accumulation of power that the so-called "professional" or "career" politicians acquire.

Evidence of conservative overtones in the term limit movement can be seen from the KBYU/Utah Colleges Exit Poll. Term limits were approved by a wide margin no matter what ideology the respondents claimed; nevertheless, ideology did seem

to wield a degree of influence on the tendency to say "yes" to term limits. Conservatives were more likely to approve of term limits than were liberals. Table 1 illustrates this tendency. A majority of liberals as well as conservatives approved of term limits, but this majority was smaller for liberals (70 percent) than it was for conservatives (86 percent). This greater tendency for conservatives to approve of term limits may be explained by the conservative view that decreased power in government is better. Liberals, on the other hand, are generally more permissive of increased power in government.

On the national level, the greater tendency for conservatives to sanction term limits was also evident. In April 1992, the Gallup Organization polled 1004 registered voters randomly selected throughout the United States. Not unlike the KBYU/Utah Colleges Exit Poll results, term limits were favored by a majority of both conservatives and liberals. Furthermore, conservatives (68 percent) were more likely to favor term limits than liberals (58

Table 1. Term limit support among conservatives and liberals.

	% Conservatives	% Liberals
Yes	85.56	69.71
No	12.27	22.94
Don't Know	2.17	7.35

Source: KBYU/Utah Colleges Exit Poll, 1992.

percent) (Jimmerson 1993). Proponents correctly assert that the term limit movement is bipartisan, generally favored by conservatives and liberals alike. On the other hand, conservatives are indeed more

likely to favor the movement more than liberals.

The Arguments For and Against Term Limits

Needless to say, the term limit movement has not been able to avoid controversy. The topic is a heated one, with credible arguments on both sides of the issue. The most prominent arguments include the following:

The Paradox

Those who are against term limits claim that the public doesn't really know what it wants because in the last election, while all 14 of the measures passed, 93 percent of the incumbents that made it to the general election were reelected. This paradoxical behavior shows that the public is either hypocritical or has not made up its mind. Term limit advocates, however, assert that voting for term limits as well as incumbents is not hypocritical; rather, such behavior merely reinforces the term limit argument, showing just how much of an advantage incumbents actually have (Petracca 1992).

But opponents counter by saying that the term limit movement is an anti-Congress hysteria driven by "unstoppable populism," not by reason and common sense (Woshinsky 1992). Although it is true that many Americans are unhappy with Congress, they should not channel this discontent towards a drastic reform about which most Americans know next to nothing. However, term limit advocates can argue that, unstoppable populism or not, the electorate voted for term limits in their respective states, and anyone who upholds democratic values should respect

the democratically passed term limit measures.

The Incumbent Advantage

In the last general election, 93 percent of the incumbents were reelected, political action committees gave nine times as much money to incumbents as they did to challengers (Osgood 1992), and most challengers were unable to compete with their opponents in campaign expenditures. Proponents of term limits often state facts like these when using the incumbent advantage as an argument for term limits. They assert that limiting the terms of incumbents will reinvigorate Congress with new faces and new ideas, while those against term limits claim that the good incumbents will be thrown out with the bad.

In elections, incumbents have a big advantage over their challengers for the following reasons. First, political action committees and other contributors want to put their money on the winner. Since the incumbent has already shown that he or she can win an election, most of the contributions will be given to the incumbent. A challenger's chances of winning an election are somewhat greater if he or she can outspend the incumbent, but such an occurrence is rare (Erikson et al. 1991, 320). Second, incumbents have automatic name recognition due to previous elections and media coverage. The electorate is more likely to vote for a name they recognize. Third, incumbents have free mailing, or "franking" privileges which enable them to campaign directly to their constituents while the government foots the bill. Finally, incumbents have the advantage of a government-paid staff that can keep them current on the issues in case they engage in a debate. Each of the

factors listed above contribute to the uneven playing field on which incumbents are favored.

As a result, proponents argue that since incumbents are reasonably secure from defeat on election day, there is less incentive to meet the needs of the entire district and more incentive to cater to the special interest groups (both within and without their constituencies) that fund their reelection campaigns. After all, without campaign contributions, the incumbent advantage would significantly diminish. Term limits, advocates claim, would put an end to the incumbent advantage since open seat elections would be more frequent.

Opponents, on the other hand, assert that term limits would eliminate the incumbent advantage only once every twelve years or whenever the terms expire. This would cause serious, credible challengers to wait a few years until the seat becomes open, thus reinforcing the incumbent advantage while the incumbent's terms have not yet expired. As a result, incumbents would ignore the public and cater to special interests more than ever. Opponents also argue that there are less drastic, more practical options--such as campaign finance reform--that would attack the incumbent advantage more effectively.

Turnout

It has been statistically shown that increased campaign spending does not significantly lead to increased voter participation. In *The Money Chase*, Magleby and Nelson state that "competition, however, *does* lead to higher turnout, while expenditure imbalances between candidates reduce it" (1990, 42). Term limits will increase the frequency of

open seats, and since political action committees tend to give money to both candidates in an open-seat election, competition will increase, and therefore voter turnout will improve. With this in mind, term limit advocates claim that the disproportional voice of lobbying groups will be diminished by more voters coming out to the polls. Opponents can argue that there is no evidence to support that an increase in turnout will mute lobbyists, and even if this *was* the case, term limits would only improve turnout once every six to twelve years, depending on the term limit.

Careerism

Term limit advocates decry "career" politicians who look only towards reelection and the interest groups that fund their campaigns. Under the current system, they say, members of Congress feel successful if they are able to bring home lots of money in the way of entitlements, programs, and "pork." Proponents call this behavior "careerism" (Will 1992, 9), claiming that elected officials will do just about anything to keep their jobs as politicians. "To hell with the deficit, to hell with America, I have to get reelected next fall!" is what some proponents might expect to hear from an incumbent unrestrained by a term limit.

Proponents claim that the soaring deficit is a direct result of careerist attitude among politicians. But the anti-term limit argument is that the "I *have* to get reelected next fall" attitude will only be stopped after incumbents serve their terms, which is every six to twelve years. They also assert that term limits will not stop careerism; politicians will simply hop from

one elected position to another (Magleby 1993a).

Opponents use another word to describe the system under term limits--"amateurism." If term limits are imposed, Congress will lose its expert legislators and be full of ignorant freshmen who will make bad mistakes. Proponents counter by saying that politicians are already making bad mistakes, and besides, amateurism is good--American politics was never intended to be made up of career politicians. As far as expertise is concerned, term limit advocates claim that representative government has failed if it requires experts to be as skilled as neurosurgeons. Furthermore, George Will uses the executive branch as an example to argue that a lifetime career is not required in order to be effective in American government:

If government is really such an arcane business, how is it that the executive branch departments and agencies are run, year in and year out, by Cabinet and sub-Cabinet officers who come into government for stints of eight or (usually) fewer years? (1992, 58)

Those against term limits claim that term-limited politicians will fall prey to corporate interest groups. Since members of Congress will stay only for a few short years, it is in their best interest to use their temporary position as a spring board for their post-political careers. Therefore, especially during their last term, they will try to cater to special corporate interests that may provide employment in the future. Proponents, on the other hand, claim that the damage done every year by the legislative careerist under the current system is far worse than what term-limited politicians may or may not do during their last term. Furthermore, George Will reasons that special interest groups will not

even *want* to hire ex-congressmen whose terms were limited:

Think about it. One reason ex-legislators are hired by private interests today is to take advantage of their relationships with ex-colleagues who remain in Congress. But term limits will guarantee that those relationships are short-lived. Those ex-colleagues will soon be ex-congressmen. (1992, 212)

Accountability

Anti-term limit people argue that during the incumbents' final terms in office, they will have virtually no incentive to legislate on behalf of their constituents, since the only check against them, reelection, is no longer existent. Oliver Woshinsky claims that "the threat of ejection keeps them honest," and term limits will remove that threat. In fact, if term limits were applied to all incumbents right now, about one third of our public officials would be serving their last terms, which means that they would face no electoral check on their behavior (1992). Without this check, lawmakers would be vulnerable to the influences of special interest groups that encourage pork-barrel politics and a massive deficit.

Proponents counter that career politicians entrenched in their positions are the ones who have fallen prey to the interest groups. Always looking after the needs of those who fund their reelection campaigns, careerists fail to look at the aggregate interests of the nation and instead focus on the pork-barrel politics that make their interest groups happy.

Constitutionality

Opponents declare that term limits will not stand up before the Supreme Court. Article I section 2 of the United States Constitution states that there are only three

qualifications for membership in Congress: age, citizenship, and residency. Term limits add a fourth qualification and are therefore unconstitutional. This argument was upheld in *Powell v. McCormack*. In this case, Congress denied Adam Clayton Powell a seat in the House because of ethical misconduct. Asserting that age, citizenship, and residency were the only qualifications necessary for admittance into Congress, the Supreme Court ruled in favor of Powell. Opponents to term limits claim that they violate the Constitution on the same ground that Congress did in *Powell* (1969, 486).

However, Article I section 4 dictates that states have authority to set "times, places, and manner of holding elections for Senators and Representatives." Proponents use this part of the Constitution to assert that limiting terms falls under the states' authority to set the "manner of holding elections." Nonetheless, many advocates for term limits concede on the constitutionality issue. Their main goal, therefore, is to make term limits constitutional via the amendment process. Since the Supreme Court does not usually act until someone is directly affected, term limits will probably not be challenged in court until at least 1999, which is when the first federal officials will reach their limits. Proponents hope that by then term limits will be passed in the form of an amendment to the Constitution.

Increased Power of Staff, Bureaucrats, and Lobbyists

Since staffers, bureaucrats, and lobbyists are not elected, they can remain a part of the legislative process for as long as they can keep their jobs. Opponents to term limits reason that these groups will be more experienced and have "better

command of the territory" than the term-limited Congressmen who are relatively new on Capitol Hill (Will 1992, 56), and lobbyists, staffers, and bureaucrats would tend to interact with each other more than with the elected officials. Therefore, limiting terms would put more power in the hands of staffers, lobbyists, and bureaucrats. Coyne rejects this argument, stating that:

The reason that the 30-year veteran of the bureaucracy has power is because he's been a buddy for 30 years of an entrenched congressman and a powerful lobbyist. The people have no power to throw out the lobbyist or the power to fire the bureaucrats, but we do have the power to keep the congressmen from being entrenched. (Holmstrom 1992)

Even if this long-term relationship does not exist, George Will adds that "the vast majority of congressional staffers are not career people." House staff serve for an average of 5.0 years, and Senate staff serve for an average of 5.7 years (1992, 57). These periods are less than any proposed term limit, so how can staffers gain more expertise than the Congressmen who, on average, will be on Capitol Hill longer than the staffers will?

Lobbyists, on the other hand, are indeed professionals. Nevertheless, they are opposed to term limits because they flourish from the "long-term relationships of mutual aggrandizement with career legislators" (Will 1992, 57). Lobbyists will have less influence since they will not be as "buddy-buddy" with Congressmen. And bureaucrats also dislike term limits, since their power as well as their jobs often depend on serving the long-term needs of professional lawmakers (these long-term needs are fulfilled when perpetual government programs satisfy campaign contributors) (Will 1992, 57).

Causes v. Symptoms

Advocates promote the idea that term limits will attract more enlightened, "citizen" legislators who will not give in to the temptations of campaign donations, perks, and privileges. These term-limited lawmakers, they claim, will come to Washington to serve the public rather than to accumulate campaign war chests that will ensure a self-interested political career. They also say that voter turnout and participation will improve after term limits have invigorated Congress and increased election competition. In other words, proponents are convinced that limiting congressional terms will cure much of the government's ills.

On the other hand, the opposition asserts that term limits will not cure the ills of American government--they will merely go after the symptoms. Limiting the number of terms a lawmaker can serve will fail to deal directly with the problems that motivated the term-limit movement in the first place. Such problems include an ever-expanding government, the dominance of money in elections, public apathy, and congressional perks and privileges. Opponents to term limits argue that each of these problems would persist if term limits were imposed, and if they were to have any effect at all, term limits would only provide relief from these problems periodically--once every six to twelve years. In other words, term limits would only attack the symptoms, not the causes, of the problems that vex our government; they would act as a temporary bandage that would be applied occasionally, only to be stripped off almost as soon as it was put on. Opponents, therefore, prescribe other alternatives to limiting terms.

Alternatives to Term Limits

As just mentioned above, opponents to the term limit movement suggest that other reform measures can more effectively remove the causes of the predicaments that face lawmakers and the electorate. Below several proposals are advocated, with an emphasis in favor of campaign finance reform.

Term Limits for Committee Chairs

Lawmakers greatly enhance their incumbent advantage when they work their way up through Congress's seniority system and chair strategic committees. Chairing a committee means more power, which in turn increases campaign contributions, which in turn makes it more difficult for challengers to wage a competitive campaign. As a result, limiting the number of terms that a member can serve as chairman has been suggested by four House Democrats, led by Oklahoma Representative David McCurdy. They recommend that no lawmaker should chair a committee for more than eight years. McCurdy declares that, "[s]ome committee chairmen are more feared than the House leadership. Our intent is to reduce the possible arrogance that comes from having no accountability" (Coyne and Fund 1992, 136).

Term limits are already imposed on some chairs in Congress, and power wielded by some chairmen who have limits is somewhat greater than others who don't (Coyne and Fund 1992, 137). Making these limits for chairs universal would probably decrease the entrenched power that some chairman now monopolize. Limiting the number of terms that all members of Congress can serve, however,

would also accomplish the task of breaking a chairman's accumulation of undue power, but only limiting the terms of chairmanship would probably serve as a less drastic means of breaking up this power.

Franking

Under the current system, federal lawmakers are given free mailing privileges, paid for by the government. During a campaign, incumbents can use this franking advantage to get ahead of their challengers who have to finance their mailing with private funds. Under term limit reform, franking would still exist--incumbents whose terms of office have not expired would remain free to use this advantage over their challengers. Open seat elections, which would probably come up once every six to twelve years, would be the only elections where the role of franking would be nonexistent.

Besides term limits, there are two ways to attack this unfair incumbent advantage. Incumbents' free mailing privileges could be eliminated, or the same privileges could be granted to challengers for the campaign's duration. A comprehensive implementation of the former proposal is neither likely nor feasible; representatives and senators also use their franking privilege for non-campaign matters. Nevertheless, some states, such as Connecticut, impose a cutoff date for franking as the election campaign for state officials gets underway (Van Horn 1993, 128). The latter proposal could also contribute to a possible cure--subsidizing mailing activities of the challengers as well as the incumbents. Elected officials would probably prefer this reform over a cutoff date; few would want to give up their mailing privilege, even if the withdrawal

was only temporary. If implemented, however, one of these two reforms could begin to put contenders on a level playing field.

Staff

Along with franking, an incumbent also enjoys a staff as well as a local office paid for by the federal government. An incumbent's staff members can help with the election campaign by keeping their boss updated on the issues and by mobilizing campaign contributors and volunteers. On the other hand, challengers are forced to use their campaign funds for the same services. Once again, term limits would solve this imbalance only periodically--once every six to twelve years.

An alternative to term limits, therefore, would include providing temporary staffs and office space for challengers, compliments of the federal government. Although this would mean dipping into the national treasury, incumbents would no longer be alone in their ability to use a well-staffed office at the government's expense.

Money and Elections

Since the 1970's, campaign expenditures have skyrocketed. In constant 1990 dollars, aggregate congressional campaign spending rose from \$196 million in 1974 to \$405 million in 1984 to \$445 million in 1990 (Magleby and Nelson 1990, 29), sustaining an average yearly growth of \$15.6 million. Even more recently, the aggregate total of \$380 million spent by 1992's general election candidates up to 20 days prior to the election set a new record in the history of America's campaign spending (FEC

1992, 1). As a result, competitive challengers must raise huge amounts of money, and elected officials must spend a large portion of their time raising campaign funds rather than doing what they were elected to do--make public policy.

Along with increased campaign expenditures and expanding fund raising cycles, there has been a significant proliferation of political action committees (PACs). In 1974 there were 608 PACs, and by the end of 1990 the number of PACs had risen to 4,172 (Stanley and Niemi 1992, 175). This climb in the number of PACs has increased the amount of money available to candidates because unlike individual contributors, PACs are not limited in the total amount of money they can contribute during an election. Additionally, individuals can only give \$1,000 per candidate while PACs can give \$5,000 per candidate. These two factors, no total contribution limit and a relatively high per-candidate contribution limit, have added to the growth in the number of PACs as well as the political influence of the special interest groups that sustain those PACs.

Furthermore, campaign contributions are far from being divided equally among candidates. As mentioned earlier, the incumbent advantage is significant; in the 1992 election, political action committees gave nine times as much money to incumbents as they did to challengers (Osgood 1992), and as a result, 93 percent of the incumbents that made it to the general election were reelected. This reelection rate for incumbents is not uncommon and reflects the lack of competition between officials seeking another term of office and their challengers. In regard to the 1992 elections, Fred Worthimer, the president

of Common Cause, said, "In a year when 'change' was the by-word of our national elections, congressional incumbents were once again protected in their races by a wall of money" (Osgood 1992).

Money has definitely evolved into a dominant election factor. Mentioned above are three of the ways money has manifested its influence on elections--long fund raising cycles, disproportionate influence of special interests, and lack of competition between incumbents and challengers. Will term limitations solve these problems? Probably not. At most, they will briefly alleviate the problems once every six to twelve years. There are, however, other reform proposals that may prove to be successful in increasing competition, decreasing dependence on interest group money, and decreasing time spent on fund raising.

One of the most debated reform proposals is public finance of congressional elections. Although the federal government funds presidential campaigns, no such funding exists for congressional candidates. If administered carefully, however, there is a high probability that federal funding of congressional elections would achieve the goals of increasing candidate competition, minimizing the role of interest groups, and shortening fund raising cycles.

Public funding will make congressional races more competitive because challengers, who otherwise have a difficult time raising money, will receive enough public funds to wage an advertisement campaign that will give them substantial visibility. It is important to point out here that public funding will not put incumbents and challengers on level ground; challengers need more money to be as well known as their opponents. Nevertheless, public financing would enable challengers

to enjoy more name recognition than they now have--under current campaign finance laws, most challengers are unknown to most constituents. Since much of the campaign battle is public name recognition, federal funds will help challengers be more, although not equally, competitive.

If public funds are to help campaigns become more competitive, there is a condition that the candidates must accept: spending limits. Although the Supreme Court has ruled that spending limits are unconstitutional, voluntary spending limits are not (*Buckley v. Valeo* 1976, 1). In other words, if a candidate voluntarily agrees to limit campaign spending by accepting public funds in return, then the spending limit is constitutional. Therefore, public funds for congressional elections need to be given on the condition that the recipients limit their spending. Otherwise, one of the candidates could significantly outspend the other despite the presence of public funds.

Public funding will also diminish the role of special interest groups and their PAC money. Since publicly financed candidates will receive a substantial amount of government money; they will rely less on PAC contributions. This will reduce the undue influence of special interest groups.

Finally, candidates will have more time available to engage in policy making activities rather than fund raising activities. Knowing that they will receive a large portion of their campaign funds from the government, incumbents as well as challengers will not be preoccupied with filling their calendars full of fund raising events (Magleby 1993b).

Although public financing of congressional elections will cost the nation's taxpayers more money than term

limits would, these taxpayers may be pleased in the end. Politicians will be less inclined to grant expensive favors to the interest groups that used to fund their elections; having greater competition from their challengers, incumbents will work harder to represent their constituents' interests; and elected officials will have more time to study the issues and therefore become better policy makers. All of this can be accomplished without limiting the terms of lawmakers.

Besides public funding, there are other proposals for campaign finance reform that may prove to be more effective than term limits. For example, it has been proposed that individual contribution limits be increased while PAC contributions be decreased. This will supposedly diminish the role of PACs and increase the role of individual constituents. However, as long as there is no limit on spending, fund raising cycles will continue to lengthen and competition will continue to be nominal. Public funding, on the other hand, *will* cause candidates to limit their spending, and the public will enjoy the accompanying benefits.

Conclusion

The conservative-influenced term limit movement has gained a great deal of popularity at a time when many Americans are fed up with the way things are running in Washington, D.C. In my opinion, term limits would be a treatment rather than a cure for the ills of Congress. As long as the United States government retains its powers to regulate, subsidize, spend, and whatever else it wants to do, an unlimited number of interest groups will make an infinite number of request on elected officials. These officials, in turn, will look to these interest groups for help

getting reelected. Term limits will hinder this detrimental relationship only once every six years (at the most). Therefore, under term limit reform, the problems of a troubled government will not go away, they will only be slightly muted.

Alternatives to term limits, such as term limits for chair positions, either mutual or suspended franking privileges, subsidized staffs for challengers, and

public funding of campaigns would attack the causes of our government's illness more directly. Nevertheless, whether term limits will save America from itself remains to be seen. In the meantime, Americans will try to work out the meaning as well as the constitutionality of the nationwide plea, "Stop me before I vote again!"

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Education and the Gender Gap in Earned Income

by Alison Wiltbank Brady

The literature on gender differences puts forth at least three potential explanations for gender differences in income: the human capital theory, the direct discrimination theory, and the socialization theory. Using regression analysis and aggregate U.S. figures for education and earnings yields support for the direct discrimination theory. However, the resultant model predicts a decrease in earnings for both males and females who attend some college but do not graduate. The model, therefore, indicates that discrimination does exist in the workforce and calls for further research to explain the unexpected decrease in earnings for non-graduating college attenders.

Evidence from the literature supports the notion that there is a gender gap in income. I wanted to know whether this differential is due to the human capital theory--that men simply have more of the skills which are needed in the work world, including education--or the direct discrimination theory--the jobs which women tend to choose pay less simply because women choose them. Because of this, I decided to study the effect of education on income for women. I will study the effects of education on workers as a whole, and separately for men and women, then compare the economic benefits of education for each gender.

Literature Review

Many researchers in the various fields of economics, sociology, psychology and political science have studied the issue of the gender gap for income. Most of these studies include some discussion of education, some of which are relevant to this study. Although my study examines only the human capital and direct discrimination theories, I will include discussions of articles involving the socialization theory--that women are socialized to choose certain types of jobs

which pay less--to give readers a more thorough review of the academic literature.

In a study of nine industrial nations, Donald Treiman and Patricia Roos examined the theory that the earnings differential is due to less human capital accumulated by women, including education. In six of the nine countries, including the United States, the return to education was less for women than for men, and in five of the countries the educational coefficient is not statistically different from zero. For five countries there was no evidence against the hypothesis that women receive no increase in income based on more education. Because the United States falls in the category of countries where the coefficient of women's education as an independent variable for predicting earnings is not significantly different from zero, this study would support my hypothesis that women receive less income benefit from education than men (1983).

Examining the productivity aspect of human capital, Robinson and Wunnava use a frontier approach to study the earnings-productivity differential which eliminates the need to assume that all unmeasured male and female characteristics are the same. Because of this elimination of bias,

their study is more sound than most studies of its kind, and their results should be considered credible. These results show that female earnings would be 25 percent higher per hour without direct discrimination (1989). This seems to indicate that human capital theories based on the type of education men and women receive do not account for much of the female earnings differential. Because this study was not dealing with careers involving high amounts of education, however, it may not be directly applicable to my interest in women's returns to higher education.

Robin Bartlett and Timothy Miller studied the educational aspect of human capital by gender, through executive earnings of Denison and Wellesley college graduates. Their research indicated that men made 50.7 percent more than women, despite more graduate study on the part of the women, and more prestigious study for the Wellesley graduates. When the authors substituted the sample characteristics of Denison men into the estimated regression equation as Denison women, it showed that Denison men would make \$27,225 less if evaluated by the same criteria as the women; this implies that about half of the earnings differential between the men and women could not be explained by sample characteristics (1988). This indicates that even controlling for education, discrimination against women still exists.

Using the socialization theory, Hans-Peter Blossfeld studied sexual segregation of careers in the Federal Republic of Germany. His research indicates that although there has been an equalization of men and women in educational opportunities, they are still segregated for vocational training, which limits training opportunities for women (1987). It is

possible that different areas of study may influence the benefits of education in the United States, as well. Socialization of men and women toward stereotypical majors may lead men to careers that pay more.

The idea that socialization of men and women towards different fields contributes to the income differential is supported by a study by Barry Gerhart, in which he examined gender differences in current and starting salaries controlling for college major. He found that 43 percent of the starting salary differences between males and females were due to college major. He also found that men receive higher returns to their degree level among college graduates (this is not true for the whole sample, which included non-college graduates) (1990, 424). Thus the reason women make less could be due to the fact that they choose less rewarding fields.

On the other hand, another theory about gender income differentials involves the reverse idea that *because* women are the common employees in a field, products from jobs in which women are the common employees ("women's work") are undervalued; in other words, women do not choose low paying jobs, jobs that women choose become low paying. Donald Williams and Charles Register studied this possibility versus the possibility that the products are simply of low value by examining the proportion of employees that are male compared to the earning in the occupation at that point in time. They examined variations within occupations and across regions. Their study supported the undervalued hypothesis in four of eight occupations; the others were statistically insignificant (1986). This indicates that the earnings differential is at least partially due to direct discrimination against women. It also

might indicate that women would actually receive higher returns to education if they avoided "female" occupations. In this way, the practical conclusion of the direct discrimination theory is the same as the socialization theory.

In order to examine direct discrimination, Francine Blau and Andrea Beller studied the trends in earning differentials by gender from 1971-1981. Their study shows that the disparity between female and male earnings had decreased over that decade, a positive trend for women. The results suggest that this is due to declining gender specialization and discrimination. However, they also discovered that returns of education for women actually decreased over that decade, as did employment in "male" and integrated jobs. This correlation between women in "male" jobs and earnings could support either the direct discrimination or socialization theory. Thus women with higher degrees were not only receiving less than men with similar degrees in 1981, they were also experiencing fewer gains in the income differential than they had ten years previous (1987).

Given the existing research, there are educational returns for both genders. However, these articles support the notion that women receive less income increase per year of education, perhaps making women think twice about graduate study. There is evidence that this is based partly, but not solely, on college major. Although my study will not examine college major, that should be considered in evaluating the costs and benefits of education. It also seems that this may be due at least partially to "women's work" being undervalued. I will consider these theories and their supporting evidence as I evaluate my own results; they will help me explain

the differences that show up in my data, and turn statistics into something understandable and logically supported.

Method

To analyze the effect of education on income benefits for women, I used variables for gender and education, only. Although I first planned to use job category variables, due to the aggregate nature of my data, these variables were collinear with education; therefore, they were unnecessary. As well, the regressions were powerful models without job category, according to the R squared values, which indicate the percent of variance of income explained by each model (See Table 1). The sample consists of the United States black and white full-time work force over the age of twenty-five, from 1979 to 1987.

The dependent variable, income, consists of average weekly income for full-time United States workers.

The gender variable is a simple dummy (zero/one) variable, men being assigned the number one, and women, zero. The education variables included in the final regression are the percentage of people who have attended some college and the percentage of people who have attended four years or more of college. The base case in the regression consists of those who received a high school education or less. Data was used from *Statistical Abstracts of the United States* and *Labor Force Statistics from the Current Population Survey*, both published by the United States government.

Also included in the model was a variable called year, which is basically an inflation variable to control for income data in non-adjusted dollars. The data are

recorded from year one to nine, starting in 1979 and running through 1987.

Table 1 shows the results of a regression for the whole population on earnings, accounting for gender and examining returns to education. Table 2 is a regression on the data for women only, examining income as affected by education. Table 3 shows a regression of income for men, by education. For statistical tables see the Appendix.

Results

The model was very powerful, with an adjusted R squared of 98 percent for the overall earnings regression, meaning that 98 percent of the variance in income was explained by the variance in gender, education and year that were included in the model (Table 1). The regressions for each gender, specifically, received slightly higher R-squared values of 99 percent for both the male and female education/earnings regression. Collinearity for the complete model was well within normal limits; what did exist was mainly between the year and partial college variables.

As expected, earnings for those with a college degree were significantly higher than earnings for those with a high school diploma or less. Overall, college graduates make \$665.84 more per week than those with a high school education or less.

The returns for a college degree were higher for men than women; the results indicate that men receive 69 percent more for getting a college degree than women. Women with a college degree make \$429.32 more than women without any years of college. Their male counterparts, on the other hand, make \$724.30 more per week than men without any college. This education dividend is so much larger for

men than women even though men without any college seem to make more than women without college.

Very surprising were the results for the variable indicating some, but not complete, college education. The total population regression indicated that those with some college make \$767.17 *less* per week than those with no college. Both gender specific regressions showed less weekly earnings after having some college education than with a high school education or less. And male losses with some college were more than five times higher, at \$1482.10, than female losses, at \$286.22. That difference may have something to do with the fact that women have a shorter distance to the bottom. Even without thinking about theoretical grounding, the numbers seem outrageously high--if men with some college make \$1482.10 less per week than men with only high school educations, they must be making negative money.

Theoretically, I see no reason for the results indicating that people who attend some college actually make *less* than those with no college. The population is made up of full-time workers, so current students who may accept low paying jobs would generally not be included in the data. Although there is some collinearity between year and some college, it is within reasonable limits and should not cause problems. These results are contrary to other studies where income rises steadily with increased years of schooling, as well.

Conclusion

The purpose of this study was to examine educational returns to women in the context of overall returns and returns to men. The data show unusual and

unexplainable results in that those with some college education, but no degree, make significantly less than those with no college education. However, the data do provide evidence that women receive higher incomes for college degrees than they would without them, but fewer income benefits for a college education than men. This detracts from the human capital theory and supports the direct discrimination theory.

The results of the study are significant for women thinking of pursuing graduate studies, in terms of how much they are

willing to spend for such schooling. More generally, given the degree to which economic equality secures political equality, the government should take a role, as it has historically, in ensuring that people are treated justly in the marketplace. My results, showing that wage discrimination exists after controlling for education, may contribute to the academic literature suggesting that women are not being treated justly, and therefore, may be entitled to some governmental laws or programs on their behalf.

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APPENDIX--Statistical Tables

Table 1
Unweighted Least Squares Linear Regression of Earnings

Variable	DF	Parameter Estimate	Standard Error	T for H_0 : Parameter=0	Prob > T
Intercept	1	194.096394	32.24526995	6.019	0.0001
Year2	1	16.458521	1.31843508	12.483	0.0001
Gender	1	90.345749	3.99843539	22.595	0.0001
Per13	1	-767.169601	195.4427299	-3.925	0.0004
Per16	1	665.840846	32.63243555	20.404	0.0001

Collinearity Diagnostics (intercept adjusted)

No.	Eigenvalue	Condition Number	Var Prop Year2	Var Prop Gender	Var Prop Per13	Var Prop Per16
1	1.91112	1.00000	0.0178	0.0046	0.0702	0.0368
2	1.16596	1.28027	0.0004	0.4423	0.0080	0.2913
3	0.76378	1.58183	0.0222	0.4202	0.0095	0.6559
4	0.15914	3.46540	0.9055	0.1329	0.9123	0.0160

Model: MODEL1

Dependent Variable: EARNINGS

Analysis of Variance

Source	DF	Sum of Squares	Mean Square	F Value
Model	4	221107.60853	55276.90213	443.314
Error	31	3865.39147	124.69005	
C Total	35	224973.00000		
Root MSE		11.16647	R-square	0.9828
Dep Mean		306.16667	Adj R-sq	0.9806

Table 2
Unweighted Least Squares Linear Regression of Earnings--Women

Predictor Variables	Coefficient	Standard Error	Student's T	P	
Constant	156.81	16.196	9.68	0.0000	
Year	14.362	0.75783	18.95	0.0000	
Some college	-286.22	94.323	-3.03	0.0089	
College grad	429.52	26.319	16.32	0.0000	
R Squared	0.9943	Resid. Mean Square (MSE)		12.66	
Adjusted R Squared	0.9931	Standard Deviation		3.557	
Source	DF	SS	MS	F	P
Model	3	3.1038 x 10 ⁴	1.0346 x 10 ⁴	817.54	0.0000
Residual	14	177.17	12.655		
Total	17	3.1216 x 10 ⁴			
Cases Included 18					

Table 3
Unweighted Least Squares Linear Regression of Earnings--Men

Predictor Variables	Coefficient	Standard Error	Student's T	P	
Constant	386.70	33.393	11.58	0.0000	
Year	19.560	1.1663	16.77	0.0000	
Some College	-1482.1	207.93	-7.13	0.0000	
College Grad.	724.30	25.217	28.72	0.0000	
R Squared	0.9903	Resid. Mean Square (MSE)		62.01	
Adjusted R Squared	0.9882	Standard Deviation		7.874	
Source	DF	SS	MS	F	P
Model	3	8.8345 x 10 ⁴	2.9448 x 10 ⁴	474.93	0.0000
Residual	14	868.08	62.005		
Total	17	8.9213 x 10 ⁴			
Cases Included	18				