
POLICYMATTERS

VOLUME 3, NUMBER 2 SPRING 2006

**GOLDMAN SCHOOL OF PUBLIC POLICY
UNIVERSITY OF CALIFORNIA, BERKELEY**

POLICY FOCUS: THE INTERNATIONAL COMMUNITY

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Ayesha Khan

The Reality of Environmental Sustainability in China

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Foreword

WELCOME to the fifth issue of PolicyMatters.

Thanks to the tireless efforts of its student staff, the journal has continued its rapid development since the Autumn issue. The PolicyMatters blog and website are up and running at www.policymatters.net. The blog features ongoing discussion of current policy debates, with contributions from a regular team of writers as well as a variety of guest bloggers. The editorial reigns have been handed over to the class of 2007, with the position of Online Managing Editor created in order to ensure that online content is as high in quality as the print journal. As this issue goes to print, the PolicyMatters Advisory Board is choosing the winner of the Class of 2005 Prize for Outstanding Policy Article for the best article submitted by a student to the Autumn 2005 and Spring 2006 issues. Look for the announcement of the winner on the website and in the next issue.

We would like to extend our deepest gratitude to the editorial staff for their unwavering efforts and devotion to quality. In this semester of transition, all of the editors have redoubled their commitment in order to further the progress of the journal and support one another throughout the learning process. We would also like to thank the entire GSPP community of faculty, staff, students and alumni—particularly Dean Michael Nacht, alum David Gamson '86, and Director of Career and Alumni Services, Cecille Cabacungan—for their continued support, advice, and enthusiasm for PolicyMatters.

Our Policy Focus returns to the international community this issue. Ayesha Khan goes into multinational factories located in Pakistan to examine the effects of the evolution of corporate social responsibility on working conditions. Debra Lam challenges conventional perceptions, asserting that China will soon take the lead in sustainable development practices.

In our Features section, PolicyMatters' own George Willcoxon considers whether recent domestic intelligence scandals pose a long-term threat to counterterrorism efforts. Elizabeth Mokyr suggests expanding eminent domain in order to improve the US patent system. Adam Langton evaluates the new CAFE standards, proposing that American industries would benefit from voluntarily adhering to the more strict requirements in Europe and Japan. Finally, Marion Nestle answers questions from David Beller, confronting ongoing and newly emerging issues in food policy.

We then revisit topics from the Autumn issue. Attempting to organize the chaotic process of rebuilding New Orleans, Andrew Stackhouse offers an outline for establishing priorities and reinvigorating the area. Sheila Bapat determines the effect of clean elections on the success of female political candidates.

Closing out the issue, Robert Reich voices his agreement with the Bush Administration that it is time to reform the federal tax deduction for home mortgages.

At the end of our first year at GSPP and our first semester as guiding forces behind PolicyMatters, we would like to thank the entire GSPP community for its continuing ideas, interest, and feedback as the journal grows in scope and reach. We hope you enjoy PolicyMatters Volume 3, Number 2.

Melissa Vanlandingham, Anne Geiger, and Sasha Horwitz
May 15, 2006

Pakistan's Predicament: Corporate Social Responsibility in Action

Ayesha Khan

IN AN EFFORT to keep costs down, multi-national corporations (MNCs) from the developed world have moved their production processes to the world's poorest countries. Almost immediately came rumblings of child labor, human rights violations and environmental degradation in these less developed countries (LDCs). Local governments appeared ill equipped to regulate these mammoth corporations, which are often many times wealthier and more powerful than their host countries, and no global governing body seemed able to step in. In response to negative press coverage and fears of being sued, MNCs decided to self-regulate and the corporate social responsibility movement (CSR) was born.

Companies, particularly within the technology and garment sectors, now publish glossy CSR reports along with their annual financial reports listing their ethical sourcing practices and their efforts to clean up the environment. Consulting companies have mushroomed, offering to write reports, develop metrics to benchmark companies' efforts against their competitors, or help communicate this new mantra of corporate responsibility to the press and non-profit advocacy communities. Universities across the US and UK are now working on incorporating CSR courses into their MBA curriculums and the number of jobs in the field has increased.

Yet, despite this frenzy, the CSR model of governance has received limited validation. Can a corporation primarily focused on profits and its bottom line be truly committed to labor and environmental standards? Although proponents of CSR laud MNC efforts and critics scoff at "voluntary regulation," actual research on how CSR efforts truly affect manufacturers and workers in LDCs remains limited.

The Disconnect between CSR Objectives and Profitability Goals

Brands' CSR departments impose labor practice and environmental standards on outsourced suppliers requiring them to pay overtime, allow collective bargaining, have health and safety standards in place and generally improve factory conditions. However, to remain competitive, these same brands have moved toward lean retailing and just-in-time delivery models. As a result, they are demanding increased flexibility around order changes, speedy delivery and lower costs from factories. At the factory level, these schedule and price demands often result in poor terms and conditions of employment for workers. Hence the need to remain competitive is often times in direct conflict with CSR goals.

Oxfam conducted a research study in 15 countries focusing on garments and fresh produce. This report, *Trading Away Our Rights: Women Workers in Global Supply Chains*, included interviews with 1,500 workers and 140 managers. The report concluded that supply chain management and ethical trading demands were moving in opposite directions. The need for factories to remain flexible, speed up delivery and reduce costs results in a lack of long-term employment contracts, forced overtime, the undermining of unions, and pay-by-piece stipulations to facilitate overtime without premium pay. The report found that brands' purchasing departments remain focused on profit without factoring in ethical practices, and that brands simply monitor and police suppliers but are currently doing little in terms of facilitating social compliance. The report noted that, "The business model that drives globalization is at the center of this problem. This model is based upon ruthless pressure on prices, a demand for fast and flexible delivery, and a constant shift in manufacturing locations in pursuance of ever-cheaper production costs."

According to the International Law and Labor Organization (ILO), the increased need to remain competitive is resulting in numerous labor rights violations worldwide. In a study of eight export-focused countries, ILO highlighted the following egregious labor rights violations:

- In Bangladesh, the ILO found factories engaged in three days of 24-hour back-to-back shifts with children welcomed to speed up production.
- In South Africa, a night shift lock-in resulted in a pregnant woman losing her baby.
- In Central America, factories engaged in pregnancy testing to ensure that women workers would not be absent or need maternity benefits.

Another Oxfam report, *Play Fair in the Olympics*, interviewed 186 workers in six different countries, in collaboration with the Clean Clothes Campaign, to document the lives of those working at the bottom of the global supply chain. The report contains account after account of abusive labor practices, such as forced and excessive overtime, perpetuated by the need to remain competitive. The report highlighted a 21-year-old woman working in a sports garment factory in Indonesia who reported having to work more than 12 consecutive hours of overtime to meet an export deadline: "In June and July 2003, the sewing department I am part of worked from 7 am until 4 am the next day because of a large Reebok order... I work like a machine, not a human being."

A First-Hand Look at CSR at the Factory Level

In an effort to understand how the conflict between remaining competitive and being socially responsible plays out at the other end of the supply chain and, more importantly, to find out how the current system could be improved, I visited 15 apparel manufacturing factories in Pakistan that source to the US. These visits included denim, woven and knit manufactures that sourced to brands including Target, Wal-Mart, Gap, Inc., Nike, Calvin Klein, Levis Strauss and Company, JC Penney and Sears.

Pakistan can serve as a prime source of information and as an accurate example of what is happening in outsourcing locales across the world. As the controller of 1.8 percent of the world’s market share in textiles and garments, Pakistan relies heavily on its garment exports to the US. Yet, the Pakistani apparel industry has been facing increased external competition from countries such as China, India and Bangladesh due to the phasing out of the Multi-

anyone within the factory premises is at least eighteen years of age. Secondly, from factory owners to workers, everyone was able to identify an improvement in health and safety standards due to newly imposed social compliance standards. Many of the factories visited had installed fire extinguishers, reconfigured their layout to ensure the presence of double exit doors and now had training systems in place around health and safety standards. There was also evidence of first aid kits and nurses on site.

However, every factory owner interviewed believed that CSR in its current state was not working properly. Many felt that brands were being high-handed in imposing Western norms onto factories without taking into account local conditions. For example, some CSR standards now require that workers move from piece-rate compensation to salaries. Factory owners lamented that such requirements erode productivity and result in workers not meeting quotas and feeling a general sense of complacency. Given this, many

factories falsely document piece-rate workers to be on their payroll.

Interviews also discovered evidence of double books in two factories – one for brand auditors that documented a limited amount of overtime and another set of books for their internal accounting department that illustrated excessive overtime, of up to thirteen-hour shifts on a regular basis. Factory

owners stated that as long as the governments and brands refused to share the burden of CSR, double books and false documentation would continue, noting that this practice was rampant in India, China and Bangladesh. Without subsidies from the Pakistani government, and no move by brands to share the burden of CSR requirements, expensive requirements - such as effluent discharge plants that cost from \$150,000 to \$200, 000 to set up plus \$10,000 per year for maintenance - drive factory owners to evade rather than comply with CSR standards.

Factory owners also noted that the sheer volume of

Buyer Demand  **Impact on Workers**

Decreased lead-time	- excessive overtime
Flexibility around order changes / seasonality	- excessive overtime - hiring vulnerable sub-contractors, such as migrant workers, to meet sudden spikes in demand - not providing long-term employment contracts to workers
Downward pressure on price	- lower wages - pay-by-piece stipulations

Table 1: Linkages Between Buying Decisions and Poor Labor Conditions

Fiber Agreement and a year-over-year downward pressure on price. Factories also have to contend with corrupt government agencies, antiquated local laws around labor and environmental standards and the added time and cost of CSR audit and certifications.

Key Findings

Investigative interviews uncovered some clearly positive benefits of CSR. For example, none of the factories visited had any evidence of child or forced labor. Many MNCs now require factories to have systems in place to ensure that

CSR audits were onerous: many were audited for various labor and environmental standards by up to 22 government agencies in addition to the audits and requirements placed on them by a variety of brands. This results in duplicity of efforts that is both time consuming and costly.

Line managers disclosed that safety equipment such as dust masks and protective gear were only worn when auditors visited factories but promptly removed once these audits were completed. Although managers believed that inadequate training led workers to evade these safeguards, ignorantly choosing quicker production over misunderstood health and safety benefits, line workers told a different story: that immediate income generation from higher productivity levels outweighed health and safety risks.

In order to better understand the audit process, a between-group experiment was carried out in two factories. First workers were led to believe that I was a CSR auditor. Workers in this scenario were unwilling to divulge much information and stated that working overtime was rare. The same workers were then reassured that I was actually a student researcher and known to the owner. In the latter scenario, many reported instances of excessive overtime, and having no time off. Two workers noted that their wages had been withheld for over one month. Every worker stated that they were coached before CSR audits, and affirmed that their loyalty lay with the factory owner.

Ironically workers view CSR audits - that were designed to help uphold worker standards - with suspicion. Worker perceptions of CSR are summarized well by one woman who worked within a factory's sewing unit. She noted that, "If the factory loses orders, I lose my job - so I know what to tell auditors." Workers candidly admitted to working long hours, sometimes even taking power naps by the assembly line and then going back to work. Many noted increased incidence of injury, and workers sometimes fainting from exhaustion - but every worker claimed to need the hours, citing poverty, many mouths to feed and few alternatives to their current work hours. One hundred percent of the workers interviewed claimed to prefer working piece-rate to moving to a salary, stating that they made three times more money working by piece.

Strategies to Link Social Compliance with Competitiveness

Reframe the argument: According to Mark Milstein, Business Research Director for World Resources Institute, "Social and environmental goals need to be recast as business development objectives and only then will CSR be effective." As long as CSR is simply deemed to be "the right thing to do," no incentives exist for CSR to be part of a long-term sustainable business practice. CSR therefore needs to be recast as a strategy that boosts profits while meeting ethical commitments. One example is Nike's preferred supplier model, whereby CSR-compliant factories are awarded long-term contracts with the brand. Having such formalized incentive structures improves the linkage between CSR and competitiveness.

Reduce departmental silos: Brands currently operate in departmental silos that prevent CSR objectives from informing and influencing other business goals. For example, price, time, and flexibility decisions made

by the sourcing department should reinforce labor standards in the workplace, not undermine them. Additionally, buyer incentive structures should not focus simply on margins but should be realigned to include reward mechanisms for engaging in ethical purchasing practices. These changes can take place if CSR managers improve their communication with the departments in charge of these decisions. But first, CSR personnel must be given the necessary authority to address and influence business goals and practices that contradict the company's CSR objectives.

Improve forecasting: According to David Levine, a professor at the University of California, Berkeley, "The apparel industry is known for lumpy orders, with peaks and troughs in demand that result in rush orders that in turn undermine labor standards at the factory level." To circumvent this vicious cycle, buyers need to improve their forecasting capabilities so as to reduce last-minute demands on suppliers. Tools are needed to centralize supply chain data including the provision of sales information, forecasts, and warehousing data. By investing in such systems, brands can better link buying decisions to CSR objectives. For example, if a system tracked the impact of rush orders on overtime and injuries at the factory-level, the sourcing department

QUOTES FROM THE FACTORY FLOOR:

"This is an example of Western arrogance and high-handedness—why should they dictate to us? Coach us? Without understanding local conditions?"

-Factory Owner

"Benefits of CSR? We get orders and get to keep our jobs, that's the main benefit."

-Line Manager

"There are instances when many of us even sleep by the assembly line for a few hours, get up and get back to work."

-Factory Worker

Pakistan - continued

would understand the true impact of their demands. Similarly, the business case for CSR would be solidified if a system were able to correlate an increase in overtime with production errors.

Repair the audit function: The CSR audit function is broken in its current state, with auditors focused on checklists and coercive enforcement as opposed to more collaborative training and education. The limitations of the audit function were summarized well by one of the interviewed line managers - he noted that, "auditors spend more time in the air-conditioned conference room looking at papers, not on the factory floor."

Additionally, brands need to recruit more female auditors, particularly because a number of apparel, sewing and embroidery units are staffed predominantly by female workers.

Develop long-term relationships with factories: Brands need to work toward stable long-term relationships with suppliers, which will in turn enable factories to provide long-term employment contracts to workers on fairer terms. Long-term relationships will also establish trust and facilitate communication between everyone involved in the buying process. An inexpensive way to facilitate communication is via web-hosting sessions between suppliers and brands. Having frequent two-way communication between suppliers and buyers can help brands understand the complete impact of their buying decisions and, ultimately, facilitate the alignment of business and ethical commitments.

Most importantly, suppliers need to be provided with captive contracts as an incentive for social compliance. Captive contracts are formal agreements between the brand and factory that specify how many orders the brand plans on placing with the factory so as to ensure better forecasting and reduce overtime. Without this carrot, it is unlikely that CSR in its current form will truly improve labor or environmental standards.

The Future of CSR

Despite some of the limitations to integrating CSR at the factory level, the alternatives look bleak. Mandatory regulation is hindered by the politics of negotiating global treaties and a dearth of capable multilateral agencies that could take on the difficult task of enforcement. Moreover, command and control regulations tend to stifle innovation and provide

incentives for firms to do the bare minimum. With private sector-initiated codes of conduct, companies motivated by the fear of NGO and consumer backlash will constantly be goaded toward improving monitoring and enforcement.

Although mandatory regulation is not on the horizon, increased collaboration among the public, private, and non-profit sectors is already underway. There has been a promulgation of government-initiated voluntary regulatory programs in the United States and Europe that mirror CSR codes and standards of the private sector. These voluntary programs, borne from governments recognizing the limitations of governance, look toward firms to conduct self-audits and go above and beyond regulation.

Currently it appears that many brands are simply paying lip service to being socially responsible, given their refusal to share the cost and the conflicting messages from brand buyers and CSR auditors. Brands will need to move from the current static audit model to a more fluid collaborative system so as to develop a deeper understanding of the multiple pressures faced by factories.

More fundamentally, brands need to move toward a more stable, core set of suppliers, inculcating loyalty and rewarding suppliers with captive orders. Ultimately the provision of more orders is the best lever brands have to ensure the adoption of CSR standards at the factory level. As noted by one factory owner, "If brands really do want to uphold labor and environmental standards, they need to assure me that any investment I make towards this results in orders. Otherwise how can I justify spending thousands of dollars on CSR, only to then have brands move toward cheaper suppliers in China?"

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The Reality of Environmental Sustainability in China

Debra Lam

IN THE PAST two decades, China has experienced tremendous economic growth and rapid urbanization. While China's growth has been responsible for eliminating much of the world's abject poverty, it has had dire environmental consequences. According to the Ministry of Agriculture, pollution of croplands has prevented cultivation that could feed the officially estimated 65 million malnourished Chinese.¹ China's Metrological Administration has directly attributed the 2001 floods, which caused 1,000 plus deaths and \$3.6 billion in damages, to climate change.² By 2020, the World Bank estimates that China will have to spend \$390 billion annually, or 13 percent of the national GDP, to treat diseases caused by pollution.³ Water shortages have made desertification a significant problem in a country already supporting a quarter of the world's population with only 8 percent of the global water supply.⁴ The list of serious problems is lengthy.

In the next Five-Year Plan (for 2006-2011), the Chinese government turns away from growth-driven policies toward sustainable development. Whereas previous environmental policies were ineffective because they lacked the full backing of the Chinese leadership, this 11th Five-Year Plan demonstrates that China's leaders are ready to address the country's environmental problems. Sustainable development policy in China still faces many obstacles, including weak institutions, inadequate legal protections, local non-compliance, and a lack of standard metrics. Strong leadership, however, in concert with growing recognition of an energy and environmental crisis, will push China toward sustainable development policies. In addition, China will be pulled toward sustainable development by a rejuvenation of public environmental consciousness, an increase in the influence of domestic environmental organizations, and an influx of foreign aid and technology assistance.

The Government's New Sustainable Development Policy

Even before its official March 2006 release, the new Five-Year Plan for National and Social Economic Development was promoted heavily by the Chinese government as a way of improving the environment and promoting more balanced growth. The plan seeks to spread wealth from coastal cities to inland areas and incorporate other types of non-monetary, social wealth.

In some respects, China is ahead of other developed countries, including the US, in creating a national, comprehensive policy for sustainable development. The plan

is bold. In its "six musts" (*liu ge bi xu*), the plan calls for reforms in rural areas, state-owned enterprises, the financial system including taxation and investment, market systems, and the development of the private economy.⁵ Specifically, the plan includes a reduction in energy consumption per unit of GDP by 20 percent over the next five years.⁶ Although many people are concerned that such a fundamental policy shift may not be politically possible, such radical change has precedent in China when fully backed by the national government. When Deng Xiaoping confronted China's growing population crisis in the late 1970s, he overcame international objections, cultural and historical values, and prevailing public opinion to swiftly enact tough population controls. While the appropriateness of these policies is certainly debated, no one would argue that their reach and impact have been minimal. Current President Hu Jintao faces a similarly large policy challenge in confronting the energy crisis, but his plans are aligned with traditional values and have international and public support. Strong Chinese government commitment is key to any successful policy change, and Hu's government seems prepared to make a lasting move towards sustainable development.

Skeptics have dismissed Hu's policy as too similar to that of his predecessors, Deng and Jiang Zemin, both of whom spoke of environmental protection but accomplished little during their periods of leadership. Admittedly, it is debatable whether the newly risen Hu individually has the political clout or intention to change development paths. In order to succeed where Deng and Jiang failed, Hu will have to overcome the institutional weakness of the State Environmental Protection Agency (SEPA), the limitations of current environmental law, and the resistance of local governments. In addition, the Chinese central government will need to develop an understandable, standard way to measure environmental progress.

Obstacles to Change

When Deng promoted SEPA to the cabinet level, the organization began to enjoy an enhanced profile. The agency's funding, enforcement, and punishments, however, remain weak. Prosecution is only pursued in the most severe cases and a verdict against perpetrators generates little punishment or future deterrence. Fines are not high; both city and industry violators tend to prefer paying token fines to complying with the law. Because SEPA is responsible for 660 major cities, over 300 smaller cities, and thousands of villages, monitoring abuse is difficult. SEPA's headquarters in Beijing

has a staff of 300, compared to 6,000 in the Washington, DC Environmental Protection Agency office.⁷ SEPA lacks the funding and training time to recruit more personnel.

The fledgling legal system has not aided SEPA's enforcement efforts. Critics have complained that there are both too many environmental laws and not enough. Since 1980, China has promulgated at least 12 national statutes and more than 600 local laws on environmental protection.⁸ But these laws are overly broad, hard to understand, and at times contradict one another. Last year, SEPA scrapped 208 local regulations allegedly violating other environmental laws.⁹ While the 1979 Environmental Protection Act grants every citizen the right to make formal complaints about environmental damages, pollution victims who sue for damages to their health or economic livelihoods rarely win their cases. Courts are hampered by local protectionist pressures, and lack standard guidelines on evidence collection, pollution victims' rights, and the assessment of causality and damages in pollution cases.¹⁰

Perhaps the most serious obstacle to sustainable development policy is the resistance of local and provincial governments.¹¹ China's size, diversity, and density have led the government to use a system of local autonomy. As a result, accountability is lacking; the central government is unaware of many of the day-to-day decisions and actions of localities. From SEPA's perspective, as long as the agency's local Environment Protection Bureaus (EPBs) remain under the influence of provincial and municipal governments, the agency will remain weak relative to other ministries. Local officials see SEPA's laws as obstacles to their cities' growth and personal promotion, and hence readily defy them. Unfortunately, toleration is the "most frequent response to conduct regarded as wrong, improper, injurious or otherwise deviant."¹² Local officials often choose to cover up violations rather than report bad news to Beijing, as attempts to downplay the recent chemical spill in the Songhua River in Jilin illustrated.

Rivalries among local and provincial governments also impede environmental progress. Cities may claim decreases in air pollution by moving polluting factories outside of municipal borders. Careerism also plays a role. Local officials competing to earn promotions are reluctant to transfer technology and share knowledge. Because official promotion guidelines are based primarily on meeting economic targets, "local protectionism has been very troublesome for SEPA," explains deputy director Wang Jirong. "Many local

governments focus too much on economic growth and fail to follow Beijing's line on sustainable development."¹³ China will continue to see poor local commitments until it changes incentives for local leaders and holds them accountable for their citizens' welfare.

In order to hold local officials accountable to social and environmental goals, the central government must institute a standard for measuring progress against those goals. In the 11th Five-Year Plan, China addresses the need for metrics by implementing the Green Index. The merits of this new index, however, are still unproven.

Making Sustainable Development Work

Whereas previous Five-Year Plans focused primarily on growth, the 11th Five Year Plan is centered on sustainable development. Despite the aforementioned obstacles, the time is ripe for these policies to succeed. China is being pushed toward sustainable development by an energy crisis and a new generation of determined leaders. At the same time, China is being pulled toward sustainable development by a rejuvenation of public environmental consciousness, increasingly influential domestic environmental organizations, and foreign aid and technology assistance.

Table 1: China vs. World Energy Reserves Comparison 2000

Energy Reserves Per Capita	China	Global Average
Crude Oil	3 t	23 t
Natural Gas	1080 m3	24988 m3
Hydropower	1603 kWh	2909 kWh
Coal	90 t	165 t

Source: Nolan, Shipman, and Rul 2004

Energy Crisis

China has very limited energy supplies. As Table 1 shows, the country's per capita energy endowments are far below the world average. International energy institutions predict that from 2002-2030, 21 percent of the world's new demand for energy resources will come from China.¹⁴

Experts have proposed numerous alternatives for reducing China's energy consumption. A November 2004 energy conservation blueprint aims to reduce total energy consumption by three percent annually by 2010, raising heating and cooling efficiency requirements for new construction, and mandating equipment upgrades for key industries.¹⁵ Energy economists Bryn Sadownik and Mark Jaccard have advocated community energy management,

where energy production, distribution, and use are considered in urban design and planning.¹⁶ Other experts have explored the potential of maturing technologies, such as coal liquefaction and renewable energy, especially wind power. Ni Weidou and Thomas Johansson believe that renewable energy can supply at least 10 percent of China's energy needs today.¹⁷

In order to implement any substantial conservation measures, well over a hundred thousand government and industry personnel will need to be trained,¹⁸ and the efforts of several ministries will need to be effectively coordinated. Strong leadership will be required to drive organizational change at this scale.

Leadership Support: Maintaining the Mandate of Heaven

China's Fourth Generation of leaders is uniquely prepared to lead the nation toward sustainable development. Both sensitive to social welfare issues and knowledgeable about technical solutions, they can be seen as blending Mao's socialist idealism and Deng's pragmatism. They are technocrats with strong backgrounds in the hard sciences; they are also survivors of the Cultural Revolution who are sensitive to the rise of social protests and political instability.

Just as every previous generation of Chinese leaders was shaped by a great event, the defining experience of the Fourth Generation was the Cultural Revolution (Table 2). Today's leadership consists of men who were able to regain their lives and careers after the socio-political upheaval of the Cultural Revolution. Their resilience can be attributed to shrewd political skills and the habit of independent thinking.¹⁹ Their experience has also made them more sensitive to the public hardships that can result from government policy. These leaders, for example, have shown surprising openness in addressing public health issues, such as SARS and HIV/AIDS. Scenes of Wen Jiabao visiting AIDS patients are still memorable. The Fourth Generation leaders still carry the patriotic attitude of their youth, but now it is coupled with an emphasis on action rather than ideology.

Each leadership transfer can be seen as a stimulus for change. The Fourth Generation's recent rise to power symbolizes a change from rapid economic growth under Jiang to sustainable development. Unlike Jiang, who rose to leadership in his late-sixties, most of the current Chinese

Table 2: Political Elite Generations

Generation	Historical Event	Period	Paramount Leader	Representative Figures	Issue
1st	Long March (1934-35)	1949-76	Mao Zedong	Zhou Enlai, Liu Shaouli, Lin Biao, Deng Xiaoping	Achieving the socialist utopia
2nd	Anti-Japanese War (1937-45)	1977-97	Deng Xiaoping	Hu Yaobang, Zhao Ziyang, Hua Guoteng, Qian Shi	Capitalism with Chinese characteristics
3rd	Socialist Transformation (1949-58)	1993-2003	Jiang Zemin	Li Peng, Zhu Rongji, Li Lanning, Li Ruihuan	Continued economic growth, increase international regard
4th	Cultural Revolution (1966-76)	2003-present	Hu Jintao	Wen Jiabao, Zeng Qinghong	Sustainable development
5th	Economic Reform (1978 -)	Unknown	Unknown	Unknown	Unknown

Source: Modified, based on Cheng, Li: China's Leaders

Note: There are some gaps and overlap periods of rule as time is needed to consolidate power. Officially retired leaders also often continue to hold the real power

leaders are in their fifties and can expect to rule for at least 20 years. They will have the ability to oversee a sustainable development program that reaps its long-term benefits—a luxury that leaders in developed countries, facing rapid election cycles, lack. Nevertheless, their long tenure is a double-edged sword: their political legitimacy will depend on encouraging economic growth while also addressing the need for social and environmental welfare improvements. This can only be done through sustainable development.

Environmental Consciousness: A New Form of Nationalism?

While strong government leadership is important, the real challenge lies in winning the hearts and minds of the public. The central government can strengthen incentives, punishments, laws, and enforcement to make local officials comply with central sustainable development policies, but a successful sustainable development program must be able to speak to people's values and encourage them to abide by changes to their consumption and way of life. To gain public support for sustainable development, the Chinese leadership will look towards ancient holistic philosophies to resurrect the public's environmental consciousness.²⁰ In their philosophical traditions, China's dominant religions of

China - continued

Confucianism, Daoism, and Buddhism all advocate man’s harmonic balance with and respect of nature.

While Mao and Deng did much to suppress environmental consciousness, there are many indications that the Hu government can leverage China’s rich environmental traditions to build public support for sustainable development policy. Although digging up the past to legitimize current policies is an old Chinese technique—which even anti-feudal Mao liked to use—the Chinese leadership needs to be careful in how it crafts its message. Mao’s policies of overcoming nature and Deng’s ambitious pursuit of growth above all else are formidable barriers.

Mao aimed to achieve a utopian socialism by dismantling China’s backward feudal past and empowering the peasant class. His message called for personal sacrifice in the face of national good and higher utopian ideals. At the same time, his message also usurped the dominant prevailing thought of “harmony between heavens and humankind” (*tian ren heyi*) with “man must conquer nature” (*ren ding sheng tian*).²¹ The environmental consequences of this conquest message were far-reaching, from backyard furnaces that caused severe deforestation, air pollution, and water damage, to land reclamation projects that destroyed wetlands and increased flooding.²² Mao also encouraged population growth, even as this growth resulted in less land per person and more intense exploitation of the land. China has yet to fully recover from the environmental destruction of Mao’s two decades in leadership.

After sacrificing family, education, career, and comforts during Mao’s Cultural Revolution, many Chinese quickly embraced Deng’s encouragement of individualism and materialism, and were eager to make up for lost time. While they did not damage the environment as directly as in the Mao years, they also failed to protect it when engaging in industrial and urban growth.

The Chinese public still harbors a deep mistrust of government campaigns advancing “the public good.” The Chinese leadership’s sustainable development message will need to minimize calls for personal sacrifice, instead showing

the public how much they have to gain. The government has spoken of sustainable development as people-centered and highly encouraged their participation in the process. Already, a total of 4.12 million Chinese have contributed their ideas and suggestions about the 11th Five-Year Plan.²³ The move is unprecedented for the authoritarian government, and shows how well the leadership understands the need for public buy-in.

Environmental Groups: A Rise of Civil Society

The Chinese leadership will also utilize the aid of environmental non-government organizations (NGOs). Most developed nations acknowledge the need for a strong civil society to create public awareness, understanding, and involvement in government-promoted sustainable development. In China, civil society is still in its infancy and is considered a sensitive topic for the Chinese leadership. Environmental groups, whether they are government organized non-governmental organizations—organizations that are more independent than official government entities, but not truly separate from the state—(GONGOs), student groups, Beijing-registered NGOs, community organizations, or international NGOs with offices in China, are in a unique position in their relationship with the government. Unlike the Falun Gong or pro-democracy groups, their interests

Table 3: China’s Environmental Groups 2005

Type	Number	Est. Membership	Example
GONGOs	350	1-2 million	China Wildlife Conservation Association, Beijing Efficient Energy Center
Beijing, National	40-50	3-4,000	Global Village Beijing, Friends of Nature
Student	120	10-25,000	Green Camp Volunteers
Grassroots	1000	1 million	Upper Yangtze Organization
International	35	250	Energy Foundation, The Nature Conservancy

Source: McBeath and Leng 2005

coincide very well with those of the government. They have a relatively long history of ties and partnerships with SEPA, local EPBs, and other international organizations. In particular, the GONGOs and Beijing NGOs are staffed by former government employees who understand the government’s workings.

Without directly challenging China’s political system,

environmental groups will be instrumental in advocating sustainable environmental practices and development. They are more likely to write letters to the relevant government actors about environmental concerns than to stage protests.²⁴ The environmental groups' strengths lie in their expertise in igniting citizen support through the media, training sessions, and educational activities. They have substantial credibility with the Chinese populace as they do not carry the baggage of past government policies and they reach many sectors of society. Table 3 shows the number and estimated membership of different environmental groups. The table does not include Internet and weblog activities and is merely a rough estimate of numbers, as many groups choose not to officially register themselves and operate on an ad hoc basis. The actual extent of environmental civil society is most likely much greater.

International Cooperation and Aid

China's sustainable development policies coincide with increased global awareness of environmental harms and strengthened global conviction that more developed countries have a moral obligation to help developing countries pursue a sustainable development path. Just as China needs domestic environmental groups, it will also need foreign governments and international organizations to provide financial support and technological expertise. The world also needs China to be successful in its efforts. China's air pollution has been known to spread as far away as Japan and Korea. Additionally, improvements in China can serve as a model for other developing countries. As the most populous nation, with the fastest growing economy and the second largest (first by the year 2025) producer of greenhouse gases in the world, its participation is vital to combating environmental degradation and climate change. China's cooperation with the world provides benefits for all.

There is already much foreign cooperation with China, which is the largest recipient of World Bank environmental funding. The Chinese Association of Mayors has had environmentally-oriented exchange and training programs with a number of countries, including the US and Sweden. Other government agencies and ministries have also developed joint partnerships. China has hosted and attended a number of international environmental conferences as well as signed multiple treaties, including the UN Framework Convention on Climate Change. It has sites in the UN Educational Scientific and Cultural Organization's Man and

the Biosphere Program, is listed in the World Heritage Commission, and has nature reserves on the International Important Wetlands List.²⁵

China's relationship with the US is more tenuous and complicated. The 1991 Beijing Declaration specifically places the burden of environmental responsibility on the US and other industrialized countries for having caused extensive damage and for having the means to fix it before developing countries. The US's lack of commitment to the Kyoto Accords and general apathy towards climate change has bolstered China's argument. On the other hand, China is actively seeking cooperation and aid from the US, and considers US aid offerings more prestigious than those of other countries, even if they include less financial support.²⁶

Private organizations and industries eager to exploit China's vast market are willing to invest in ecologically sound infrastructure and promote sustainable practices in order to build Chinese alliances. After seeing its rival, Netherlands-based Mittal, buy shares from a Chinese steelmaker, British-based Arcelor was more than willing to partner up with the United Nations Development Program to invest \$2 million dollars for energy efficiency projects in China, including the implementation of Kyoto Protocol's Clean Development Mechanism.²⁷ Market competition against foreign firms will also push domestic firms to improve and meet international standards.²⁸

Although China has yet to turn the corner in preventing further environmental damage, its definition of and approach to sustainable development is similar to international standards. By agreeing to such standards, Chinese leaders are revealing their seriousness and allowing themselves to be held accountable for their sustainable development policies.

The Road Ahead

The Chinese leadership's strong promotion of sustainable development policies—supported by a renewed public environmental consciousness, a newly formed domestic environmental civil society, and an increase in international aid—makes them quite feasible. The government's long reign and strict authoritarianism will allow enactment of the tough initial steps for sustainable change. Concerns for local implementation and corruption will be overcome as local officials perceive the central government's degree of support for and enforcement of these policies. Curbing social unrest and retaining stability is of central importance to all Chinese officials and they will do whatever is necessary to achieve those goals.

The Chinese government has acknowledged its inability thus far to solve the externalities of poor public health, environment degradation, and income disparity related to rapid growth and industrialization. Unlike political rights, which have never been fully realized or enjoyed, the Chinese have had centuries of breathable air, drinkable water, and prosperity. These kinds of losses send a signal that the government has lost its ability to provide for the people, its Mandate of Heaven. Chinese leaders are keenly aware that they need the help of civil society and have given more leeway to environmental NGOs and peasant grievances about environmental degradation. The difficulty for the government may lie in separating the political freedoms bestowed on environmental groups from other types of civil action. Once peasants and other groups exercise their political strength in environmental reforms, it will be hard to prevent them from applying the same mindset and methods to other areas. Despite this potential double-edged sword, the government has committed itself to environmental sustainability and it is in its best interest to stay the course by pursuing policies that support sustainable development.

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Secrets Don't Make Friends

George Willcoxon

ON DECEMBER 16, 2005, the *New York Times* revealed the existence of an unknown domestic surveillance program run by the National Security Agency (NSA). The NSA, the largest and most secretive American intelligence agency, is the agency responsible for electronic spying. However, the vast scope of the program, which was operating without judicial review and was hidden from Congress and the public, has the Bush Administration and the NSA reeling. Most surprisingly, the program quite likely broke American law and violated the Fourth Amendment to the Constitution. Unfortunately, the NSA scandal is only the latest in a string of domestic spying scandals since 9/11. Combined with the aftermath of Hurricane Katrina and the ongoing violence in Iraq, the Bush Administration's homeland security and counterterrorism strategy has had a brutal year in the court of public opinion. Each of these missteps needlessly puts at risk the continuation of crucial Congressional and popular support for the homeland security and counterterrorism mission.

FISA as the Framework for Domestic Surveillance

The NSA program's dissonance with the Foreign Intelligence Surveillance Act (FISA) drives much of the scandal. Enacted in 1978, FISA governs the collection of electronic or "signals" intelligence (SIGINT), and US law defines it as the "exclusive means by which such surveillance may be conducted."¹ Through FISA and other statutes, Congress denied all other authority to perform intelligence surveillance in the US, placing the procedural hurdles to domestic spying solely and securely into FISA.² Congress here relied on its exclusive Article I powers to regulate the armed forces—the power that Congress has used, for instance, to enact the Uniform Code of Military Justice, to set the size of the military, and to establish the Central Intelligence Agency. Congress and FISA are clear: all intelligence gathering is legal when conducted abroad; the government may gather intelligence, unhindered, within the United States for fifteen days following a declaration of war; and the Attorney General may authorize surveillance on foreign agents in the US so long as no American is party to surveilled communications. But the government must gain a special court warrant to gather

SIGINT if there is a chance such surveillance may touch Americans, their communications or their property. In issuing such a warrant, a specially established court must find that the target of the warrant is an agent of a foreign power or terrorist group; otherwise, the government must pursue a criminal warrant through the normal courts. The requirement for a court warrant for domestic surveillance derives from the rights guaranteed in the Fourth Amendment:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.³

However, FISA makes two important concessions to the art of counterintelligence: first, the warrants remain secret and are approved by a secretly-operated court with security clearances in order to protect intelligence assets from revelation; second, warrants may be sought retroactively within 72 hours in order to preserve the speed and flexibility of counterintelligence operations. In this latter case, the government begins electronic surveillance and applies for a FISA warrant afterward. If that application is rejected, government surveillance must cease. From 1978 through 2000, the secretly-operated FISA court approved *all* 13,087 applications for warrants, modifying only two.⁴ This remarkable approval rate is likely due to the care with which the government submitted applications, and the extreme deference the FISA court had for the government's national security concerns.

Then, starting in 2001, something strange happened: the FISA court began rejecting a much larger number of surveillance applications. From President George

Bush's inauguration in 2001 through 2004, the court modified 179 out of 5,645 applications and rejected at least four outright.⁵ The reasons for these specific rejections have not been made public, but the Court did publicly rebuke the Bush and Clinton Administrations for filing misleading applications in other, unrelated terrorism cases.⁶ Perhaps the Court found it necessary to reassert its independence following the submission of faulty applications in these earlier cases. In any event, the Bush Administration's response seems

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to have been to stop submitting dubious applications. Media reports have not revealed whether the covert NSA program in question was one scheme the FISA court rejected.

**The Domestic Intelligence Scandal du Jour?
Why the NSA Scandal is So Controversial**

What we do know is that the President ordered the secret

NSA program at roughly the same time his surveillance applications came under increased scrutiny from the FISA court. We also know that the FISA court was unaware of the program's existence. High-level leaks to the media have outlined the general contours of the secret NSA program, although concrete details remain scarce. The NSA appears to be using computers to sift through thousands or millions of American phone calls, emails, and other electronic communications in order to pick out

communications that meet certain characteristics worthy of follow-up by human intelligence agents.⁷ The leaks revealed neither good estimates of the number of monitored communications, nor the false-positive rate of the computer analysis, nor the characteristics that trigger human evaluation. Conceivably, the program might seek out certain phone numbers, suspicious words or phrases used in phone calls, the written language of an email message, and so forth. Traditionally, the NSA was responsible for capturing purely foreign SIGINT, but its abilities have grown to include international SIGINT—communications moving into and out of American borders.⁸ While its capacity is highly classified, the NSA likely has the ability to monitor almost all international and most types of purely foreign communications.⁹

Several particulars of the NSA program have amplified the scandal. The Administration's handling of the program and its response to the program's revelation have added as much power to this storm as the operational details of the surveillance. Perhaps most controversially, the President sidestepped several opportunities to bring Congress and the public into the policy discussion prior to and during the program's existence. Seeking public or Congressional sanction may have prevented this scandal in the first place. For instance, the President could have sought to amend FISA to allow data mining without a warrant when other sections of FISA

were modified slightly in the 2001 USA PATRIOT ACT, or when that act was renewed in 2006. Alternately, the Administration could have piggybacked on the Homeland Security Act of 2002. Most bafflingly, the President *opposed* Congressional efforts in 2002 to "allow the FBI to obtain surveillance warrants for non-US Citizens if they had a 'reasonable suspicion' they were connected to terrorism"—

almost precisely the same standard the Administration later used for the NSA program: "reasonable basis."¹⁰ The President subverted an opportunity to obtain Congressional sanction for increased surveillance powers, if not for the precise program itself.

Even if the President felt he already had the authority to conduct eavesdropping without a warrant under the Constitution, he told almost no one. Only the Majority and Minority leaders of both houses of Congress and the Chairs and Ranking

Minority Members of both intelligence committees (the so-called "big eight") received briefings on the vaguest outlines of the program, and only then on the condition of strict secrecy. These briefings occurred nearly a year after the start of the program, and appeared to ignore the law requiring the President to keep the entire membership of the intelligence committees "fully and currently informed of all covert actions."¹¹ Senator Rockefeller complained in a note to the Vice President (handwritten because of security concerns and immediately sealed) that these requirements prevented him from seeking staff and legal opinion necessary for him to evaluate the program fully.¹² The White House did not budge until the *New York Times* broke the story in December 2005. Declining to meet even the barest statutory notification requirement, the Administration seemed intent on igniting a backlash.

With neither formal Congressional approval nor Congressional or public engagement, the President's legal arguments to justify the program seem far more strained and convenience-based than they would have four years ago—at a time of high Congressional cooperation, approval ratings, and public trust. Even worse, the legal rationale, which was tenuous to begin with, has become even less convincing since December.

Responding to the *Times* article, the President first asserted authority to conduct domestic surveillance without

***Declining to meet even
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a warrant on the Authorization for the Use of Military Force against the September 11th 2001 terrorists (AUMF):

That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.

Based on this interpretation, the President was simply exercising war powers duly authorized by Congress. There were three obvious flaws with that argument. First, the media uncovered almost immediately that Congress explicitly rejected the Bush Administration's attempts to insert language into the AUMF authorizing the use of military force within the United States.¹³ Force (and intrusion) was only to occur abroad. Second, the AUMF does not contain language suspending FISA, and the Administration was forced to argue that Congress intended to do so implicitly. Third, even if Congress intended to suspend FISA but for some reason chose not to include that suspension in the AUMF, it could not have suspended the Fourth Amendment with a mere force resolution—past curtailment of constitutional rights have only occurred in states of civil war, invasion or formal war declarations. For the government to argue that the AUMF suspended constitutional rights, it would have to argue that the Tonkin Gulf Resolution, and the authorizations of both Iraq wars had the same effect on constitutional rights. No publicly available evidence supports these arguments.

Faced with these objections, the Administration conceded that the “original” legal justification for the power to order surveillance without a warrant was based on Article II powers, to which the AUMF argument was added only later. While the Framers gave Congress war powers both lengthy and specific, Article II says only that “the President shall be commander-in-chief of the army and navy of the United States, and the militia of the several states when called into the actual service of the United States.” Alexander Hamilton noted that:

The President is to be commander-in-chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first

General and admiral of the Confederacy; while that of the British king extends to the DECLARING of war and to the RAISING and REGULATING of fleets and armies, all which, by the Constitution under consideration, would appertain to the legislature.¹⁴

The President has hung much policy on that very small hook. He has used Article II powers to reserve the right to torture suspected terrorists, to conduct the NSA program, and to declare captured suspects “enemy combatants” rather than prisoners of war. If, however, the Commander-in-Chief can ignore Congress in time of war, what of Congress’ war powers? Can the President suspend all Congressional regulation of the armed forces, such as the Geneva Conventions or the Uniform Code of Military Justice? Can he promote generals or reorganize the government, approval of which is a Congressional prerogative? Rejecting all Congressional war powers is an incredibly novel and controversial proposition, and not a firm one on which to build support for a novel surveillance program the President considers vital to counterterrorism. Operating on thin legal pretext and in an extra-judicial and extra-parliamentary fashion, the Bush Administration gambled the sustainability of a program it asserts is crucial to its counterterrorism efforts.

The Risk of Public and Legislative Backlash¹⁵

The current scandal has several predecessors, unfortunately. The life-cycles of these other scandals suggest that secret programs, especially secret programs run without appropriate oversight or clear protocols, are ultimately at risk of being shut down once they are (inevitably) revealed. Whether or not a particular domestic surveillance program is effective or legal (and there are some that are neither and some that are both), operating that program hidden from Congressional, judicial, or public view increases the risk of a backlash devastating to that program—hardly a worthwhile risk for crucial American security efforts.

Since the events of September 11, 2001, the frequency of this sort of scandal has increased dramatically. In 2001 and 2002, the Department of Defense secretly developed a program to collect and analyze all electronic data in existence—DMV records, phone calls, pay stubs, Internet content, and so on—under the Total Information Awareness initiative. TIA was a massive data-mining effort, similar to the NSA program under current scrutiny. Headed by John Poindexter, who was convicted of multiple felonies in the Iran-Contra scandal,¹⁶ TIA stunned Congress upon its

Secrets - continued

revelation in late 2002. Congress quickly shuttered the program and prohibited any similar program in the future.¹⁷

The State of California faced a similar scandal dynamic in 2003. Newspapers caught the state's counterterrorism unit issuing intelligence reports to police departments about anti-war protestors and demonstrations leading up to the Iraq War. This intelligence unit had operated in near obscurity since 9/11, and there was little, if any, public or legislative oversight. Response was swift and devastating to the unit, which was reorganized and renamed. In this case, California's intelligence agents were apparently making a good-faith effort at doing their jobs by identifying potential threats to public order, but given that it made no effort to build up public or legislative trust, it is not surprising that the ensuing backlash effectively killed the program.

These programs may or may not have been warranted on national security grounds and may or may not have been unwarranted infringements on civil liberties. But, certainly, if America wants a sustainable domestic intelligence system, it must do a better job anticipating objections and avoiding needless controversy. Public and legislative oversight can accomplish two important goals: weeding out foolish or illegal programs and bringing democratic legitimacy and public acceptance to controversial programs. The domestic intelligence gathering system needs oversight to help prevent bad decision-making. The system also needs room to make honest mistakes without putting all of its endeavors at risk. This leeway does not currently exist.

The Risk of Gradual Erosion of Popular Support for Counterterrorism Activity

Aside from the risk of galloping scandal, the homeland security and counterterrorism mission is at risk from longer-term decay in popular support. Demonstrating that the Administration's clumsiness, secrecy, and overreach have weakened public support for domestic counterterrorism activity is difficult. A review of the polling data since 2001 suggests that public support for intrusive domestic surveillance has declined only slightly; thus, establishing a causal link to domestic surveillance scandals remains elusive. Public opinion polls have not consistently tracked public reaction to domestic surveillance activity across time; rather, polls have sampled American reaction to specific scandals, reducing their usefulness for the present task. In addition, these polls seem dramatically sensitive to the wording of particular survey instruments, and the issues at stake are relatively inscrutable to even the closest observers.

Unlike, say, welfare or health policy, counterintelligence and counterterrorism policymakers do not often incorporate democratic legitimacy concerns or the need for public support into their decision-making. Americans seem content with carving out space from the public square for cloak-and-dagger work. Yet even in this shadowy corner of our government, a certain level of public support and public trust is necessary. Aside from the threat of shutdown noted earlier, domestic intelligence operations in particular need public participation to work. It is extraordinarily difficult for officers or agents to find terrorist cells on their own: there are simply so many places to hide from view. They must rely to a great extent on informants and tip-offs from suspicious neighbors, employers, or family. All things being equal, policy decisions that reduce public trust lower the chances of public help breaking up cells. As Mao Zedong famously remarked on guerrillas in society, terrorists must be like fish in water. Popular indifference or hostility threatens to break the vital link between the public and the government—and to create a much murkier river for terrorists to swim in.

One recent poll¹⁸ asked Americans “how concerned [they were] about losing some of [their] civil liberties as a result of the measures enacted by the Bush Administration to fight terrorism.” Sixty-four percent were “very” or “somewhat” concerned. In the same poll, 50 percent of Americans disapproved of the President’s “authoriz[ation] of government wiretaps on some phone calls in the US without getting court warrants.”

Other polls suggest similar trends: even when respondents are asked about surveillance of “suspected terrorists” and American citizens, support remains mixed or low:

As you may know, since 2002, the Bush Administration has been using wiretaps to listen to telephone calls between suspected terrorists in other countries and American citizens in the United States without getting a court order to do so. Do you approve or disapprove of the Bush Administration's approach on this issue? (Jan. 26 to 29, 2006)¹⁹

Approve	Disapprove	Unsure
51%	46%	3%

Astonishingly, just over half of respondents approved tapping into communications of *people talking to suspected*

Secrets - continued

terrorists. This is perhaps the most charitable spin on the secret NSA program, which has apparently scooped up purely domestic communications, of suspected terrorists and otherwise.

Polls surveying the American public's approval of the Bush Administration's terrorism policies indicate dropping support. A representative CBS news poll shows a sharp decline from a high of 90 percent support in December 2001 to only 43 percent in March of 2006. However, on other metrics, American confidence and support has remained relatively constant: the proportion of Americans who believe that the US is winning the war on terror, the proportion of Americans who personally fear another attack, and the proportion of Americans who think American is doing "all it can" to prevent attacks.²⁰ These results are surprising given the ebb and flow of news over the past four years and the consistent drop in the President's approval ratings.

A review of the relevant opinion polling indicates that the public holds highly ambivalent and somewhat contradictory beliefs about national security, homeland security, and the war on terror. People report:²¹

- Optimism about ultimate victory;
- Belief that further attacks inside America are imminent;
- An almost equal split of Americans fearing that the Bush Administration will not do enough to protect the country and that it will go too far in compromising our constitutional rights;
- Majorities wanting to increase powers of domestic law enforcement;
- Majorities concerned with losing civil liberties;
- Majorities unwilling to allow government surveillance of "ordinary Americans" on a "regular basis," but willing to allow surveillance of "suspicious" people.

Like all good publics, Americans want to have their cake and eat it too. But domestic counterterrorism officials

should be concerned that public support for counterterrorism policy is both weak and shallow.²²

Public and Congressional tolerance for domestic counterterrorism activity seems to have reached the break-even point. Rebuilding that support will be crucial for the success of counterterrorism activity over the short and long-term. There are various paths to get us back on that road, such as public hearings, legislative sanction, and a more open discussion on the needs of and limits on the intelligence community. While

this process would have been better conducted several years ago, we should welcome the constitutional debate – especially now when Americans may more accurately understand the breadth and depth of possible surveillance programs.

Public and Congressional tolerance for domestic counterterrorism activity seems to have reached the break-even point.

Endnotes

- ¹ 18 USC 2511(2)(b)
- ² See Nolan, et al. "ON NSA SPYING: A LETTER TO CONGRESS," New York Review of Books, (2/9/2006)
- ³ Constitutional sources can be found at the Library of Congress website, <http://thomas.loc.gov>.
- ⁴ James Bamford, "Big Brother is Listening." The Atlantic Monthly. (3/12/06).
- ⁵ James Risen and Eric Lichtblau. "Bush Lets US Spy on Callers Without Courts." New York Times. (12/16/2005).
- ⁶ United States Foreign Intelligence Surveillance Court. In re All Matters Submitted to the Foreign Intelligence Surveillance Court. (2002)
- ⁷ Ibid.
- ⁸ James Bamford, "Big Brother is Listening." The Atlantic Monthly. (3/12/06).
- ⁹ Ibid.
- ¹⁰ Dan Eggen. "White House Dismissed '02 Surveillance Proposal." Washington Post. (1/ 26/2006).
- ¹¹ National Security Act of 1947, NSA Sec. 503(b)(1), 50 USC 413b(b)(1)
- ¹² The letter, now revealed, can be found at http://www.democrats.org/a/2005/12/senator_rockefe.php.
- ¹³ Barton Gellman. "Daschle: Congress Denied Bush War Powers in U.S." Washington Post. 12/23/2005.
- ¹⁴ Federalist No. 69.
- ¹⁵ Some of the following ideas were discussed in a different context and greater detail in an unpublished analysis for Sandia National Laboratory by GSPP students Fauna Doyle, Sean West and George Willcoxon, in Spring 2005.
- ¹⁶ Convictions later reversed on legal technicalities, not the merits.
- ¹⁷ In fact, there is some debate whether the current NSA program breaks that law too.
- ¹⁸ Cook Political Report/RT Strategies Poll. Feb. 23-26, 2006. N=1,000 Adults Nationwide, MoE +/- 3.1.
- ¹⁹ NBC News/Wall Street Journal Poll conducted by Peter Hart and Bill McInturff,. N=1,011, MoE +/- 3.1.
- ²⁰ See, for instance, the ABC News/Washington Post Poll, Jan 23-26, 2006, with trend lines, and the CNN/USA Today/Gallup poll of Jan 20-22, 2006, with trend lines.
- ²¹ The best collection of polling data on national security, homeland security, and terrorism can be found at <http://www.pollingreport.com/terror.htm>, and <http://www.pollingreport.com/terror2.htm>.
- ²² This policy area seems ripe for more in depth opinion polling, a la Israeli polling on the Israel-Palestinian conflict.

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A Prescription for an Ailing Patent System

Elizabeth Mokyr

THE UNITED STATES has a problem: for certain types of goods, the patent system is broken.¹ Provided for in the US Constitution, patents were intended to create exclusive ownership of innovations for two compelling reasons.² Because research and development (R&D) is an expensive and high-risk venture, a successfully patented product must compensate innovators not only for the R&D on the successful innovation, but also for failed attempts along the way. Patents also prevent other firms from free-riding, or appropriating the new innovation without paying the development costs, once a new blueprint for a better technology has been produced. After all, free-riding is easy to do; innovations are knowledge-based and therefore, unlike with material goods, one firm's use of a new method or technology does not diminish the amount available for the next firm. In addition, it is often difficult to keep other firms from taking advantage of an innovation once it has been developed. While using an existing innovation is not theft in the traditional sense, it does siphon profits from the innovating firm. If the market were left to its own devices, this combination of high risk and large expense would deter R&D investment. Enter the patent system, which in theory is necessary to encourage innovation by allowing for exclusive property rights, thus creating profits when there is a high risk of failure or free-riding.

Problems with Patents

Although most policy analysts agree on the advantages of patents, the system has some critical shortcomings. First, economic theory predicts and data support that monopolies almost always limit quantity to maximize profits, resulting in an asking price that is higher than the costs for producing another unit of the good (the marginal cost). Suboptimal outcomes result as some people are priced out of the market even if they are willing to pay more for a good than the cost of producing it. This inefficiency, known as deadweight loss, is defended by proponents of the patent system as a necessary evil—a small price to pay for improving our quality of life.

However, the deadweight loss from a monopoly may be extremely large if the good has social benefits. For example, if a new drug cures and therefore contains a communicable disease, the drug will benefit both people who are sick and people who do not get sick because the disease was contained. For many drugs, there are substantial externalities, or benefits to people who are external to the market transaction. Even a competitive market would undersupply goods with positive externalities (since the

private marginal benefit would be lower than the public marginal benefit), and a monopoly provider would produce even less.

It is possible that, even if no externality exists, society may believe that a new drug or therapy should be widely available for ethical or political reasons. For example, a treatment for childhood diabetes does not have an explicit externality, but very few people would argue against improving the quality of life for children at the lowest possible cost. In the case of these “merit” goods, a price above marginal cost may be especially undesirable. In the past few decades, the issue of merit goods has become increasingly urgent, as recent medical breakthroughs have been responsible for both longer life-spans and a higher quality of life. If poor people cannot afford the high prices of medications, public health may be the next civil rights frontier.

There are major advantages to providing drugs with both public benefits and ethical considerations at the lowest possible cost. Since the marginal cost of manufacturing a new drug or therapy is often quite low, forcing firms to sell their drugs at little or no profit would make them available to people who could not afford them otherwise. On the other hand, the fixed cost of creating a new drug (R&D) is quite high, and prices set at marginal cost would not incite innovation. What can be done to improve the patent system to reconcile the needs of innovators with those of consumers?

The Open-Source Solution

Those in favor of patents claim that it would be bad policy, not to mention politically impossible, to legislate that firms sell their drugs at marginal cost because this may impede R&D. As Marcia Angell writes in her book, *The Truth About the Drug Companies*,

Eminent domain has historically been used for land, and extending its reach to patents would require some alterations. First, the incentive effects of seizing land are very low and indirect since its quantities are fixed. In theory, one could make the argument that the population might be less likely to invest in land (i.e. build houses) if they believed their homes might be seized, but since land itself is not created in the market, the production of land cannot be disincentivized. The firm's investment in R&D, however, may be quite sensitive to the perceived payoff (although how sensitive is still unknown). Expanding the companies' claim that drugs are so expensive because they need to cover their very high research and development

costs ... Implicit in this claim is a kind of blackmail: if you want drug companies to keep turning out life-saving drugs, you will gratefully pay whatever they charge.³

While drug companies certainly do have high R&D costs, it is not clear exactly how high these costs are and how much profit companies must receive to innovate.

The software industry is in some ways similar to the drug industry, with high R&D costs, low marginal costs, and an information-based component. The problems with patents in both of these industries are quite similar. In the software industry, support is rising for “open-source” programs, where the code is widely available and anyone can use or add to the available software.⁴ This system works surprisingly well. Even the *Economist*, which proclaims itself a proponent of strong intellectual property rights,⁵ admitted “That *open-source* is a good way to make software is beyond question.” In addition, the *Economist* notes that the open-source model might be beneficial for drugs.⁶ Open-source avoids deadweight loss and under-production, and encourages innovators to build new products based on previous innovations.⁷ However, drug companies might not be able to convert completely to the open-source model since their R&D processes are considerably more costly than those of software companies. Under an open-source model, drug companies might be forced to charge prices that are higher than the marginal costs of their R&D expenses.

Policy Alternatives

Any solution to fix the patent system must continue to address innovation incentives. For example, if patents were usurped by the government for some public purpose, the expected value of an innovation would be reduced, creating a strong disincentive for R&D especially in the cases of goods that are most socially valuable. Government commandeering of patents would literally put a tax on creating goods with public benefits. Innovating firms must be compensated for at least their project-specific R&D costs.

Negotiating a patent buyout is also a poor plan because firms may try to game the system, resulting in an exploitative, high price for the government at best and possibly no agreement at all. The government wants to pay a price as close as possible to the patents’ expected payoff or the firm’s cost, but neither of these values is known. As House Democrat Henry Waxman said, “The basic problem is that all pharmaceutical costs, including research, are in a black box, hidden from view.”⁸ The firm, on the other hand, wants

to receive the highest price possible. If the managers believe the patent has a higher social value than private value, they may aim for a price higher than their costs or expected payoff. Although the industry would theoretically be indifferent between ownership of the patent and a one-time payment,⁹ it is not easy to make this trade. Predicting profits requires guesswork, and firms are not obligated to make a “fair” trade.

As the Constitution provides for patents, so too does it provide for eminent domain. The US model of eminent domain requires courts to determine the “just compensation,” which is usually interpreted as fair market value, and ensure that “public use” is demonstrated. Historically, eminent domain has been used primarily for projects such as roads, schools, and the cleanup of blighted slums. Typically, homeowners are offered a price, determined by the government, to move from their homes. These homes are then razed for a public project, such as the construction of a new school. Although eminent domain is theoretically a protection from government appropriation,¹⁰ in practice it is used to protect the tax-paying public from exploitative bargaining techniques when land is needed for public projects. A homeowner, knowing that the government cannot build without his land, and that the value of the block of land is useless without his home and exceedingly useful with it, could try to extract more than the fair market value for the land. It is an exploitative transfer if he is over-compensated, and it is a social loss if no agreement is reached. Eminent domain allows for large, socially beneficial projects without these problems.

Eminent domain is a powerful tool that allows the government to seize property for the public good. Because patents can be bought, sold, gifted, rented, or bequeathed, no reason exists why they could not be treated equivalently to concrete property. However, an eminent domain system for patents would need to be done carefully to avoid affecting incentives in undesirable ways. Any expansions to eminent domain would also have to be done carefully to avoid abusing the legislative intent.

Recently, eminent domain has been in the press because the Supreme Court expanded the meaning of “public use.” In the 2005 ruling *Kelo v New London*, the Supreme Court ruled that there was no “literal requirement that . . . [the] property be put into use for the . . . public,” so long as the seizure served *some* public purpose, perhaps through new tax revenue.¹¹ Thus, in the case of New London, “A private developer . . . wanted to raze some perfectly nice waterfront

homes to build an office block and some posh apartments,” and the owners, despite their reluctance, were forced to sell because of the increased tax revenues associated with this development.¹² This decision was extremely controversial, as equating private development to the public good was perceived by some to be government-enforced gentrification. Some might argue that any expansion to eminent domain use gives the government too much power.

However, in the case of patent reform for goods that provide public benefit, the risks of government abuse are overpowered by the advantages. The best solution is to use eminent domain only when there are large externalities, such as environmental breakthroughs and vaccines, quasi-public goods such as some computer software, and merit goods such as medications. In all cases, private firms should not be fined for infringing on patents if they wish to invest in R&D further, as they would be in the current patent system.

What is “Just Compensation”?

What constitutes “just compensation” is still a bit vague. Ideally, the compensation should be connected to the quality and impact of the innovation.¹³ The eminent domain common law, as well as the economic theory of innovation incentives described above, suggests that compensation should be as close to the private value of the R&D investment as possible. However, as mentioned above, it is extremely difficult to predict the private value of the R&D investment. Any compensation would be based upon a best guess.

A patent buyout is high-risk for both buyer and seller. The patent may possibly end up being worth nothing or may even become a liability (think of Vioxx and the pending multi-million dollar settlements), or the patent may become a surprising success. Instead of paying the producer upfront for the use of the innovation, it would make more sense to create a compensation formula, using a set of criteria including the quantity of the good sold, the price of the good, the marginal cost of the good, and other relevant criteria. At the end of a payment cycle, the values for each criterion would be plugged into the formula to calculate how much the firm is paid. The formula would be predetermined before any of the values for the criteria are known, making the payment automatic but based upon the

actual rather than the predicted value of the patent. This “pay as you go” system would ensure that neither the buyer nor the seller bears the full risk of R&D.

There are specific cases where the government *should* create a formula that specifically over-compensates the firms for their innovation. For example, in the case of public and merit goods, the private value of the patent undervalues the innovation. Therefore, some desirable projects such as anti-malaria medications and vaccinations for tropical diseases have low market value and are thus under-researched. By adding an additional payment as a sort of “social welfare bonus,” the use of eminent domain could actually improve the incentive structure for these goods.¹⁴

Conclusions and Recommendations

In summary, combining eminent domain with an additional “social welfare bonus” for the patent system has a variety of benefits. First, it allows more people to access public and merit goods such as medications. Second, by allowing competing firms access to blueprints and encouraging them to improve upon previous inventions, the variety and quality of these goods will improve in the long run. Third, by increasing the payoff for goods with a social welfare component, investment in R&D on these goods will increase. All of these benefits would be received without the risks of opportunistic and strategic bargaining of a traditional patent buy-out.

Despite political difficulties in further expanding eminent domain, intellectual property should be treated like any other asset. Similar to the homeowner preventing the construction of a school, public welfare is dependent upon the availability of these innovations. The social cost of profiteering is too high to continue with our current system. Although expanding eminent domain to patents must be done carefully to avoid reducing R&D incentives, it is possible to use this system not only without discouraging innovation, but actually to further encourage projects that are not undertaken when payoff is left to the market.

The best solution [to the problems of patent reform] is to use eminent domain...

Endnotes

- ¹ S. Scotchmer. 2004. *Innovation and Incentives*. Cambridge, MA: MIT Press.
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 Adam Jaffee and Josh Lerner. *Innovation and Its Discontents: How Our Broken Patent System is Endangering Innovation and Progress, and What to Do About It*. Princeton, NJ: Princeton University Press, 2004.

Patents - continued

² "Congress shall have power . . . to promote the progress of science and useful arts, by securing limited times to authors and inventors the exclusive right to their respective writing and discoveries." Article I Section 8 of the US Constitution.

³ Marcia Angell, *The Truth About Drug Companies*. New York, NY: Random House Books, 2005. P. 37

⁴ S. Maurer, A. Sali & A. Rai, "Finding Cures for Tropical Disease: Is Open Source the Answer?," *Public Library of Science: Medicine* 1:56 (2004)

⁵ "Imitation v. Inspiration," *The Economist Print Edition*, September 12, 2002. Found online at: http://www.economist.com/displaystory.cfm?story_id=1325360 on 11.16.2005.

⁶ "Beyond Capitalism?" *The Economist Print Edition*, 10.6.04. Found online at: http://www.economist.com/displaystory.cfm?story_id=2747734 on 11.16.2005.

⁷ Josh Lerner and Jean Tirole, "The Simple Economics of Open Source," *Journal of the European Economic Association Papers and Proceedings*, 3 (April-May

2005) 734-744.

⁸ Angell, P. 39.

⁹ The value of the one-time payment should be equal to the expected value of the patent payout, discounted over time: $E(x)/(1+r)$.

¹⁰ "Nor shall private property be taken for public use, without just compensation." US Constitution, Fifth Amendment.

¹¹ "Kelo et al. v. City of New London et al.," *Certiorari to the Supreme Court of Connecticut*, No. 04 – 108. Argued February 22, 2005, Decided June 23, 2005. Found Online at: <http://www.law.cornell.edu/supct/html/04-108.ZS.html> on 11.16.05.

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Rolling Over and Playing Dead: SUVs and the New CAFE Standards

Adam Langton

ON MARCH 29, the Department of Transportation (DOT) announced the most significant changes to fuel efficiency regulations in the program's 27-year history. Effective for model year 2008 vehicles, the regulations establish a new system for calculating efficiency for trucks that mitigates the decreased safety for increased fuel efficiency tradeoff long associated with fuel economy systems. Despite largely reducing the safety impact of increased fuel standards, however, the new rules propose only modest increases in efficiency standards for trucks. More aggressive increases in fuel efficiency standards could significantly reduce the United States' oil consumption and may help support American manufacturers by improving their ability to compete internationally.

The Current CAFE System

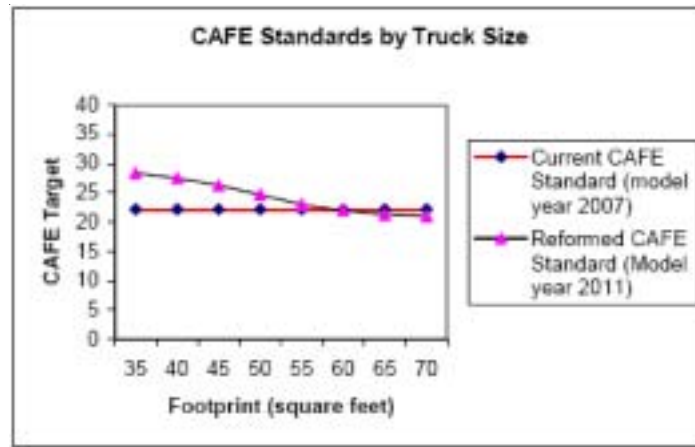
The current regulatory structure for vehicle fuel efficiency, called Corporate Average Fuel Economy (CAFE), recognizes two types of vehicles: passenger cars and light-duty trucks. Passenger cars are held to a higher standard (27.5 miles per gallon) than light trucks (21.6 miles per gallon), even though no definitional clarity exists. Instead, DOT makes this determination based on several design characteristics, including weight and size. The only precise definition offered for trucks is a weight ceiling of 8,500 pounds. Any vehicle weighing over 8,500 pounds is considered a heavy-duty truck and is exempt from CAFE standards.

The structure of CAFE standards has remained relatively unchanged since the standards' inception in the late 1970s, even though consumer car preferences have changed dramatically. During the past 15 years, minivans and SUVs have skyrocketed in popularity. Between 1987 and 2000, the proportion of vehicles subject to the light-duty truck fuel efficiency standard increased from 28% to 46%.¹ As a result, many of the most popular vehicles in the United States are classified as light-duty trucks for purposes of fuel efficiency regulations. Some of the largest SUV models – including the Ford Expedition and the Hummer – exceed the weight class of light-duty trucks and thus are not subject to any

minimum fuel efficiency standard. As a result, overall fuel efficiency of vehicles driven by Americans has actually dropped since the mid-1980s, when CAFE standards reached their current levels.²

The CAFE System Reformed

DOT's new regulations revise the CAFE structure to respond to changes in the vehicle market. Rather than having a single standard for all trucks, the reformed CAFE system establishes a fuel economy standard based on the size, or footprint, of each truck model. Each footprint is associated with a unique fuel efficiency standard. The smallest footprint size – held by most small pick-ups and minivans – would have a fuel efficiency standard similar to that of passenger cars (28.4 mpg), while trucks with large footprints – including large SUVs and trucks – are held to a lower standard (21.0 mpg). By including SUVs weighing



Source: Department of Transportation

up to 10,000 pounds, the new regulations expand to include SUV models that had previously escaped any efficiency requirement.

DOT believes that the fuel efficiency thresholds under the reformed CAFE system will result in an overall increase in the fuel standard for trucks. Based on future production plans for major car manufacturers, DOT estimates that the reformed CAFE system will increase overall fuel efficiency for trucks by 2% annually.³

Safety Impacts of the Reformed CAFE System

Manufacturers respond to increases in fuel economy standards in one of two ways: by improving the efficiency of the car's power generating components (such as the engine and the transmission), or by applying "load reduction technologies" such as improving aerodynamics of the body, reducing weight, and increasing tire efficiency.⁴ Most car manufacturers find that load reduction technologies are the most cost-effective way to meet increased efficiency requirements. The most common adaptation utilized by manufacturers is to decrease the weight of their vehicles, since weight is the component of the vehicle that they can most easily and cost-efficiently control. A study by the

Harvard School of Public Health found that the “downsizing” (decreasing size) and “downweighting” (decreasing weight) of vehicles in response to increased CAFE standards during the 1980s contributed to increases of 14-27% in fatalities per year.⁵ While the results of this study have been questioned by some researchers, many automotive experts agree that “downsizing” and “downweighting” are linked to greater highway fatalities.⁶

The incentive to downsize is particularly strong for the heaviest trucks in the light truck category, including many popular SUV models. Under the current CAFE system, all trucks are held to the same standard, even though larger, heavier trucks are generally less fuel-efficient than their smaller, more aerodynamic counterparts. Auto manufacturers have an incentive to decrease the size of their heavier light trucks in order to reach the CAFE standard for its fleet. In the case of SUVs, size reduction has resulted in greater risk of rollover for many models.⁷

Recent safety research has found that size and mass have different impacts on vehicle safety. Researchers have found that among trucks, downweighting may have some benefits for truck occupants, if downweighting is independent of downsizing. Increased vehicle size provides safety benefits because it provides additional “crush space” to protect passengers. Vehicles with large “crush spaces” allow the body of the car to compact and absorb the impact of a crash, reducing the crash’s impact on passengers. A large wheelbase is also an effective way to reduce the risk of vehicle rollover, a serious and growing problem with SUVs. When researchers isolated mass from size, they discovered that mass is the dominant factor in highway fatalities, not larger size.⁸ Size was found to be at most a secondary cause of fatalities. Even in cases where larger vehicles were involved in crashes with relatively smaller vehicles (which are usually more deadly to smaller vehicles), most of the increased risk of fatality facing occupants in either vehicles can be attributed to relative mass of the larger vehicle, not its size.⁹

The proposed CAFE reforms, therefore, largely reduce the negative safety risks associated with fuel efficiency standards by decoupling weight and size decreases. Under the proposed system, fuel efficiency standards will have less of an impact on safety because manufacturers will not have an incentive to decrease the size of their trucks to meet new standards. In fact, the new system provides a disincentive to decrease the size of trucks since smaller trucks face a higher efficiency standard.

The size-based standard has promising benefits over a

weight-based system, a common alternative to the current car-truck system. A weight-based CAFE system would be less effective than size as a regulation tool because it would provide incentives to increase the weight on trucks to avoid higher fuel efficiency standards. These negative incentives could result in an overall decrease in the fuel economy of trucks, since manufacturers could easily avoid higher fuel economy standards by increasing the weight of their trucks. Such a system would also reduce the incentive to find light-weight substitute materials or apply new technologies to improve fuel economy, and could contribute to greater safety risks.

Using the “footprint” system as a basis for fuel efficiency regulation is believed to be more difficult for manufacturers to manipulate. The footprint of a car is largely driven by consumer preferences. Manufacturers report that consumers are very sensitive to the size of a car and that slight changes in truck size can have significant impacts on demand for a particular truck model.¹⁰ In addition, changing vehicle size is especially costly to manufacturers because it often requires significant changes to the weight and design of a vehicle.

The proposed CAFE structure would also reduce the incentive for manufacturers to market vehicles in the truck category. Under the current system, manufacturers have an incentive to modify their large cars so that they are categorized under the truck standard, rather than the passenger car standard. The new system would eliminate this incentive, or “edge effect,” by setting the small truck standard at roughly equal to that of passenger cars.

A Well of Opportunities

The proposed system allows DOT to target certain truck sizes for increased fuel economy standards. Mitigating some of the safety risks, DOT can produce new standards that set aggressive fuel efficiency targets because the truck standard will no longer be dictated by the least fuel-efficient truck on the market. In the past, DOT has based its fuel economy standard on the lowest performing truck of the “least capable manufacturer.”¹¹ Fuel economy standards for all trucks were dictated by the efficiency feasibility of the largest light trucks produced in a given model year. The new standard allows DOT to pursue more aggressive standards for smaller trucks without placing a costly and largely inefficient burden on the largest trucks.

DOT estimates that its proposed increases in CAFE standards could reduce oil consumption by 4.4 billions of gallons of oil per year.¹² However, more ambitious increases

are necessary to make a sustained reduction in US oil consumption since this small decrease will easily be exceeded by increasing vehicle miles traveled in the United States. Bezdek and Wendling estimate that oil consumption could be held roughly constant at current annual consumption levels by increasing CAFE standards 30% by 2010 and 50% by 2015.¹³ Increases of this magnitude could produce sharp price increases in auto prices in the United States, although more moderate increases could also significantly reduce the United States' oil consumption. For example, a 20% increase by 2010 could produce savings of 30 billion barrels of oil a year by 2030, even if the standards were held constant after 2010.¹⁴

With the rise of hybrid technology, many wonder if these oil reduction goals could be easily achieved without government intervention. Today's hybrid cars can achieve fuel economy levels of 30-40 miles per gallon, exceeding the near-term targets of even the most aggressive CAFE proposals. However, without government-mandated increases in fuel efficiency, it is not clear that auto manufacturers will devote advanced technologies to producing more efficient cars. During the 1990s, when fuel standards were held constant, auto manufacturers developed many advanced technologies that could have been used to improve efficiency. Instead, producers devoted improved engine technologies to producing more powerful cars with faster acceleration, seeking greater profit opportunities by catering to consumer demand for improved performance.¹⁵ Today, the same trend can be observed amongst hybrid cars. While hybrid cars are touted for their fuel efficiency, some models use hybrid technology to increase acceleration while achieving only small fuel savings. For example, the 2005 Honda Accord hybrid has the same fuel economy as the regular non-hybrid version, although the hybrid technology allows the car to accelerate much faster than its four-cylinder counterpart.¹⁶ Absent stringent fuel standards or public demand for higher fuel efficiency, hybrid technology may end up fueling Americans' desire for more and more powerful vehicles, rather than reducing oil consumption.

Despite cries to the contrary from auto industry lobbyists, auto manufacturers in the United States could actually benefit from more stringent CAFE standards.

Currently, the United States has one of the lowest fuel efficiency standards amongst developed nations.¹⁷ In order for the United States' auto manufacturers to compete in the global market, however, they must produce vehicles that meet the standards applied in foreign countries. American companies find themselves at a comparative disadvantage when they attempt to meet these international standards for only a portion of their production lines. This may, as a result, significantly increase the cost of cars sold overseas. One study estimated that additional costs to achieve efficient targets similar to those in Japan and Europe would cost over \$2700 per vehicle.¹⁸

Nowhere is the disadvantage facing American auto manufacturers more apparent than in China. China is the fastest growing auto market in the world. In 2003, car sales in China increased by 50%, and experts expect that the Chinese market will expand by 7% a year between 2005 and 2020, a rate far exceeding the 2-3% growth expected in mature auto markets.¹⁹ In 2004, China announced plans for ambitious fuel economy regulations, the first in the country's history. Only 4% of US-manufactured SUVs met China's efficiency targets in 2005. The Chinese regulations for 2006 exceed the United States CAFE standard by 5% and will exceed the American standard by 10% in 2008.

General Motors is believed to face the highest costs of complying with the new Chinese standards because it faces the largest efficiency gap of any major auto manufacturer in China. In order to reach these standards, researchers estimate that General Motors must increase the fuel efficiency of its exported vehicles by 23%, while other manufacturers already meet Chinese targets.²⁰ While General Motors is currently the largest foreign auto maker in China, these potential costs threaten to erase the gains that General Motors has made in the Chinese market. If so, the company's fate in China could be a repeat of its grim performance in other foreign markets, which totaled \$10.6 billion in worldwide losses last year.²¹

The disadvantages facing American auto makers in the international market could be reduced by establishing stronger efficiency targets at home – and CAFE standards aimed at matching other international efficiency levels could help return American auto manufacturers to long-term financial stability.

Absent...higher fuel efficiency,...hybrid[s] may end up fueling Americans' desire for more and more powerful vehicles, rather than reducing oil consumption.

CAFE Standards - continued

Endnotes

- ¹ "The Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards," National Research Council, 2002. p. 23.
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- ³ In order to allow industry time to adjust to the reformed structure, DOT will phase in the the reformed CAFÉ system, allowing manufacturers to comply with new CAFE levels measured under the single truck standard until model year 2011. This alternative is used to approximate the results the overall efficiency gains for the new efficiency targets (www.nhtsa.dot.gov/cafe).
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How Are We Starving If We're So Fat?

A Conversation with Marion Nestle

by David Beller

David Beller: Can you offer a brief introduction to the link between food and policy?

Marion Nestle: Food is a great entry point into the most important issues in public policy. Take food production, for example. Policies involve or affect nutrition, health, farm subsidies, air and water quality, worker safety, pesticide regulation, international trade, rural development, domestic security—I could go on and on. But issues in food policy are especially accessible. Everyone eats. Everyone can relate to the issues. And food policies can be affected by individual action to a greater degree than some others. Parents, for example, can change school food policies, just as is happening in Berkeley. So food policy is really about democracy—democracy in action.

DB: Although food over-consumption and obesity have been the focus of a lot of recent food policy work, studies still indicate that 12% of the US population is food insecure, meaning they do not have the capacity to consistently obtain adequate food. Of this population, half participate in one or more of the federal food programs, and 20% receive food from food pantries. What do these statistics indicate about the conditions of and responses to hunger in the US?

MN: This is the great irony of current public health nutrition policy: at a time when rates of obesity are rising rapidly, some people in America still do not have enough food. The percentage of people considered food insecure has been about the same for years, but the raw numbers have increased with rising immigration. About half of all children born in America belong to families with incomes below poverty level. Food insecurity is really a poverty problem. If you want to solve the hunger problem, you have to address poverty through policies that affect welfare, safety nets, and whatever other euphemisms are in vogue. What I find amazing about welfare policies is that today's issues are identical to those the English argued about when they created the Poor Laws in the 1500s. You do not want people starving in the streets (it looks bad and creates civil unrest). But you also do not want people to become dependent on handouts. This balance, it turns out, is so difficult to achieve that welfare programs go in cycles. These days, the policy approach is

stingy; let the poor get poorer and fend for themselves. The current system makes it tough to obtain even entitlement benefits, but this could change after the next election.

DB: Your book, Food Politics (U.C. Press, 2002), caused a great deal of controversy because it went well beyond the most immediate problems of overeating and lack of exercise, linking obesity to the dynamics of the food industry and its marketing. How are market forces influencing eating habits?

MN: The deep, dark secret of American agricultural policy is that we have too much food. Current policies have given us a food system that provides an average of 3,900 calories a day per capita—roughly twice the average need, and an increase of 700 calories a day just since 1980. But note that 3,900 calories is the amount produced, less exports, plus imports;

it is what is available, not what people are actually eating. But the excess means that the food industry has to compete so hard for your food dollars that companies do everything they can to sell more food, not less. It is not that companies are trying to figure out how to make Americans fat; they are just trying to sell more of their products in a competitive business environment. Obesity is just collateral damage.

DB: According to one interpretation, the higher rate of obesity among the poor is closely linked to the limited access to healthy food, the survival need for calorie-dense foods, and the stresses of being poor. What are the implications of these analyses?

MN: Ah yes, the other irony: the highest rates of obesity are seen among the poor. So if the poor are not getting enough food, how come they are fat? The Heritage Foundation and other conservative groups use this observation to argue that food assistance, which costs taxpayers upwards of \$30 billion annually, is unnecessary. The simplest explanation is that the cheapest foods are those high in calories and relatively low in nutrients: junk foods. So we have to ask, why are junk foods so cheap? If you have \$5 to spend at McDonald's, you can get five hamburgers—or one salad. Here, we get into arcane matters of agricultural policy. The US subsidizes production of corn and soybeans that end up as corn sweeteners and soy oils — the cheap ingredients in junk foods. The more corn sweeteners and soy oil in a food, the cheaper

Issues in food policy are especially accessible. Everyone eats. Everyone can relate to the issues.

it is per calorie. As for the stresses of being poor, just think about what it is like to try to buy groceries if you live far away from stores and do not have a car. The healthiest people in America are the best educated and the best off. So you cannot separate food choice from questions about inequities in education, health care, social experience, and wealth.

DB: *You and other critics of food marketing aimed at children argue that it contributes to health problems, and therefore regulation is necessary and justified. If efforts to restrict marketing of unhealthy food to children succeed, is there compelling evidence that it will improve children's health?*

MN: The recent Institute of Medicine report, *Food Marketing to Children and Youth* (December 2005), provides more than sufficient evidence to demonstrate that current policies are not working. It cites hundreds of studies that strongly suggest, if not prove, that marketing influences children's food preferences, choices, demands, and consumption patterns, and that these in turn influence their levels of obesity. An entire industry is devoted to research on how best to get kids to want specific brands and to pester their parents to buy those brands. Most insidiously, marketing is designed deliberately to convince kids that they should eat foods made just for them, "kids' foods;" should reject "grownup" foods; and that they should know more about what they are supposed to eat than their parents do. This means that marketing subverts parental authority—intentionally. For that reason alone, some checks and balances are warranted. More than 50 countries restrict television advertising to children. But the only restriction we have is on the amount of time commercials can be shown during children's programs: 12 minutes per hour on weekdays and 10.5 minutes on weekends.

Whether restricting marketing will solve the problem of childhood obesity is another matter. Countries with more restrictive regulations still have obese kids, but fewer of them; the increase is slower. My guess is that no one action will solve the problem because childhood obesity is the result of many societal changes in the past 20 years. Think, for example, of larger portions, vending machines in schools, cafés in bookstores and libraries, and food at the cash registers of business supply and clothing stores. If you want to make people eat more, give them larger portions, ubiquitous food, and permission to eat all day long. These are huge changes in society that I believe have occurred as a result of pressures on food companies to expand sales in an extraordinarily competitive marketplace. Right now, the default is to eat too

much. A few checks on unbounded food marketing might not make a big dent in the problem, but might make it easier for parents to exercise control over what their kids eat. Parents will not have to be on their own to fight billions of dollars of advertising aimed at undermining their authority.

DB: *You and other activists suggest that with mounting problems and increasing awareness, this may be the "policy window" for action on diabetes and obesity. There is also a sense that these are long-term and complicated problems. What immediate actions should be taken to capitalize on this "policy window"?*

MN: I would start with restrictions on food marketing to children—actions justified by a substantial research base as well as by rising rates of type 2 diabetes in kids of younger and younger ages. In the late 1970s, the Federal Trade Commission (FTC) tried to regulate television advertising during children's programs. It encountered fierce opposition from food advertisers, humiliating Congressional hearings, and protests that curbing advertising would violate First Amendment rights of free speech. The head of the FTC was fired and by 1981 the agency gave up on the idea. But times have changed. It is time to re-think interpretations of the First Amendment that allow food marketers to do practically anything they want to sell products. We should be looking at ways to control "stealth" marketing through the Internet, cell phones, word-of-mouth campaigns, the use of absurd health claims on package labels, and food marketing in schools. Beyond that, we could tweak current policies to promote healthier diets in the areas of education, farm supports, food assistance, and food taxes, to name just a few. To do this, of course, will require a close look at how we fund election campaigns—the root cause of corruption and skewed policies in government. And it may be time to examine how Wall Street operates. The requirement that companies meet quarterly growth targets means that food companies are forced to find ways to grow constantly and report growth to Wall Street every 90 days. This puts them in the position of having to cut corners and sell foods in ways that may be legal, but are not always justifiable on ethical grounds.

DB: *A central issue in the nutrition debate focuses on the balance between personal responsibility and the responsibility of businesses. Is this primarily a philosophical question, or are there more analytic complexities? Where do you stand on this?*

MN: Of course food choice is a matter of personal responsibility. You vote with your fork every time you buy food at a supermarket or make a choice in a restaurant. But if you do not have the information you need, it is harder to make reasonable choices. The personal responsibility argument assumes that people exercise free will and independent action. We now know that people will eat more food—and, therefore, more calories—if the food is close by, easily visible, in a short and squat container (rather than a tall, thin one), and presented often and in large amounts. These cues are so powerful that they trump “free will.” This makes the default eating more, not less. Food marketing is designed to slip below the radar of critical thinking, and it usually does. You are not supposed to notice it. So people need to understand how marketing works and demand policies that help change the environment so that the default is to make healthier choices.

DB: *Policy analysis is grounded in quantification, yet you point out that it is nearly impossible to accurately measure what people eat. What can be done to mitigate this problem?*

MN: I consider finding out what people typically eat as the single most intellectually challenging problem in the field of nutrition. Consciously or unconsciously, people tend to report what they think interviewers want to hear. Food companies know this and recruit anthropologists to do more accurate observations, but such methods are impossibly complex and expensive for large-scale studies of diet and health. These studies generally show such small effects that they require large—and expensive—numbers of participants for the results to be statistically significant. One thing we do know is that dietary patterns track, meaning that if you do one good thing for your health, you probably also do a lot of others. So we need better methods for looking at dietary patterns rather than the reductive effects of single nutrients or food components.

DB: *To complicate this further, consumers report being confused by contradictory studies and advice. Are consumers and policy makers paralyzed by information?*

MN: The public gets most of its nutrition advice from the \$36 billion spent per year by food and beverage companies on marketing. The government invests practically nothing in public education about diet and health. Single-factor research studies make it sound as if nutrition advice is constantly changing. This is too bad because the details may change, but core advice has not changed in fifty years: balance caloric intake against physical activity; eat plenty of fruits and vegetables; and do not eat too much junk food. But advice like that cannot be used to sell food products so it does not get much play.

DB: *Some argue that organic food is too expensive and therefore only available to the well off. Others note that by choosing appropriate shopping venues and focusing on unprocessed foods, it is quite affordable. What is needed to expand access to sustainably-grown food to consumers?*

MN: We subsidize corn, soybeans, and wheat—all industries with lots of lobbyists who are paid well to work the system. The produce industry is less consolidated and fragmented among many small, as well as large, producers. Beef is beef and milk is milk but peach growers view apples and pears as competitors, so they have much less clout in the policymaking process. The organic situation is especially complicated right now because its major lobbying group, the Organic Trade Association, works more on behalf of Big Organics than small. The larger companies want to cut corners on the rules for what can and cannot be used in organic production so they can

lower their prices and be more competitive. This is still a new industry—the rules went into effect only in 2002—and it will be interesting to see how the politics play out. An increasingly large segment of the population is willing to vote with their forks for more sustainably-grown food and to pay higher costs to avoid pesticides, hormones, and antibiotics. It is the one area of the food industry with real growth potential, so all the big companies want to get in.

DB: *Analysts of public health and nutrition note some striking public trends toward preparing fewer meals, eating more away from the home, and purchasing more pre-prepared foods. What are the implications of these trends for food policy and overall public health?*

***Food marketing is
designed to slip below the
radar of critical thinking.***

Food Policy - continued

MN: These trends make the restaurant industry a major influence on dietary intake. Meals eaten outside the home are almost always higher in calories, fats and carbohydrates of the wrong kind, and salt. Making it easier for people to make healthier choices means changing the way restaurants do business. I would like to see restaurants offer smaller portions (with a price break) and healthier meals for children. Fast food places could put calorie labels on menu boards so people could easily see that larger portions have more calories. The idea that larger portions have more calories may seem intuitively obvious, but it is not.

DB: *What is the overarching message that you hope to convey through your work?*

MN: Policies govern practically every aspect of food production and sales. Such policies are not inevitable. They evolved as a result of politics. They can be changed—and for the better. My real hope is to encourage consumers to exercise their democratic rights and get involved as stakeholders in the policymaking process.

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Where to Begin: A Framework for Rebuilding New Orleans

Andrew Stackhouse

THE PRESENT CONDITION of New Orleans is such that it is less a city than a massive soggy encampment. Since the devastating flooding caused by Hurricane Katrina in late August 2005, nearly every political and business leader, journalist and academic with a stake in the Crescent City has proffered his or her opinion on how to rebuild New Orleans. While there is little consensus for the city's final disposition, there is near universal agreement that, over the short term, the government will have to step in for the city to function effectively. However, little discussion has focused on the near total devastation wrought to the basic economic functions of the city. What is so singularly challenging about the present condition of New Orleans is that businesses and individuals have 21st century expectations for the physical and political infrastructure of a city catapulted back two hundred years.

It is imperative that the government provides economic actors some clarity of expectations and revitalizes the baseline economic environment of New Orleans. The unique nature of New Orleans, and how it relates to the broader national economy, will require an innovative response from policymakers. This article attempts to provide guidance for the economic revival of New Orleans via the restoration of market certainty and the provision of modern economic infrastructure.

The Crisis at Hand

The question of how to integrate equity into redevelopment notwithstanding, the theoretical solution for New Orleans becomes the matter of restoring the historic high ground, revitalizing the most competitive industrial sectors, redlining the low-lying areas and then building a massive flood control complex around the rest. Unfortunately, without the most basic necessities in place, the entire equation is thrown off. With a drastically reduced population, even those businesses that suffered little damage and export their products are having a difficult time finding workers. A vicious cycle exists between individuals hesitant to return to a city without groceries, banks, and the rest of the local demand sector and businesses hesitant to reopen with few resident potential customers. The quagmire deepens, as both private insurers and the federal flood insurance program will not issue policies pending the restoration and improvement of the levies.

The first step in the restoration of New Orleans is for the government to restore basic market certainty. A complex urban economy demands the fulfillment of certain basic market expectations: namely, the free movement of goods,

capital, and labor. Goods in New Orleans cannot move freely within the local demand sector due to the lack of passable roads, functioning telecommunications, and storage facilities. The Port of New Orleans, however, is online, warehousing appears intact, and the airport, rail lines and major interstates do provide functioning access to export markets.

Capital is constrained due directly to these physical issues and indirectly because of the damaged levies. Due to continued uncertainty of the short- and long-term structural integrity of the flood control system, both private and public insurers have yet to clarify their new paradigm. Furthermore, dispositions have yet to be reached for most outstanding claims. As a result, damaged and idle capital stock ties up local investment, and outside investment is impossible until institutions are in place that will provide lenders clarity in measuring and mitigating risk.¹

Finally, in addition to these issues, the severe housing shortage stymies the movement of labor. Until the end of November, government officials literally blocked individuals from entering many of the most severely damaged regions of the city. It is estimated that as many as 50,000 housing units may need to be demolished.² Due to the aforementioned lack of guidance from the insurance industry, as well as gun-shy federal agencies unwilling to be filmed rolling bulldozers through the homes of the same people they were blamed for stranding in the Super Dome, New Orleans continues to be largely uninhabitable.

Because of the destruction around New Orleans is so widespread, there is no hinterland from which to draw labor. Labor is further constrained by New Orleanians' otherwise laudable low rate of car ownership, decreased by tens of thousands in the flood, and the lack of a passenger rail network. The migration of labor from outside the region, as demonstrated by the clean-up workers' tent cities, is constrained because displaced New Orleanians absorbed nearly all the viable housing stock within hundreds of miles. Ancillary issues, such as the environmental fallout of flood-damaged buildings resulting in dangerous exterior air quality, never mind cars dangling precariously from dilapidated rooftops, provide further limits on the movement of labor into and within New Orleans.³

A Plan for Renewal

The strategy for saving New Orleans should focus on the restoration of the city's economic infrastructure and provision of clear market expectations. Economic activity remains largely blocked by uncertainty regarding how to measure

the future risk of another disaster. Thus, the first action should be the announcement of a flood control plan and the establishment a clear funding channel for its development.

Policymakers must quickly determine how much protection to afford New Orleans. By its very definition, the impervious defense against Category 5 hurricanes being called for from most quarters is impossible. As one engineer posited, "Category 5 has no limit – how do you protect against that?"⁴ One geologist claims that within the century the city will be "an island in the Gulf of Mexico, requiring 50 to 100 foot high levies."⁵ While his theory rests outside the mainstream, one of the nation's most viewed news programs publicized his ideas, further clouding the public debate.

Less esoteric is simply the question of what degree of risk the city is willing to absorb. With two devastating hurricanes in forty years, it seems clear that protection from Category 3 hurricanes is inadequate. While the citizens clamor loudest for the building of a wall unyielding to the forces of nature, they are historically the least willing to foot the bill. It is ultimately decision makers in the financial service sector who will determine what is truly viable. The actuaries must first be convinced of the flood control plan that the government chooses. Policymakers must reach a consensus with lenders and business leaders as to how much cost from insurance overhead and risk they are willing to absorb in return for the advantages associated with locating in New Orleans combined with the incentives the government provides to offset those costs.

Utilities and Transportation

Once economic actors understand the long-term constraints of the New Orleans environment, policymakers can then focus on the physical restoration of the economy. Goods, capital, and labor all depend on a modern utility and transportation infrastructure. The status of these services demonstrates both the successes and failures of the urban economy and current policy. While the private firms that are responsible for services are already at work, public sector agencies managing the latter have yet to act.⁶ Deregulation has allowed, in part, private utility companies to restore services because of their national scale. The firms possess the resilience to absorb the economic impact of the disaster and the widely distributed labor and physical resources necessary to react to it. Not only can utilities dispatch linemen from other states, but preexisting federal policy allows transmission of power and fuel from unaffected regions. These rules as well as technology advances have made the

telecommunications infrastructure considerably more resilient as well.

Conversely, rules providing for monopolistic provision of "street" services are slowing the restoration of these services. Water and sewerage, garbage collection and other services are slow to recover because they are the responsibility of a crippled local government; the administrative and financial capacity of local government are as subject to post-flood barriers on labor, capital, and goods as any private enterprise. Policymakers should explore whether these public services lack the economic scale necessary to allow for external competition, or are simply the anachronistic remnants of government right-of-way rules.

Concomitant to the restoration of public services is the revitalization of the public sector itself. With the loss of most municipal buildings along with the associated tax base, the New Orleans government is more a concept than a physically manifest entity. The Mayor spent much of late 2005 traveling to Memphis, Houston, and Atlanta to address his former constituents, in part to assure onlookers that the city still exists.⁷ Besides simply restoring business and thus the tax base, it is not clear what course of action to take. Given the reputation of the city and the state for political corruption and graft, and an overarching tax structure that, according to other municipal leaders, "stinks,"⁸ local and perhaps state government may need to be dramatically restructured, or both. Regardless, the free flow of goods requires a government that can establish a clear operating environment for trade, and New Orleans does not, nor may have it ever, possess such an institution.

The regulation of transportation services by the local, state, and federal governments is similarly slowing New Orleans' economic recovery. Road funding depends in part on local and state governments that suffer from severely curtailed tax receipts. The provision of local bus service, or development of light rail, regional train service, ferries, or other alternate transportation options, also depends on the funding or approval of paralyzed government agencies.

Thus, it is imperative that government agencies coalesce and provide a centralized funding and planning resource for the restoration of physical resources necessary for the economy to function. Numerous parties have called for the formation of a quasi-public agency or regional authority empowered by the federal government for this purpose.⁹ With the Tennessee Valley Authority as a model, one option is to establish a body that can strategize the restoration of the economic infrastructure of New Orleans and the

surrounding region, and then fund and oversee its development divorced from local political intrigue.

Removing democratic processes from the rebuilding effort expedites decision making by allowing politically dangerous but practical outcomes. Conversely, national and regional politics that emphasize local control and equity would undercut the viability of such an agency. Yet, many commentators point to the legendary reputation of Louisiana politicians for graft and corruption, or at least the fear of such by Congressional leaders, as reason enough to isolate funding.¹⁰ Potentially, a charter and a leadership representative of affected parties on either side of the political and economic equations may offset the undemocratic nature of such an organization. The largest political barrier to the formation of such an agency, besides the willingness of political leaders at every level to abdicate that degree of power, will be their willingness to provide the new entity with the massive funding authority it will demand.

The Housing Conundrum

Provision of utility and transportation services, and even a predictable government regime, will do little to revitalize an urban economy without an urban populace. According to Coast Guard Admiral Thad Allen, the appointed leader of the federal emergency efforts in the Gulf region, "Our number one priority is housing, our number two is housing, and after that, at number three, we'd put housing."¹¹ The free flow of labor demands that workers have a reasonably safe place to sleep. Estimates published in late November 2005 show that of the city's 215,000 housing units, 50,000 had been destroyed and only 50,000 - 55,000 were occupied.¹²

Homeowners face the same barriers to capital flow as businesses. With the question of when federal flood insurance will be available currently in limbo, owners of damaged residences are incapable of moving forward.¹³ This also prevents new labor from flowing into the city, as there are neither vacant units nor anywhere to put new units. The use of tents, "FEMA trailers," and other temporary structures that lack both the appeal required to draw all but the lowest-wage workers, and the physical capability of withstanding even the weakest hurricanes, are temporary measures that

fail to address New Orleans' housing shortage.

The disposition of damaged residential property has an emotional context that fuels additional political pressure. Aside from the insurance debacle many homeowners in New Orleans face the specter of defaulting on their mortgages, having their property deemed no longer suitable for residential development, or simply losing the will to rebuild and hope for the best. City building inspectors, acting as the de facto planning institution, are reevaluating hundreds if not thousands of condemnation notices. In effect, the politically savvy populace is embarking on a widespread campaign of self-help reconstruction, devoid of any guidance or long-term planning. There have been several proposed plans to create a government corporation to provide both a financial safety net and act as an arbiter to ensure equity in residential transactions.¹⁴ However, the failure of the various levels of government to reach a consensus on empowering such an

entity may undermine the ability to redirect the ongoing momentum of piecemeal rebuilding.

The Louisiana Recovery Corporation proposed in October 2005 by Congressman Richard Baker and, to a lesser extent, provisions included in a bill filed by the House members of the Congressional Black Caucus the following month,¹⁵ outline the creation of a quasi-public federal corporation that would provide a venue for homeowners to protect their equity and secure reconstruction lending, as well as the right to return to their communities should they

choose to sell their property.¹⁶ Rolling the functions of this new housing entity into a larger regional development authority such as the Crescent City Rebuilding Corporation proposed by the Urban Land Institute¹⁷ may be most efficient from an organizational standpoint. However, *realpolitik* is such that the separate formation of a residential housing entity would be more likely, with its leadership weighed more towards current elected officials and the most vocal interest groups. On the other hand, politicians may benefit from distancing themselves from what may be highly contentious policies. As bluntly stated by the chair of the Bring New Orleans Back Commission: "How do you tell a little old lady in New Orleans East that you're going to turn her property into a golf course? You'd never be reelected."¹⁸

Removing democratic processes from the rebuilding process has the advantage of expediting decision making by allowing politically dangerous but practical outcomes.

The issue of flood control planning is also of great bearing in the current housing crisis. The costs of mitigation decrease substantially with the amount of area, especially that which is low lying, that must be protected.¹⁹ The balance between how much area to protect, and thus revitalize, and how much cost the government is willing to incur, fuels the growing resignation to the fact that the future New Orleans may be contained within the unflooded portions of the city. In fact, it has been pointed out that the sections of the city spared from flooding fit neatly into the 1878 city plan.²⁰ The intervening 125 years of low-lying development may simply be abandoned. It appears to be a foregone conclusion that the fate of New Orleans is similar to that of Galveston, Texas after it was devastated by a hurricane in 1900, shrinking considerably in size, most likely never to be the metropolis it once was. That the now devastated portions of New Orleans mostly contained the quarter of the population that lived below the poverty line provides a somewhat perverse advantage for policymakers who face little prospect of the evacuated poor ever returning.²¹ The removal of the lesser educated, harder to employ population ultimately simplifies the job of policymakers attempting to create economic policy for the future. While prioritizing redevelopment of the literal high ground may not occupy the moral high ground, it may be the most economically and politically viable strategy. With city elections scheduled for Summer 2006, and no evidence that the waterlogged Diaspora can maintain its enfranchisement, candidates will benefit most from occupying terra firma along with the extant population and business interests.

Healthcare and Education

In a modern urban economy, housing alone will not overcome the constraints of labor. American households expect their communities to provide schools and hospitals, both of which are notably absent. These institutions must be revived not only to remove an important barrier for the return of labor, but for the broader economic impact education and healthcare had as two of the largest sectors of the New Orleans economy prior to the flooding.

The education sector has numerous impacts on labor. The mandate for universal, compulsory primary and secondary education requires the return of the New Orleans school system to a scale adequate to serve the households needed to feed the labor market. The physical restoration of education facilities may also have the added impact of making New Orleans a more favorable labor market than

prior to the flooding. Modernized school facilities could make the city more attractive than before the storm.²³ Simply staffing and administering the schools, invariably a top employer in any municipality, will have a massive impact on the local demand sector and help buoy numerous other industries.

Federal labor statistics demonstrate that healthcare was a lynchpin to the growth and diversification of the New Orleans economy.²⁴ The expansion of the Tulane and Louisiana State University medical schools, along with the growth of the assisted living industry between 1977 and 1997, spurred the creation of nearly 50,000 jobs in the New Orleans Metropolitan Statistical Area including 16,000 in the city. The viability of the tourist economy is also tied to the healthcare sector: conventioners and Mardi Gras revelers may be loath to visit a city that, by one estimate, lacks the healthcare infrastructure to adequately respond to a bus accident.²⁵ This latter fact points to a more important facet of the effect of healthcare on the labor market: workers will not return to a city where their best prospect of receiving medical care is either in a surplus army tent or in neighboring Jefferson Parish, where emergency room waits are as long as ten hours.²⁶ New Orleans' economy rests heavily on the relatively dangerous industries of water transportation (stevedoring), manufacturing (shipbuilding), and oil and gas extraction, all of which may face legal barriers to ramping up employment without access to emergency critical care. The alternative is further relaxation of labor rules, building on the President's suspension of Davis-Bacon requirements for contract competition and bidding preferences for minority and local firms.²⁷

One can extrapolate from the combined job impact of the aforementioned industries, along with employment in the healthcare sector itself, that nearly 30 percent of pre-hurricane employment is dependent on the resuscitation of the healthcare industry.²⁸ Restoration of medical services is key to opening labor markets and allowing heavy industry in particular the ability to function effectively. Unlike flood control and housing assistance, current government institutions should be able to address the healthcare crisis directly. Louisiana State University, an entity of the state government, manages the two crippled New Orleans hospitals. Policymakers need to come to a swift decision on whether to renovate or rebuild the facilities. Funding, however, will require a substantial contribution by the federal government. Under the Stafford Act and FEMA regulations, this should be a minor administrative matter.

Conclusion

New Orleans requires immediate action by policymakers at every level to clarify market expectations and revive the basic economic infrastructure. Stakeholders must prioritize plans to give economic players a transparent and modern landscape in which to act over any plans to fuel economic recovery through the protection, subsidization, or creation of new industries. While ideas ranging from the Aspen Institute's proposal to make New Orleans a center of "creative enterprises" to the creation of a modular homebuilding industry are intriguing, they hold little water when the basic structure of the economy lies in disarray.

The first priority must be to reach a consensus on a flood-control strategy and make immediate appropriations to allow for necessary infrastructure improvements. The scale of that endeavor alone, in both its administrative and financial dimensions, is staggering. Nevertheless, without providing for clear expectations as to the future geographic realities of the city, businesses and individuals may find it impossible to return.

Following this step, policymakers need to provide for the free flow of goods, capital and labor. The importance of the free flow of goods is amplified for a city – and a nation – that is heavily dependent on Mississippi River commerce. Restoration of the city's utility, transportation, and telecommunications infrastructure is not optional. Executing these policies may be beyond the capacity of the New Orleans government, and too prone to cherry picking by federal officials, thus demanding the creation of quasi-public regional development authority.

The formulation of a flood-control plan will greatly aid the free flow of capital. New investment, rehabilitation, and liquidation of sunken assets are presently stymied by a recalcitrant insurance industry that insists on having some sort of baseline risk projections. Clarifying the effect of future disasters on the city will address this need. The disposition of household investment is even more complex. The current hodgepodge of semi-regulated, do-it-yourself disaster recovery makes a political catastrophe inevitable, and a human catastrophe only slightly less certain. Providing homeowners with clear expectations and some form of protection will create an environment where demolition, rehabilitation, and new housing construction can (legitimately) go forward. A single-purpose institution that can balance the emotional and financial difficulties of housing policy may be best suited for this job.

That allows consideration of the third and most

difficult challenge: allowing for the free flow of labor. Besides the provision of adequate housing, the labor market also demands education and healthcare services. While difficult challenges, the restoration of these sectors by state and federal officials will have the additional benefit of fueling the local demand sector, and possibly making New Orleans more desirable than before the storm.

Ultimately, the success of any economic policy is going to require the buy-in of practically every economic actor in the region. One business leader captured the enormity of the task:

If the community can't work, can't get the wherewithal to be employed, make money, make payments, then the [businesses] can't survive. They're all in this together; it's an economic engine that has to work together.

Rivlin, "A Bank Rebuilds"²⁹

If policymakers fail to restore the basic functions of the New Orleans economic engine, it may soon grind to a greater halt than it is already experiencing.

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Will Women Win in Clean Money States?

Sheila Bapat

IN A RECENT New York Times article about Democratic strategy for the 2006 elections, Rep. Rahm Emanuel said, “In an environment where people are disgusted with politics in general, who represents *clean* and *change*? Women.”¹ The Democratic Party may be strategically looking to women as the answer to winning back the House and Senate, but it is up against a longstanding trend in American politics: far fewer women than men choose to run for political office in the United States. While the gender disparity in politics is attributable to a number of factors, the amount of private fundraising necessary to run for office is one major reason more women do not pursue politics. Until the 2000 election cycle, no state offered comprehensive public financing programs for their elections as a viable alternative to private fundraising.² Candidates for state legislatures throughout the country primarily raised money the traditional big-money way: that is, by raising as much money as possible in the hopes of both winning their current race and laying the foundation of a war chest to fund their political careers.³

However, a trend emerging among some states is creating a new game—a small-money game—that provides candidates with another option for how to fund their political races. Comprehensive public financing of elections, or “clean elections,” have been an option for candidates in Arizona and Maine since the 2000 election cycle. Clean elections programs restrict participating candidates to using limited amounts of public money to fund their campaigns.⁴ Maine passed its clean elections policy through a statewide voter initiative in 1996, and Arizona followed suit in 1998.

Similar to McCain-Feingold and other recent campaign finance reform policy, the primary policy goal underlying both states’ public financing programs is to reduce the influence of money in politics.⁵ In contrast to McCain-Feingold and other reforms, clean elections programs only apply to candidates who choose to participate in the clean elections system, and they actively restrict participating candidates from spending more than an allotted amount of money provided them by the state.⁶ One scholar identified four primary factors that have led to the development of clean elections: 1) political spending is exorbitant; 2) politicians spend far too much time fundraising instead of leading; 3) special interest groups have too much influence over politics; and 4) potential candidates with insufficient finances cannot compete.⁷ The fourth factor generally includes poorer people, people of color, people of extreme and/or unpopular political persuasions, and finally, women candidates.⁸

Thus since 2000 women candidates for state legislature in Arizona and Maine have had the choice of privately raising funds for their campaigns, or running as clean elections candidates. Faced with these fundraising options, which is proving to be the better strategic choice for women candidates? Also, which choice may help increase the number of women in public office overall?

This article argues that while many women candidates still need to utilize private fundraising in order to climb the political ladder, clean elections will, over the long run, help recruit women to the political pipeline. The objective of this article is not to pick the better method of fundraising, but rather to identify how both private and public funding can benefit or not benefit women candidates throughout their political careers.

The Big Picture: Women in State Elected Offices

Recruiting more women to run for office is crucial given that the gender disparity in all levels of government can result in policy disparities, particularly with regard to issues that disproportionately affect women. By contrast, an active caucus of women legislators can lead to strong advocacy for issues that may otherwise receive little or no advocacy. As one study points out,

Female legislators have been more likely than their male colleagues to represent women’s interests in two ways. First, state legislators’ policy preferences and roll call votes tend to reflect (and in some cases, magnify) gender gaps in public opinion. Female legislators are more likely than male legislators to take liberal positions on a wide variety of issues, such as gun control, social welfare, civil rights, environmental protection, and public health and safety. Second, even though public opinion on many women’s rights issues (e.g. abortion and the Equal Rights Amendment) is not split along gender lines, women in state legislatures are more likely than men to lend their support to the feminist side of such issues. Together, these studies cover every state and, in almost every instance, the sex differences they report withstand controls for party and district-level factors.

Cammisa & Reingold 2004⁹

There is scholarly dispute about how much a legislator’s gender affects her policy priorities.¹⁰ Beth Reingold’s study of Arizona women legislators in 1990 showed that in more cases, party affiliation—not gender—determines how a woman legislator would vote.¹¹ However, Reingold did find that more women than men were active in issues related to children, health, education, the environment, and welfare.¹²

Holding office at the local and state legislative level can often be a way in which women can effectively advocate for issues that disproportionately affect women, and it can also be their doorway into the political pipeline. Candidates who have proven their viability in state legislatures or other state-level offices are more likely to achieve success at the federal level. However, the number of women in state level office continues to be disproportionately low. From 1971 to 1998, the number of women in both state legislatures and statewide elected offices increased almost every year.¹³ The percentage of female state legislators was only 4.5 in 1971; this figure peaked in 1998 at 23 percent. Similarly, the percentage of female statewide elected officials increased from 18 percent in 1991 to nearly 26 percent in 1995, peaking in 2000 at nearly 29 percent. During the past six years, the number of women running for and winning at the state level has been decreasing. Currently only 22.5 percent of all state legislatures are composed of women. The total number of female statewide elected officials was in 1995 was 84; today, there are 80. Only eight states currently have women governors.

Incumbency is usually pegged as the primary inhibitor to women entering and winning races for public office. Most women candidates are not incumbents; they tend to be challenger candidates.¹⁴ Incumbency confers a great deal of resources upon sitting officials, and the prospect of challenging an incumbent can deter women from running for office. Because most incumbents are men, incumbency and its privileges perpetuate the gender disparity in politics. Beating incumbents can require a great deal of resources even at the state level. In the 2004 elections, one Arizona challenger raised nearly \$60,000 in order to win his seat in the Arizona House of Representatives; a state senate seat challenger raised nearly \$130,000. Private fundraising becomes even more important at the federal level. As of 1998, the average challenger candidate's congressional campaign cost \$300,000 and generally yielded only 39.1% of the vote; challengers who spent \$1 million received about 43 percent of the vote; and challengers who spent \$2 million received 45.4 percent of the vote. Successful challengers spent \$8 million.

Given this landscape, how do clean elections programs—programs that actively restrict the creation of fundraising war chests—affect women's candidacies? How do clean elections compare with traditional fundraising as a method for funding women candidates' campaigns?

Clean Women and Traditional Women

The clean elections programs in Arizona and Maine are very similar.¹⁵ Candidates for state legislative offices can elect to run as "clean candidates," and in doing so they are required to abide by strict fundraising guidelines. Both states' programs allow clean candidates to raise a small amount of private "seed money" to help gather petition signatures and five-dollar minimum contributions. Both programs require clean candidates to collect a minimum number of five-dollar contributions from supporters and to submit them with official forms signed by their contributors. Finally, both programs disburse funds to the clean candidates—one disbursement occurs during the primary election, and one occurs during the general election. In 2004, Arizona candidates for the state house of representatives received \$11,320 in the primary election and another disbursement of equal amount for their general election campaign.¹⁶ Clean candidates for the Arizona state senate in 2004 received \$16,980 for their primary and another disbursement of equal amount for their general election campaign. In Maine's 2004 elections, state house candidates received \$1,347 for the primary and \$4,032 for the general; Maine state senate candidates received \$6,487 for the primary and \$16,791 for the general.

Whatever clean money a candidate does not spend she must return to the state. Clean candidates must adhere strictly to spending limits—in fact, Arizona's clean elections statute authorizes the Arizona Clean Elections Commission to remove elected officials from office if they spend more money than they have been given.¹⁷ When Arizona Rep. David Burnell Smith exceeded his spending limit by more than ten percent, the Arizona Clean Elections Commission made the decision to remove him from office, and on January 26, 2006 the Arizona Supreme Court upheld this decision. The Supreme Court's opinion is expected to be published soon.

Both states' programs provide matching funds to clean candidates whenever an independent expenditure is made on behalf of their opponents. Both Maine and Arizona's clean election laws have withstood First Amendment challenges.

Like most states, both Arizona and Maine have also enacted "traditional" campaign finance reform statutes that require contribution limits but still enable candidates to raise as much money as they want. Scholar Burt Neuborne distinguishes clean elections from these traditional campaign finance reforms by describing clean elections as "more of a subsidy system than a collection of rules, [that] seeks to equalize campaigns by publicly funding the electoral

process.”¹⁸ Some research has shown that the clean elections programs in Arizona and Maine decrease the amount of time candidates spend fundraising, leaving them free to discuss issues and meet with voters without the specter of “making the ask” for a financial contribution lurking in the background. As compared with the traditional system of contribution limits, public funding models do a better job preventing corruption, restoring voters’ confidence in democracy, and providing candidates’ with greater autonomy with regard to their policy positions and priorities.

Clean Elections and Women Candidates

Scholars Timothy Werner and Ken Mayer of the University of Wisconsin have conducted empirical research that directly examines clean elections and women candidates between 1998 and 2002.¹⁹ Werner and Mayer’s primary conclusion is that in both Arizona and Maine, female candidates are more likely than male candidates to utilize the clean elections programs. This tendency held true in both states even after controlling for a variety of other variables including partisanship and incumbency.

Werner and Mayer’s evidence, however, does not show an increase in the aggregate number of women running for state legislature in either state since the clean elections programs were first implemented in 2000. The number of female candidates for legislature in Arizona actually dropped from 2000 to 2002. In Maine, the number of women candidates remained about the same.

Yet, the fact that the aggregate number of women running has not increased does not mean that clean elections programs are unsuccessful at recruiting more women to run. In Arizona, the vast majority of women who ran as clean candidates were not incumbents, indicating that clean elections are effectively recruiting more women to the political pipeline. Furthermore, some recent studies indicate that unlike traditional “war chest” fundraising, clean elections can ease the situational constraints that are often blamed for deterring women from running for public office. Clean elections seem to be expanding the universe of middle-and-low-income individuals who can contribute to campaigns. Over the long run, this may help women candidates who are new to politics and do not have

wealthy friends from whom they can accrue contributions. On the other hand, traditional campaign finance reform measures that only require contribution limits have not been widely shown to ease the job of fundraising—in fact they might make it even more difficult to beat incumbents because they do not generally reduce the amount of money candidates raise and spend.

The experience of Rep. Nancy Smith of Maine is consistent with these findings.²⁰ Smith and her husband own a family farm. She held a longstanding interest in local politics but did not decide to run for office until 2002 at the age of 40, when her friends urged her to run for the Maine House of Representatives. Smith says she would not have run for office when she did had it not been for clean elections, as the prospect of fundraising made campaigning seem virtually impossible.

Both in 2002 and 2004, Smith ran for Maine’s 24th legislative seat against male candidates who were also running clean. Both of her opponents were municipal elected officials in their respective towns, which gave them the advantage of name recognition that she did not have. Nevertheless, Smith organized effective campaigns with her clean elections funds and she beat both men—in 2002 by 600 votes and in 2004 by 300 votes. Now in her second term in the Maine House, Smith chairs the House Business, Research and Economic Development Committee. She also traveled to China as a representative of the Council of State Government’s Eastern Trade Council.

Arizona’s youngest state legislator, Kyrsten Sinema, is also a new woman legislator whose experience reflects Werner and Mayer’s findings. Sinema, 29, a longtime activist in progressive politics, capitalized on the many friendships she made in the activist world in order to win her campaign for the Arizona State Legislature in 2004. Sinema spent her clean money on mail pieces, signs, door hangers, her website, T-shirts, and business cards. Her campaign staff consisted of a small “kitchen cabinet” group of advisors and supporters and a crew of dedicated volunteers. Unlike most campaigns, Sinema did not have a finance committee to help her raise money—she simply did not need one. “When you run clean, you’re not building a war chest—you’re building a people

...public funding models do a better job preventing corruption, restoring voters’ confidence in democracy, and providing candidates with greater autonomy with regard to their policy positions and priorities.

chest," Sinema says. "You're not spending your time garnering money."²¹

Sinema first ran for office in 2002, and lost. She was able to bounce back and run again in 2004 in part because clean elections ensured that she would not face financial obstacles. While Werner and Mayer's study did not examine this, it may be the case that clean elections programs encourage women candidates that lose their first race to run again because they do not need to privately fundraise.

Further Along the Pipeline: Benefits of Traditional Fundraising

The clean elections gender gap that Werner and Mayer discovered did not always exist when comparing female and male candidates for state senate seats, particularly those who had previously held office at the state legislative level before. They hypothesized that the deviation among state senators may be because state senate candidates are generally more prominent political figures and have "greater access to private financing channels." Werner and Mayer's findings reflect that experienced candidates and/or incumbents, or as they put it, "higher quality candidates," are less likely to participate in the clean elections program than novice candidates.

Former Arizona state senator Gabrielle Giffords' fundraising experiences reflect Werner and Mayer's conclusions about more experienced candidates. In contrast to Rep. Nancy Smith of Maine, Giffords entered Arizona politics as the former President and Chief Executive Officer of her family business and as a board member of twelve not-for-profit organizations in Tucson, Arizona. Giffords has won every race for which she has run, and she has never run clean. In 2002 she became the youngest woman to ever serve in the Arizona state senate. In her 2004 race for the Arizona state senate, Giffords raised \$62,763.29—the most that year out of any Democratic woman senator in Arizona. "For some reason, I just got it into my head that I would be a good fundraiser," she says. "As a Democrat and as a woman, I feel it is important that I build a fundraising base."²²

In December 2005, Giffords resigned her state senate seat and announced her candidacy for United States Congress for Arizona's Eighth Congressional District. Giffords' fundraising experience has already proven to be exceedingly valuable as she embarks on her congressional race. By December 31, 2005, her first federal filing deadline, Giffords had already raised nearly \$250,000 for her congressional race. Effective fundraising helps candidates clinch important

endorsements from political action committees that can provide candidates with even more money. Because she has raised money so effectively, Giffords has a better chance of securing endorsements from PACs like EMILY'S List and other progressive political organizations.

While she believes clean elections programs are beneficial to new women candidates, Giffords expresses concern that if Democratic women all continue to run as clean candidates, then Democratic women may consistently be lacking war chests with which they can fund races at the federal level. However, running clean does not necessarily preclude a woman from gaining private fundraising experience. Rep. Nancy Smith of Maine has started her own political action committee to help raise money for other Maine House Democrats. In 2006 Smith plans to run for assistant majority leader of the Maine House of Representatives, and her ability to raise money for her PAC will help Smith prove her viability as a party leader. Even though she is running as a clean candidate, Smith is gaining valuable fundraising experience now that she is an incumbent.

A Clean Solution?

As scholar Susan J. Carroll writes, "The future for women in state government would seem to depend, at least in part, upon the strength of efforts to actively recruit women for elective and appointive positions."²³ While clean elections may not be the only or best solution to achieving gender parity in state and federal government, it may over the long run serve the important objective of recruiting more women to run for office.

Implementing clean elections programs throughout the country could help change the culture of American political fundraising, and in doing so, it may make running for office a realistic option for more women. While eliminating or even reducing the gender disparity in politics requires a long-term, multi-pronged strategy, easing the financial barriers of running for office is one important and practical means of bringing more women into the political pipeline.

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Mortgage Deductions Could Use a Ceiling

Robert Reich

IN THESE DARK days for the Bush administration, I've been looking for some light, something on which to lavish unequivocal praise. And here it is. The president's advisory commission on tax reform recently recommended a limit on the home mortgage interest deduction.

But isn't the home mortgage interest deduction almost a fundamental right? Doesn't it help most Americans pay for their homes? Isn't it, in other words, sacred?

No, no and no. As it is designed right now, it mostly benefits the rich, is grossly unfair and costs the Treasury a bundle.

Here's how it currently works. Homeowners can deduct from their income taxes all interest paid on mortgages written for up to \$1.1 million. This means people living in mansions with gigantic mortgages get to deduct tens of thousand of dollars a year. It's as if the federal government handed them a giant housing subsidy. But most people who rent their homes don't get a dime from the government to subsidize their cost of housing — and they generally have far lower incomes than homeowners.

Nor does the mortgage interest deduction help most homeowners with modest incomes — those in the \$20,000 to \$50,000 range. That's because, at tax time, they take the standard deduction. According to the IRS, two-thirds of taxpayers don't bother itemizing their deductions. Even if you do itemize your deductions, the home mortgage interest deduction benefits the rich far more than anyone else. If you're in the 33% bracket, for example, a \$10,000 mortgage interest deduction cuts your tax bill by more than \$3,300. But if you're in the 15% bracket, a \$10,000 deduction cuts your taxes by only \$1,500.

This is doubly unfair when you consider that housing assistance for poor Americans has been slashed recently. In its determination to cut spending and reduce the federal deficit, Congress is likely to cut low-income housing even more. Even as the economy booms, the nation's homelessness rate continues to rise.

You couldn't design a more regressive housing policy if you tried. The home mortgage interest deduction cost the Treasury \$63 billion in lost revenue last year, and the rich got

most of it. Yet the entire budget of the Department of Housing and Urban Development — which, among other things, provides low-income housing — was just \$35 billion.

Enter the president's tax reform commission.

It wisely wants to lower the million-dollar ceiling on the mortgage interest deduction to the size of an average mortgage in any region of the country. In today's market, the ceiling would range from about \$170,000 in many rural areas to a high of \$412,000 in high-priced housing areas such as Southern California. This is just good common sense, and fair.

The commission also wants to turn the deduction into a tax credit. (Specifically, the credit would be 15% of eligible mortgage interest.) Remember that tax credits are subtracted directly from the income taxes otherwise due. So anyone with a \$100,000 mortgage, for example, would be able to subtract the same amount from their taxes, regardless of their incomes. Also sensible and fair.

Together, these proposals would extend the tax benefit for homeownership to most middle-class and lower-income Americans. The only people who would lose the benefit are wealthy Americans who don't need it to begin with.

So the Treasury saves billions of dollars, average Americans get more help with their housing and the government's hidden housing subsidy to the rich is finally ended.

The only problem is that these sensible ideas are probably dead on arrival. Realtors, mortgage lenders and home builders are already screaming bloody murder. To them, any limit on the mortgage interest deduction marks the end of civilization as we know it. The only way this proposal gets enacted is for the White House to spend lots of its dwindling political capital on it. Don't hold your breath.

Still, good ideas for tax reform often take years to take hold. They slowly worm their way into Washington's collective brain until they seem almost obvious. With any luck, this one is on its way.

So let's give praise where praise is due. The administration deserves at least two cheers for floating a very good idea.

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CALL FOR SUBMISSIONS

POLICYMATTERS - VOL. 4, No. 1

STUDENT JOURNAL OF THE

GOLDMAN SCHOOL OF PUBLIC POLICY

UNIVERSITY OF CALIFORNIA, BERKELEY

DEADLINE: SEPTEMBER 15, 2006

Guidelines:

- Submissions should be between 2,500 and 3,500 words, but in no case longer than 5,000 words.
- The subject matter should be a public policy issue that is timely and interesting.
- The article should offer a well-reasoned viewpoint on policy design, creation, implementation, or practice.
- The language should be jargon-free, understandable to non-expert readers, and should explain clearly any economic, mathematical or statistical methods.
- Please follow the Chicago Manual of Style citation rules.
- Ideal articles will incorporate independent research, will have convincing evidence to support claims, and should not be merely an editorial piece.
- PolicyMatters subjects all submissions to rigorous editing, and authors are expected to participate in that process.

The deadline for Vol. 4, No. 1 submissions is September 15, 2006. Please submit articles and questions to Anne Geiger at aegeiger@berkeley.edu.

PolicyMatters is the student-run journal of the Goldman School of Public Policy at the University of California, Berkeley. Its goal is to provide fresh insight into current policy and propose innovative solutions to complex issues while providing a forum for members of the policy community to learn about and exchange ideas about policy-relevant matters.

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IN REWARD FOR GREAT WORK, THE AUTHOR WILL ALSO BE GRANTED A \$250 CASH PRIZE.

TO ENTER THE MAY 2007 CONTESTANT POOL, PLEASE SUBMIT AN ARTICLE FOR THE AUTUMN 2007 EDITION BY EMAILING ANNE GEIGER AT AEGEIGER@BERKELEY.EDU.

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