

PolicyMatters

"To be continued.."

v1.0

January 2004

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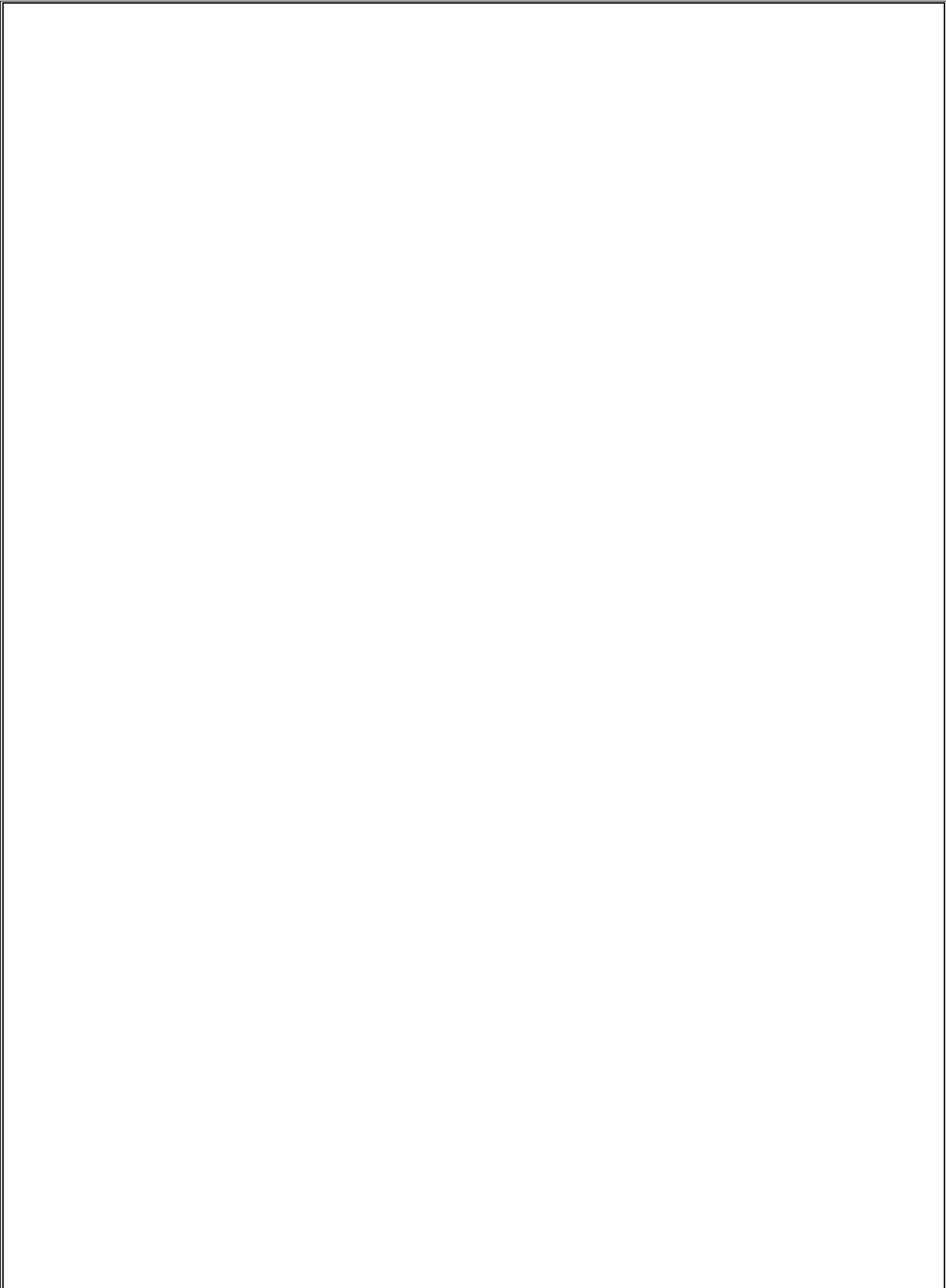
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FOREWORD

Welcome to PolicyMatters v1.0. We've worked hard on this and we hope that you'll enjoy the result. It has been a true team effort and we'd like to thank everybody who has been involved in the writing, editing and layout process. In particular, thank you to David Kirp, not only for writing the lead article but also for helping us refine our initial vision and supporting us throughout the production process.

PolicyMatters was established with two aims in mind. One was to provide a forum for innovative and provocative public policy analysis, in particular first-looks at new issues, or new looks at old ones. The second was to experiment with a new mixed-media form of academic publication: part journal, part website, part discussion-board, part live-event. PolicyMatters is not primarily about editions or issues: the articles are only the beginning of an ongoing discussion. At the end of each article you'll see unsigned comments by the editorial team that are meant to provoke discussion and act as a template for future contributions. To achieve its full potential, PolicyMatters needs the input of our whole community, either through submitting articles, responses (to editor@policy-matters.org), or online discussion points (at <http://www.policy-matters.org>).

We're delighted at the response we had to our first call for papers and feel that the selection presented here embodies not only the diversity of GSPP but also the inter-disciplinary nature of public policy analysis itself.

Fittingly, our lead article is a call-to-arms for policy analysts. In **"When we 'Speak truth to power,' does anyone listen?"** David Kirp insightfully and unflinchingly explores how policy analysis has been marginalized by politics, and asks what we as analysts can do to more effectively preach our craft to the public.

Next, in **"Whose truth?"** Carol Chetkovich rebuts Professor Kirp's framing of the policy analyst's problem and calls instead upon the Jeffersonian ideal of stronger and more broad-based citizen participation in the democratic process.

Three articles round out the *Features* section. All are thoughtful explorations of far-reaching issues. David Deming considers the ever-widening gap between student financial need and

the federal student loan program in “**Human capital contracts: Revisiting higher education finance.**” He suggests these contracts, which are just beginning to appear in the private market, as an innovative alternative to financing higher education. Richard Halkett and Jessica Rider each take a global view and consider different aspects of economic and political development around the world. Halkett’s article, “**An accidental empire: The long reach of the American dream,**” looks back at the history of America’s current world dominance, while Rider looks forward, at the impact of aid and corruption and the responsibilities of the policymaking community in “**Political Corruption: Treating the disease, not the symptom.**”

The next section of the journal, *Perspectives*, is an antidote for those who would confine policy analysis to impersonal statistical evaluation. In “**Bathroom reading,**” Jessica Flintoft shows that personal experience can and should play an important role in the creation of policy with a searing narrative about the gender and sexuality issues presented by public bathrooms.

Policy prescriptions are often made in a vacuum. In *Policy in Practice*, we see what happens when policy migrates from the drawing board to the real world. Ian Hart, in “**Environmental policy and university arts instruction,**” underscores the tension between regulation and personal choice by showing the effects that cumbersome regulation has had on university art departments.

Finally, what happens when works go wrong? *Second Opinion* closes the inaugural issue with a look at the “bloopers” of the policy world. Jack Glaser, in “**Lying with statistics: The case of campaign contributions and Iraq reconstruction contracts,**” warns against the unconditional acceptance of statistical evidence with a critical exposition of two columnists’ systematic misuse of data to support their claims.

Over time, we hope that PolicyMatters will grow to provide a unique service to GSPP and the wider policy community, but every journey of a thousand miles begins with a single step; we present PolicyMatters v1.0.

Richard Halkett & David Deming
Berkeley, January 19th 2004

Feature

WHEN WE “SPEAK TRUTH TO POWER,” DOES ANYONE LISTEN?

David L. Kirp

Small changes are the meat and potatoes of policy analysts. Such modesty of aspiration is built into the history of a field whose iconic figures, the economist Herbert Simon and the political scientist Charles Lindblom, were early proponents of incrementalism. It forms the core of the training that the Goldman School, like every other U.S. public policy school, provides for its students.¹

By temperament most of us — prospective analysts, practitioners and faculty alike — are inclined to be tinkerers and not transformers, prudent folk for whom the word “opportunity” seems invariably to be followed by “cost.” Whether the problem concerns welfare or AIDS, criminal justice or education or the environment, we pride ourselves on our capacity to design modest but useful improvements, not revolutions. Even the bureaucrat-heroes of our caselore are, comparatively speaking, the souls of modesty. While lawyers and politicians, scientists and tycoons get lionized in film, try

to imagine Hollywood making a movie with a policy practitioner as its hero—Russell Crowe cast as Gordon Chase, the very model of a modern policy manager—as portrayed in a widely-used Kennedy School of Government case.²

Last year, when I offered a seminar that focused explicitly on the genesis and promotion of break-the-mold ideas, it was regarded by students and colleagues alike as a curiosity—an interesting curiosity to be sure, but a curiosity nonetheless. And when I published an earlier version of this article a decade ago in the *Journal of Public Policy and Management*, the leading journal in the field, the decision to run the piece was itself seen as mildly daring.³ A critique of the article appeared several years later in the same journal, written by a Goldman School graduate, and relied on the conventional tools of the field to rebut an argument that was framed, very differently, in terms of the larger political context.⁴

Still, it's hardly news that our profession is living through hard times. Indeed, reviewing the earlier version of this article, it's striking how little of the basic argument requires modification — and how those modifications are all in the direction of even *less* reliance on policy analysis in the art and craft of governing. A decade ago, if you walked the corridors of Congress, talking to the lawmakers or the staffers, concepts like gridlock and malaise acquired entire new meanings. Today the plaint is different — politics has routed analysis. (Many Democrats would claim that putsch politics has routed the normal give-and-take, but that's a story for another day.) Then and now, policy-minded politicians voice their unhappiness in terms usually reserved for sessions with a therapist. "We are ghosts drifting through a shipwrecked vessel," says California congressman Robert Matsui.

The dominant example of hyper-politicization, of course, is the Bush administration's decision to go to war, and make light of the difficulties of peace, in Iraq. An administration that believed it knew all the answers denigrated, then ignored, any analysis — including massively documented reports prepared by its own State Department — that raised yellow flags of caution. And as Iraq goes, so goes Bush policy generally. The energy bill that Bush and Co. have tirelessly pushed is unabashed pork. The devastating impact of the tax cuts

on the long-term financial future of the nation was well known to the administration—in that instance, the policy gnomes were situated in the Treasury Department. But those dispiriting projections were relegated to appendices in the president's budget.

Nor is the marginalization of analysis confined to the Republicans. Howard Dean, who appears to be marching to the Democratic presidential nomination, has shed his own past policy positions on everything from health care to gun control without so much as a nod to these changes of heart—the centrist Vermont governor remade as a populist—while John Kerry, the morning-line favorite who faded fast, has churned out endless unread position papers. (More bad news to the analytically-minded came in December when Al Gore, the greatest friend in high places that policy analysis has ever had, endorsed Dean.) Such politicization isn't restricted to political branches of government either. Not even those who agree with the outcome in the *Bush v. Gore* case have good things to say about the quality of the judicial reasoning. As Justice Antonin Scalia, the architect of this quintessentially political ruling, reputedly boasts on the tennis court, "5-4, I win."

In the teeth of such bad news, policy analysts carry on, writing reports and teaching the eight-step path to the next generation. There is little of the incessant

angst that marks the darker corners of the social sciences; we continue to traffic in useful marginalia, scoring marginal victories along the way. This emphasis on what's potentially doable is partly a reflection of what we know and partly a way to mark time. Like the monks who spent centuries copying and recopying manuscripts, sure that the curtain would some day fall on the Dark Ages, we analysts construct tradeoffs, run regressions, manipulate incentive structures, survey elites and devise regulatory schemes, in hopes that eventually our talents will be in demand again.

As they say in Pop-culture-land: *Not!* Or as we say in more long-winded Policy-land: shifts in American politics, policy and the polity — changes abidingly hostile to the possibility of analysis — are not ephemeral and reversible but structural and deeply ingrained.

Those critical changes (a different kind of eight-fold path) include:

- (1) greater *personalization*, a focus on the telling of anecdotes rather than on policy substance, whether it's a problem or a candidate being appraised;
- (2) the *perfectionist* demand for total solutions rather than marginal imperfect change — a point of view often accompanied by a deep *pessimism* that public ordering can really change anything;

- (3) *presentism*, the insistence that things work now and impatience with the snail's pace of social transformation, an attitude that has grown more dominant with the ever-increasing political importance of the 24/7 Internet;
- (4) an emphasis on *passion* rather than reason in articulating positions, in good measure because of the primary of electronic media which value images over words, sound- and sight-bites over speeches;
- (5) relatedly, a cacophonous *pluralism* of viewpoints, with opinion ousting fact as well as analysis and the race going to the brashest, not the most scrupulously careful;
- (6) *over-promising* by politicians;
- (7) *persuasion* carried to new levels of sophistication through mass media campaigns;
- (8) a *poll-driven politics of participation* in lieu of either principle or political horse-trading.

These mutually reinforcing developments reveal the triumph of the post-modern sensibility in the domain of policy. By contrast, most policy thinking comes from an earlier, pre-modernist mindset, with its emphasis on cause-and-effect relationships; its commitment to data and experimentation, analysis, and rationality; above all its belief in the possibility of constant social betterment. Our guild doesn't

even acknowledge Freud, let alone Beckett or McLuhan or Rorty, and still thinks that an episode of *West Wing*, not “The O’Reilly Factor,” is how ideas get a public airing.

The past generation of welfare policy illustrates the analysts’ problem. The 1988 federal legislation crafted by Daniel Patrick Moynihan, then the Senate’s leading policy intellectual (no one has since aspired to that role), drew on state-of-the-policy-art analyses of who goes on welfare and why, and how to alter those patterns. The legislative package of education and training — eventually jobs — for out-of-work single parents offered a plausible path away from dependency and toward responsible citizenship. This was no quick policy fix, advocates warned—it would take awhile for the changes to make a difference, not everybody on welfare would be rejuvenated — and for awhile the message of caution seemed to get across. A meticulous study of California’s experience with this approach to welfare, carried out by the Manpower Development Research Corporation, concluded that California’s work-welfare plan had begun to do what it promised. In counties that had put this plan in place earliest, the earnings of those on welfare went up, albeit modestly, when they participated in the program; they depended less, albeit marginally less, on public aid.

If rationality carried the day, those findings would have been reason enough to

have seen this complicated reform through. Instead, the welfare rolls continued to grow nationally during the Bush I recession. Partisans like White House domestic policy aide Gail Wilensky started complaining that the approach “hasn’t answered the question of how to break down welfare dependency for the whole population” — that it had not, in other words, been a perfect solution, as if the real answer lay just around the corner.

Republicans were making political hay with the issue, updating the image of Ronald Reagan’s welfare queens, those apocryphal ladies who were said to collect their checks in Cadillac convertibles. Not long before his campaign for a second term, Bill Clinton opted to abandon the existing policies for tough love and welfare time limits. Initially, health care was supposed to be the domestic policy centerpiece of his administration. But when Hillary Clinton’s hyper-complex plan — a multi-volume caricature of policy analysis, burdened with awkward bureaucratic structures and questionable empirical projections — was stillborn, the president badly needed a winner. Adroitly, he made “ending welfare as we know it” his theme, stealing a march on the Republicans. No one really knew what would happen to mothers in their twenties with neither work experience nor job skills, once their benefits ran out—and no one, it seemed, really cared. The *perception* of salutary change is what counted most, and

that meant favoring politics over policy, sound-bites over substance.⁵

To be sure, some Clinton-era policies did emerge from good analysis. The best example is the earned income tax credit; but tellingly, it became law mainly by slipping beneath the political radar screen. Similarly, elements of key Bush administration legislation, notably the recently-enacted health care reform package, will gladden the hearts of health policy analysts. In that instance, though, it's unclear who — other than the drug manufacturers and insurance companies — will ultimately benefit from the measure, and those beneficiaries know how to thank their political allies.

The end of policy analysis, if that day were ever to arrive, would be an unhappy event, and not just for out-of-work policy practitioners. In a publication called *PolicyMatters* there is no need to elaborate on why analysis should have a vital place in public decision-making, since that would be preaching to the choir. What *is* needed, though, is a clear-eyed sense of how the present unhappy state of affairs has come about — how, to borrow once more from the

rhetoric of our trade, we might turn this constraint into an opportunity.

When we speak truth to power, we want power to pay some attention.⁶ That requires noticing and adapting, not ignoring or decrying, the very forces that have diminished the authority of systematic thinking—turning those forces, in judo-like fashion, to the advantage of our interest as conscientious analysts, and to the broad public interest as well.

¹ Charles E. Lindblom, “The Science of ‘Muddling Through,’” *Public Administration Review* 19 (2): 79-99 (1959); Herbert Simon, *Models of Bounded Rationality* (Volume 2, MIT Press 1992.)

² See generally Carol Chetkovich and David Kirp, “Cases and Controversies: How Novitiates Are Trained to Be Masters of the Public Policy Universe” and “Cases as Rorschach Blots,” *Journal of Policy Analysis and Management* Vol 20, No. 2, 191-197 (2001).

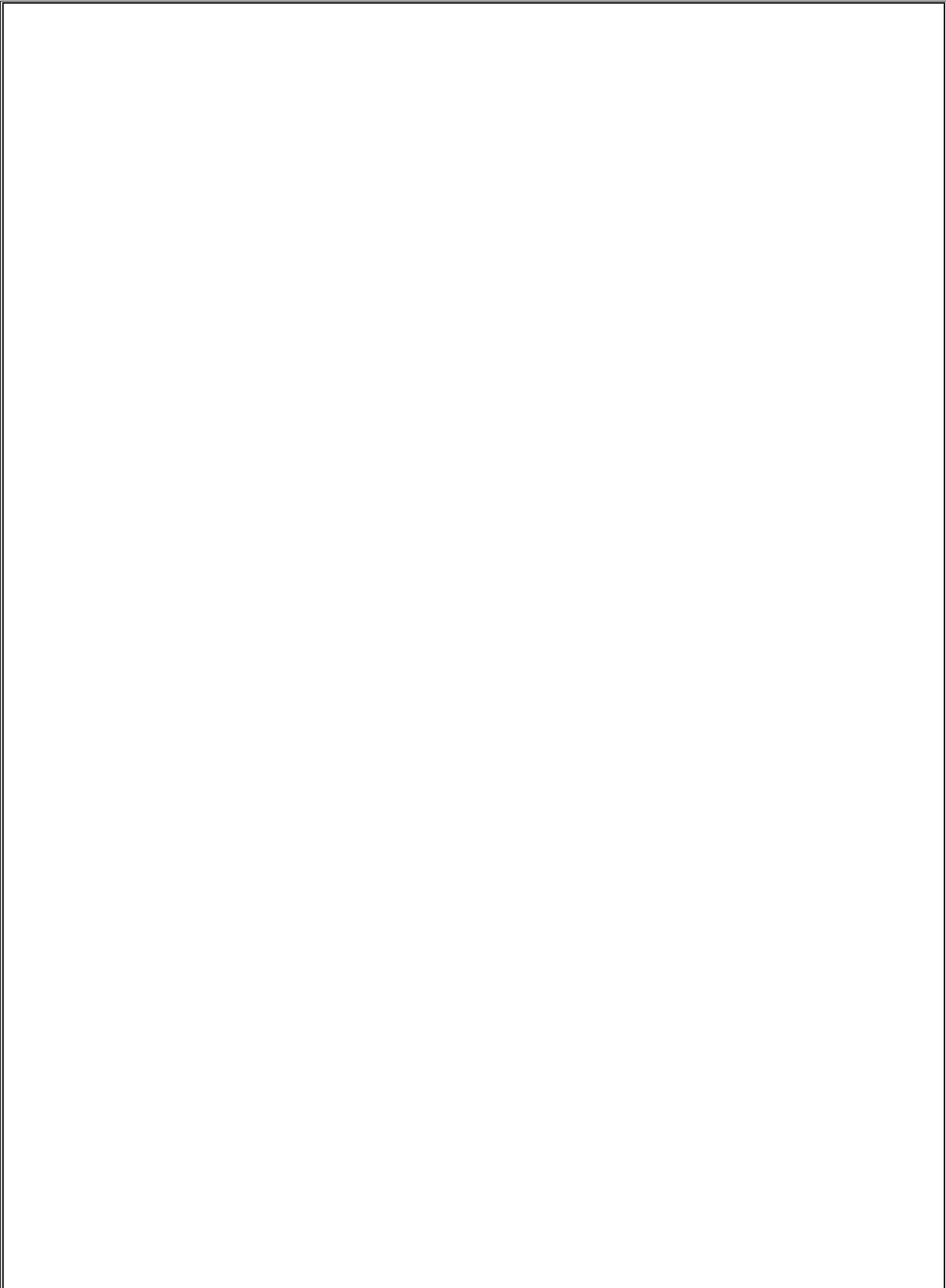
³ David Kirp, “The End of Policy Analysis,” *Journal of Policy Analysis and Management* 11(4):693-696 (1992).

⁴ Nancy Shulock, “The Paradox of Policy Analysis: If It Is Not Used, Why Do We Produce So Much of It?” *Journal of Policy Analysis and Management* 18(2):226-244 (1998).

⁵ For reasons of space and provocativeness, this account oversimplifies a complex issue. See R. Kent Weaver, *Ending Welfare as We Know It* (Washington DC: Brookings Institution, 2000).

⁶ Aaron Wildavsky, *Speaking Truth to Power: The Art and Craft of Policy Analysis* (New Brunswick NJ: Transaction Books, 1987).

David L. Kirp, professor at the Goldman School of Public Policy, University of California (Berkeley), has written prolifically across a wide spectrum of public policy issues. Affordable housing, primary and secondary education, race and ethnicity, gender, and AIDS are among the topics he has taken up. Trained as a lawyer, he has also been an associate editor of the "Sacramento Bee." His writing – including "Almost Home: America's Love-Hate Relationship with Community" (Princeton 2001) and, most recently, "Shakespeare, Einstein, and the Bottom Line: The Marketing of Higher Education" (Harvard 2003) – is aimed at a broad general readership as well as at scholarly and professional audiences. He also consults with a number of public agencies, foundations and higher education institutions.



Feature

WHOSE TRUTH?

A response to David Kirp

Carol Chetkovich

I have serious complaints with almost all of the decisions made by the current administration in Washington, but I don't think that the problem is most usefully formulated as "politics routing analysis".

To begin with, the dichotomy of analysis and politics implied by this formulation is misleading. Analysis always entails choices of perspectives, categories, and methods, and those choices are shaped by political interaction. On the other side, politics – political decision-making – is carried out through argument.

The idea that properly executed analysis is apolitical, capable of revealing a value-free "truth," is seductive (particularly for policy analysts): if only we could arrange a world in which the analysts instead of the politicians made decisions. Or at least a world in which the politicians listened to the analysts and made decisions in line with the analysts' recommendations. The problem with this picture is its inattention to democracy – a

weakness of policy training programs from the beginning. The assumption is that democratic principles are upheld because politicians must answer to the people at election time. But if the analysts' recommendations conflict with popular will, how should the politicians decide? In this case the apparently democratic choice is the triumph of politics over analysis.

The answer, according to Thomas Jefferson, is more (and stronger) democracy. More democracy would mean a number of things, including elections not dominated by money, and decisions in which the people are consulted directly. Stronger democracy would mean better education for the citizenry and opportunities for deliberation, so that our choices are thoughtful and informed. I will say more about each of these.

The suggestion that the people should be engaged directly in public policy-making is often dismissed as a utopian vision

in a country so large and complex, where knowledge has become so specialized. That rejection is ill-advised: a review of the literature on public participation quickly turns up many practical proposals and actual examples of the public's engagement in the making of complex decisions, including ideas for revitalizing democracy by integrating deliberative processes into the existing electoral system. Models include citizen juries, deliberative polling, electronic town hall meetings, study circles, interactive policy-oriented web sites, and stakeholder dialogues, among others.

Effective models of citizen deliberation include at least two central components. One is the opportunity to engage in dialogue with others – having one's views challenged and learning from different perspectives. The second is exposure to information, usually offered by experts with differing views and including a chance to question the experts. This second component is relevant to the challenge of developing a stronger democracy.

What do I mean by “stronger” democracy? Consider the words inscribed on the nation's first public library, in Boston: The Commonwealth requires the education of the people as the safeguard of order and liberty. I take “education” to mean not only the development of literacy, numeracy, and reasoning skills, but the transfer of civic knowledge—the information needed for good

public decision-making. If people are badly informed, democratic decisions will be misguided.

And people are badly informed, not only about the world but about their own circumstances, in ways that are likely to distort seriously their assessment of policy options. (If nineteen percent of voters think they're in the top one percent of income earners, how can they accurately assess the costs and benefits of a tax cut that primarily benefits the richest among us?) Furthermore, as Delli Carpini and Keeter find, “political ignorance is not randomly distributed but is most likely to be found among those who arguably have the most to gain from effective political participation: women, blacks, the poor, and the young.”

But the situation is not hopeless. We know from many examples that people can arrive at nuanced understandings of complex issues when given information and an opportunity to deliberate with others, and that policy opinions can change quite dramatically under these circumstances. If our craft of policy analysis is to serve the interests of the society as a whole, part of our job must be to improve civic education and the information available to ordinary citizens. Rather than focusing only on “speaking truth to power” we should be engaging in conversations with the community, offering the benefits of our analyses (acknowledging their limitations) in

support of democratic decision-making. Indeed, a kind of policy education for the public would be just about the only effective treatment for the negative trends identified in Kirp's eight-point list.

We are seeing a lot of bad policy-making, reflecting the control of the

decision-making process by narrow interests. In sum, the problem is not so much "politics routing analysis" as oligarchy routing democracy. The truths that need to be spoken are from policy experts to the public, and it is the public to whom those in power must learn to listen.

Carol A. Chetkovich, Associate Professor of Public Policy at the John F. Kennedy School of Government, Harvard University, has conducted policy research for state and federal agencies in a number of social service areas, including family planning, child care, and disability services. She also served for several years as a manager in a nonprofit reproductive health clinic. She is the author of Real Heat: Gender and Race in the Urban Fire Service, an ethnographic study of work-force diversity in the Oakland Fire Department. Her current research interests include critical policy theory, social identity and public policy, organizational/occupational culture and change, and nonprofit management. Chetkovich holds an MPP and PhD from the Goldman School of Public Policy at the University of California at Berkeley and has taught in the schools of Education and Public Policy at the University of California at Berkeley and at Mills College.

Is the policy analyst's problem a false dichotomy?

Kirp and Chetkovich share a common gloomy view of the current state of policy-making in America, whether this springs from "politics routing analysis" or from "oligarchy routing democracy." As we think about the role of the policy analyst, however, we must wonder if this dark perspective stems, at least in part, from the way policy analysis is framed by these authors. Policies are only formed by those who actively involve themselves in the policymaking process. Critical analysts should therefore examine their own work in this light. If it seems that current trends are ignoring wise policy choices, then this is not the end of policy analysis, but rather an opportunity and further incentive for the analyst to change the conversation. If analysts truly believe in the conclusions they reach, they must not just inform the public of their arguments, but must also become active advocates of these positions. If they don't, who will?

Think nationally, but act locally

As a student of public policy, with my own dreams of changing the world one painstaking increment at a time, my first hope is that Kirp is wrong in interpreting current disregard for

policy analysis as evidence of a one-way trend rather than an ‘ephemeral and reversible’ swing of the political or social pendulum. However, even if he is correct, a gleam of hope seems to remain for MPPs seeking jobs upon graduation. The articles’ examples – welfare reform, war, taxes – are all of national policies. Are patterns of behavior ‘inside the beltway’ really the whole story? The State of California and its municipalities seem to have policy analysts coming out of their ears (although whether they are really listened to is a question I am unqualified to answer). Sacramento boasts the California Legislative Analyst’s Office, the Senate Office of Research, *and* the Governor’s Office of Planning and Research, to name a few. When seeking to speak truth to power, perhaps we should not limit ourselves to power’s highest and most privileged corridors. There may be willing listeners in unexpected places, even places that don’t yet have a department, or even a name, for what we do.

Is direct democracy desirable?

People are stupid. Jefferson thought so too. He just didn’t think one’s birth dictates one’s appropriate position on the social ladder. In a letter to John Adams dated October 28, 1813, Jefferson touts the “natural aristocracy” to be “the most precious gift of nature for the instruction, the trusts, and government of society,” and therefore calls for a public education system that gives all citizens the basics and then selects the most talented for further training. In doing so, Jefferson rails against the “pseudo” or fake aristocracy of the Adamses and Bushes of the world, whose social position results more from the accident of their birth family than from the competitive advantage of their minds. Thus, Jefferson, too, desired governing by the elite, call it an “oligarchy” if you will. He just defined elite on the grounds of merit rather than class. One need only look at the disaster of California’s proposition system to understand the ill-fated nature of direct democracy.

Feature

HUMAN CAPITAL CONTRACTS

Revisiting higher education finance

David Deming

Ever since the pursuit of a college degree in America graduated from erudite ambition to middle-class birthright, taking out loans has become a rite of passage for the inbound college student. Increasingly, however, federal student loans are unable to cover all of a student's expenses. By forcing students to turn to other options, this widening "funding gap" has created a burgeoning private loan market, replete with a dizzying array of products tailored to individual student needs. Private loan volume increased 346% (from \$1.1 billion to \$5.0 billion) between 1995-1996 and 2001-2002, and the number of private loan products increased by 244% over a similar period (from 79 in 1997 to 272 in 2003).¹

Furthermore, credit card debt has risen dramatically for college students – additional evidence of a funding gap. Although some attribute this to financial irresponsibility, the fact is that students are putting books – not just beers – on their Visa

cards. Although the adequacy of student loan programs is difficult to measure, there is support for the notion that higher-income students fill funding gaps with credit card debt (a burden in itself, given interest rate differentials between students loans and credit cards), whereas lower-income students, unable to fill in the funding gap and being more risk averse, simply choose not to go to college at all.

Enter MyRichUncle, a small capital investment company created to meet students' "gap financing" needs. Rather than offering student loans, MyRichUncle covers the funding gap for qualified students in return for a fixed proportion of the student's *future* income upon graduation. This financial innovation is known as a *Human Capital Contract*. Advertising itself as "America's Debt-Free Way to Pay for Education," MyRichUncle invests in students' "human capital" in return for a share of the return on their investment.

Student loans vs. HCCs – an example

Student A and Student B are each seeking to fill a funding gap of \$10,000. Student A obtains a private loan of \$10,000 at an interest rate of 10%, with a payment period of 10 years. Student B, feeling adventurous, enlists MyRichUncle to provide a Human Capital Contract. In exchange for covering this \$10,000 gap, the company requires that Student B pay 0.5% of her future income per \$1,000 borrowed (for a total of 5.0%) over a period of 10 years. Thus, the difference between the total amount paid by Student A and Student B will depend on how much Student B earns over the 10 year period. For simplicity's sake, we assume that Student B's salary remains unchanged over the life of the contract. Student A pays \$15,858 over the 10-year loan term. With a salary of \$20,000, Student B pays $(0.05 \times \$20,000 = \$1000) \times 10 = \$10,000$. With a salary of \$40,000, Student B pays $(0.05 \times \$40,000 = \$2000) \times 10 = \$20,000$. So, if Student B's salary over the 10 year term averages $(\$15,858/0.5)$ \$31,716 or less, then the HCC was the better deal.

For human capital contracts, unlike loans, there is no fixed principal, nor is there any obligation to pay back the amount borrowed. Despite the risk assumed by the adoption of human capital contracts (HCCs), the profitability of investment in education ensures the survival of MyRichUncle – and future companies like it. In effect, an HCC is an upfront payment in exchange for a share of the future earnings increase that accompanies educational attainment, and to the extent that education continues to “pay off,” HCCs will pay off as well.

Considering the increasing inadequacy of public funding for higher

education alone, human capital contracts fulfil an important “gap financing” need. This need is particularly acute for low-income students, for whom the educational debt burden is proportionately larger than for high-income students. According to MyRichUncle, loans now comprise 59% of all student aid, and the cost of attendance at a four-year private university for low-income students currently represents over 160% of *family* income.² The increasing inability of public programs to meet the financial needs of students thus endangers equal access to higher education by squeezing out poorer students for whom “gap financing” is most beneficial.

In California, the problem is particularly acute. While the UC and Cal State systems have long held out the promise of affordable higher education for all academically eligible students, recent budget cuts have put this promise in jeopardy. The governor's new budget calls for several cost-cutting measures, including raising fees and farming out 10% of the entering class initially to two-year community colleges, but it also calls for a large reduction in financial aid for the remaining students. In particular, grants have been cut dramatically (most likely to be replaced by private loans – for those who can afford them), and the percentage of student fees devoted to financial aid has dropped from 33% to 20%.³ In light of the rapidly increasing funding gap

and the success of private loan innovators like MyRichUncle, it would behoove policymakers to consider the applicability of HCCs on a larger scale, and as a possible alternative to existing federal loan programs. In fact, there are several reasons to believe that HCCs are both *more equitable* and *more efficient* than student loans.

Student loans are inequitable and perpetuate social stratification

By tapping into the investment potential of higher education, HCCs allow students to fund their education based on future earnings rather than present income. Broad-based public implementation of HCCs in lieu of student loans might thus lead to a more equitable and efficient distribution of education, halting or reversing socioeconomic stratification. Student loans place an undue burden upon lower-income students, because school costs (tuition, room and board, and other expenses) comprise a much larger proportion of their total income.

Also, many students with low present incomes are understandably more hesitant to assume the risk of a fixed-principal loan, because the benefits of investment in education are long-term and difficult to quantify. In other words, student loans are *input-regressive* – they are marginally more favorable for those who have higher incomes when they decide to undertake investment in education.

In contrast, HCCs are *output-regressive*, because their terms would ostensibly be more favorable for students with higher expected future incomes. Regardless of the actual future payment amount, the terms of the contract would be designed to predict future income in order to obtain a certain return on the investment. A poor student with high ability who planned to attend a top institution and study cell biology would be charged a lower percentage of her future income than a rich student who went to a small private school to study poetry, for example.⁴ This way, students face different costs based on their academic ability and future earnings potential, rather than prior socioeconomic status.

The inequity of the student loan system is aggravated for state-sponsored colleges and universities. Since state schools are heavily funded from the general tax base, government support of a student loan program amounts to subsidization of higher-income students (who are disproportionate college attendees). Given the high returns to human capital investment in education in the form of increased earnings, this kind of regressive taxation contributes to the increasing stratification of American society by education and income level.

Student loan financing is poorly targeted and inefficient

Government-administered student loans subsidize students' education in several different ways. First, most of the loans carry some form of interest rate subsidy, either as a low fixed rate, or as an upper limit on the rate paid by the student.⁵

Interest rate subsidies are inefficient, however, because they fail to directly combat risk costs. HCCs subsidize human capital investment in education more effectively because they reduce the *spread* of future earnings, rather than the absolute debt reduction caused by lower interest rates on fixed-principal loans. Thus, funding for student loan programs has to be much greater than for HCCs to achieve the same level of subsidization.

Second, because most loans are outsourced to private lenders, the government insulates them from risk by acting as a guarantor of student default. Although government outsourcing of loan administration and collection itself is more efficient, loan guarantees provide a poor incentive for banks to vigorously pursue debt collection. With HCCs, government could instead build the collection of income-contingent payments into the federal tax system. This would improve efficiency and painlessly adjust payment amounts for year-to-year income variation.

Mortgages: an historical precedent for financial innovation

Homeownership was originally available only to cash purchasers or those willing and able to take out large and long-term loans. Banks, however, were hesitant to provide these high-risk loans, and so they often required significant collateral that most potential homeowners could not provide.

To insulate against default, banks prefer to buy the house themselves and then allow the borrower to gradually purchase it from them (by building up "equity" in the house over the life of the mortgage). This way, the bank's ownership of the house mitigates the risk of borrower default – mortgage default means you mail the key to the bank, whereas loan default offers no such compensation. Potential homeowners can thus invest in a house without providing large amounts of collateral or paying prohibitively high interest rates.

It wasn't until the 1930's, with the creation of the Federal Housing Administration (FHA) and the Housing Act of 1934, that the use of mortgages became more widespread. Homeownership increased by just under 50% (from 43.6% to 61.9 %) between 1940 and 1960, and ownership by income leveled out substantially over the same period. The development of mortgages as a lending instrument thus led to a greater amount, as well as a more equitable distribution, of household investment.

HCCs, like mortgages, are an equity financing technique. The substantial increase in homeownership following the development of mortgages thus provides promising evidence that financial innovation can facilitate access to higher education.

Student loans contribute to underinvestment in education

Even given that returns to investment in education are generally quite high,⁶ economists have long recognized a puzzling

systematic *underinvestment* in personal education across all ages, ethnic groups, and nationalities. If student loans are indeed inefficient, one would expect their widespread adoption to contribute to educational underinvestment.

Milton Friedman, in his seminal work *Capitalism and Freedom*, first recognized this as a “capital market failure.” To understand why the provision of education may function imperfectly when left to the vagaries of the open market, it is useful to draw the comparison between investment in education and investment in a physical asset, as Friedman does:

“If a fixed money loan is given to finance investment in physical capital, the lender can get some security for his loan in the form of a mortgage or residual claim to the physical asset itself ... If he makes a comparable loan to increase the earning power of a human being, he clearly cannot get any comparable security.”⁷

For homeownership, the lender’s ability to “foreclose” on the mortgage mitigates the high risk of lending, and the lender can therefore recoup a large proportion of the investment even in the case of default. No such security exists for a student loan, however: short of allowing students to sell their “human capital” to finance unpaid debt (a return to slavery, or at least indentured servitude), they cannot provide collateral, and so lending risk is much higher for human capital.

This “illiquidity” also has secondary effects on the riskiness of human capital investment, whether a loan or an HCC. Unlike a mortgage or other form of physical capital, education cannot be parceled into smaller units and sold, nor can it be “disinvested” once undertaken. Furthermore, as Friedman points out, a high average expected return on investment in education at the macro level disguises much individual variation. When compared with a physical asset, wide variation in individual “ability, energy, and good fortune” confounds investors’ ability to predict individual outcomes – predicting the future value of a house involves much less guesswork and variation than predicting the future earnings of an individual.

Human capital contracts – Overcoming illiquidity problems

Unpredictability, however, does not imply unprofitability. Since an equity financing method was used to overcome the innate riskiness of housing investment, it stands to reason that an equity financing innovation could also work for higher education.

The biggest difficulty in making debt financing attractive to lenders is that they assume the risk of default without the ability to claim part of the potential reward - the maximum they can recoup is the value of the loan. With equity financing, however, a residual claim on the underlying asset

conveys an upside potential that counterbalances the risk of default. For an HCC, this means that a student borrower can offer a portion of their future earnings,⁸ compensating the investor for the risk of default⁹ with the possibility of a much higher payoff. In effect, very successful students with high earnings would offset those with lower earnings, hedging risk and allowing overall welfare gains for borrowers and lenders alike.

Although much work on the practical details is yet to be done, the need for a new approach to higher education funding is clear. As this funding becomes increasingly inadequate, policymakers should evaluate alternatives that more effectively combat the social stratification that is exacerbated by the current federal student loan program. HCCs, like mortgages, are a financial innovation that can make profitable personal investment (whether a house, or a human capital investment in education) available to a broader swath of American society. MyRichUncle is only the beginning – as the demand for education increases, so too will the demand increase for better and more equitable methods of financing it. Human

capital contracts, because they allow students to invest in their own education, are superior to student loans, and should be duly considered by policymakers.

¹ Source: College Board 2002. Figures are adjusted to current dollars.

² Source: www.Myrichuncle.com.

³ Source: “Fewer Admissions, (even) higher fees” – *Contra Costa Times*, 1/10/2004.

⁴ This of course creates new issues about discrimination between future courses of study, but most would agree that this effect is less pernicious than discrimination by present day income.

⁵ Also, the government pays the interest on student loans while students are still in school.

⁶ Although many studies exist and the methodology for calculating return on investment in education is indirect and debatable, estimates range from approximately 7.7% to 23.5%, in all cases a profitable rate of return when compared with other investment possibilities.

⁷ Milton Friedman. “Capitalism and Freedom”. University of Chicago Press: Chicago, 1962.

⁸ Friedman himself advanced this idea by suggesting that investors “‘buy’ a share in an individual’s earnings prospects” by paying for some (or all) of their education in return for a specified percentage of their future earnings. This is the origin of “Human Capital Contracts,” although much has been written about them and formulated since then.

⁹ Which in this case would be nothing – if the investment is income-contingent, then a student who can’t afford a loan will still be able to afford an HCC, only the total payment amount would be much lower. With a loan, the payoff is binary – principal plus interest or default – whereas for HCCs it is more of a smooth continuum.

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Taking public investment one step further

While the idea of a simpler, more equitable way to finance higher education is appealing to all, it is not clear that human capital contracts as they are presented in this article are a better or more equitable solution than others that may be available. This article assumes that the individual is the primary recipient of the added value of higher education, which would argue for an *individual* financial instrument designed to pay for this investment. However, it could just as easily be argued that the financial rewards of higher education make these costs an especially attractive *public* investment. If we consider income tax to be the equivalent of the HCC's repayment plan (payments that adjust to earnings) we see that the more government subsidizes higher education, the more it creates individuals with higher long-run income potential, and the *more money it collects over those individuals' entire taxable lives*, while at the same time entirely solving the equity issues identified by the author.

Administrative burden

There would appear to be enormous administrative hurdles to be overcome in the creation of HCC's as they are envisioned here. How would we determine eligibility for such a contract? Would the potential investor pick which academic fields would receive better terms on their projected human capital? And if so, does this not lead to the problem that whoever that investor would be, they would have tremendous long-term influence over the shape of the American workforce?

Is indentured servitude the answer?

Perhaps Mr. Deming does not go far enough in his assault on college loans, and the real answer for funding higher education lies in indentured servitude contracts like those that require military service in exchange for a college education, or loan forgiveness programs that reward people who agree to teach or to work in underprivileged neighborhoods. What if before entering college each student who wanted a "free" education and the guarantee of at least a living wage post-graduation was to sign a contract with the company or government program who agrees to have them? Who would want to do it? Could the government provide incentives for the Fortune 500s of the world so that the economically disadvantaged do not find themselves barred from the upper echelons of society? Would this be any better than paying off Fannie Mae?

A new type of equity concern?

HCC financing proposes basing affordability measurement on individual post-education income rather than existing family circumstances. The difficulty is in reconciling equitable affordability concerns with actuarial predictions of return on investment. For example, while one might be willing to accept the fairness of a business major paying a smaller percentage of future income than an art major – in other words, a business education would be more affordable than an arts education – that an attendee of a more prestigious institution should pay a smaller income percentage, even with the same major, is more problematic, especially given the existence of other inequities in the education system that influence who attends which school.

Feature

AN ACCIDENTAL EMPIRE

The long reach of the American dream

Richard Halkett

“Trade follows the flag,” explained Cecil Rhodes, a one-man Halliburton in 19th century southern Africa. Proponents of globalization and economic imperialism would have us believe that the US has bucked this trend, that Exxon, McDonald’s, Microsoft and Starbucks have led the way, dragging the reluctant but duty-bound Pentagon and State departments behind them. Others would describe a power-crazed White House playing geopolitical power games with the world’s most frighteningly advanced armed forces. Rhetorically neat though this contrast may be, it fails to address the question of intent – the area in which the United States differs most from Ancient Greece, Imperial Rome, Victorian Britain and other empires past. A fundamental premise of the American dream is that it is not a zero sum game, that achievement by one person does not impact the possibility of achievement by another. This delusion, sustained by several centuries

of unhindered territorial and economic expansion, has made the United States an intentional hyperpower, but also, and necessarily, an unintentional empire. With regard to its imperial status, the United States is guilty, but perhaps not responsible.

An American empire?

Traditionally, writers on imperialism are fascinated with the point at which a “Country” becomes an “Empire”. They devote considerable attention to establishing intricate definitions of empire and, by implication, whether or not their target fulfils those criteria. Such musings are forever destined to be both fruitless and pointless. Fruitless, because there have been very few empires and they have formed, grown, and collapsed for so many reasons and in so many different epochs that comparing them is almost impossible. Pointless, because establishing a definitive list of “imperial attributes” would be

arbitrary, and would merely herald a new, more involved round of semantic argument. The best approach is two-pronged: to recognize the political scientist's favorite catch-all, the "hegemon," and to take a results-oriented, "if it quacks like an empire," approach to establishing group membership. Even then, one must be careful, unlike the drunk and the streetlamp, not to mistake support for illumination.

The history of the United States confounds those questing for simplicity and sound-bite. Even explaining away the Louisiana Purchase and the annihilation of the Native American tribes as early-stage nationalist expansionism, any proponent of non-imperial ambition must explain the Monroe Doctrine, the invasions of Panama and Vietnam and plots against Mossadegh in Iran and Allende in Chile. Meanwhile, those seeking to proclaim the age of Imperial America must explain a territorial "empire" which extends for a pathetic 3,800 square miles, Washington's near-pathological avoidance of direct rule, and its incessant need to justify overseas adventures in terms of self defense.

One problem is expecting consistency over time. No state can be viewed as a constant actor, and certainly not the United States of America. A federation, it has existed as a country for a little over 200 years. In that time it has been "ruled" by 43 Presidents, and 108 Congresses. It has no

state-sanctioned religion, a popular culture that prizes diversity almost to a fault, and consists of 50 highly-autonomous states, the youngest of which was recognized only 45 years ago. It would seem churlish to attack something that can hardly be called a nation (in the way that "Old European" states like to think of themselves), let alone a unitary actor, as pursuing coherent imperial ambitions. Indeed, the outpourings of "the new patriotism" that the world saw after the attacks on the World Trade Center should be seen as the beginnings of a national identity, not its end result: the sudden coming together of a nation attacked *as a nation* for only the second time. As Michael Ignatieff states, "Americans may not have thought of the World Trade Centre or the Pentagon as the symbolic headquarters of a world empire, but the men with the box-cutters certainly did."¹

The true history of the rise of the United States is one of acting in exigency; of a multitude of small actions, each compelling in its short-term logic but without an overall masterplan, and with a cumulative effect far greater than the sum of its parts. The backdrop, of course, is the colonization of America as an escape from empire, the need to carve out a living in the New World, and the desire, above all things, to be left alone to "life, liberty, and the pursuit of happiness." To develop John Winthrop's idealized "Citty upon a hill," it was essential, as Jefferson

later identified, for each citizen to be of independent means. The founding fathers were driven by an understandable desire to achieve territorial security by dominating their newfound land mass. But more than this, they sought the perpetuation of the fledgling American dream, and the avoidance of the socio-economic pitfalls of the “Old World” in the creation of a perfect new one. A late-nineteenth century senator, James R. Doolittle of Wisconsin, put it thus: that the surplus of “free” land “will postpone for centuries, if it will not forever, all serious conflict between capital and labor.” Constant expansion, by mitigating internal conflict, enabled the United States to rewrite the rulebook and underwrite the promise of magnificence for all.

The next phase of American expansion was consciously and obviously imperial. Beginning with the Spanish-American War of 1898, US ambitions became territorial and strategic: occupying Cuba, Puerto Rico, Guam and the Philippines was deemed essential to national security. Only afterward did the US, now with “homeland security,” begin to proclaim its joint doctrines of isolationism and right to self-determination. From this point on, further territorial expansion would conflict with a developing and hardening non-imperial ideology: the expansion essential to the American dream would have to be found elsewhere. The obvious target was economic

development, and so the US began a phase of business expansion and exploitation of natural resources (accelerated by inventing the focused study of wealth accumulation and commerce) the like of which the world had never seen before.

The well-documented history of the twentieth century is of the US riding cavalry-like (just-in-time to administer the killer blow) to the defense of Europe in the two great wars. The unlooked-for consequence was a world split between the two remaining superpowers, all other countries being divided into spheres of influence: not directly controlled by either superpower, but defined as being certainly *not controlled* by the other. The collapse of the USSR left the US as the single remaining player, suddenly, almost accidentally, supreme. As Europe chose to cash in its peace dividend and turn its missiles into plowshares, the US continued to spend on its armed forces, comprehensively outstripping (to the point of no return) the entire European Union by the mid-1990s. Since this point, any significant international action has necessitated the approval, and most often involvement, of the United States.

A question of perspective

“A man armed only with a knife may decide that a bear prowling the forest is a tolerable danger, inasmuch as the alternative – hunting the bear armed only with a knife – is actually riskier than lying low and hoping the bear

never attacks. The same man armed with a rifle, however, will most likely make a different calculation of what constitutes a tolerable risk.”²

In “Of Paradise and Power,” Robert Kagan advances an attractive thesis that it is the military preparedness of the United States (the man with the rifle) that allows its European allies (with only knives) to enjoy a “Kantian paradise” of perpetual peace. This idea is compelling, but the fact that he must keep repeating it speaks more to a lack of general historical understanding in the wider community than it does to any current American exceptionalism – surely we no longer consider the action of countries in isolation? When Woodrow Wilson idealistically proclaimed his 14-points at Versailles, it was on the back of a century of warfare and ruthless expansion, continental security and 3,000 comfortable miles distance from the fractured continent of Europe. The US chose, as Europe is doing now, to ignore certain problems until it was able to confront them. As Kagan goes on to explain, “The young US wielded power against weaker peoples on the North American continent, but when it came to dealing with the European giants, it claimed to abjure power and assailed the power politics of the European empires as atavistic ... When the US was weak, it practised the strategies of weakness; now it is powerful, it behaves as powerful nations do.”³

As the world wars and power struggle with the Soviet Union played out, the United States underwent an unprecedented economic expansion, essentially inventing the business and financial systems that would later dominate the world. Importantly, this growth was not led by the government, even “facilitation” may be too strong a word, but was driven by a disconnected grouping of companies united only behind the pursuit of economic profit and individual wealth creation, and benefiting from the unique business conditions offered by the United States. Although frequently conflated, it appears that manifestations of this economic muscle split into two categories: cultural dominance and intentional economic imperialism.

Cultural dominance, manifested in everybody’s favorite worldwide mega-chains, attracts the majority of anti-Western sentiment but is more benign. When Shell intervened in the internal affairs of Nigeria (and was indirectly implicated in General Abacha’s hanging of Ken Saro-Wiwa and nine other activists), the company’s prizing of profits over people was clear; however, when Russia’s first McDonald’s opened on Pushkinskaya and was swamped with customers (leading to the opening of a further 102 in Moscow alone by 2003) the moral lesson was less clear. Cultural imperialism has been explored with varying degrees of intellectual rigor by

commentators from Michael Moore to Joseph Stiglitz, but since it, unlike military imperialism, is necessarily consumer-driven, it is difficult to ascribe motive to it or even to pinpoint its origin.

The case is more clear-cut with regard to economic imperialism: the systematic manipulation of trade barriers and debt by the West (for the US is by no means the only offender) that effectively holds developing countries in their current position as “workshop of the world”. This title was held by Britain with pride in the 19th century; the difference now is that those who now less-than-proudly bear it can see no means of escape – to whom do they pass it on? The situation with regard to farm subsidies is particularly egregious, and yet the need to stoop to such methods of economic control can be seen as a reaction to failure, the last grasp at a final straw. In *American Empire*,⁴ Andrew Bacevich argues that the post-Cold War “strategy of openness” is in fact a considered and purposeful attempt to perpetuate a world order that the United States can legitimately dominate: to enshrine a system that is ostensibly benign and “equal opportunity” but, because of history and geopolitical factors, actually greatly favors the United States and its western allies. If this is the case, and if the United States is truly made up of a series of hyper-competitive semi-independent corporate and political actors,

then it must only be a matter of time, as with the steel tariffs recently crushed by the EU, before the offending policies are scrapped as anti-ideological.

An accidental emperor

The United States appears imperial almost by accident. As it rose in power, the traditional European powers and the USSR fell away to leave it militarily supreme. Meanwhile, America’s consistently spectacular economic success (according to rules that it had invented) was driven by powers beyond the control of the federal government; by mastering the concept of consumer-leadership, its best companies were pulled into worldwide markets, implicitly but not expressly assisted by the fact that their head offices were in a country that politically and militarily dominated the world. It is against this backdrop of “accidental empire” that recent US activity must be viewed, and, furthermore, that any concept of the responsibilities and duties of it or its citizens be judged.

The world community is now at a critical point because the United States has run out of room. Lacking extra territory to claim, and having reached an internal economic plateau, the country is unable to underwrite the American dream for the next generation. Meanwhile, the ideals that Americans ostensibly hold dear – anti-imperialism, individual freedom and self-

determination (firmed up throughout a century of “the good life”) – ideologically conflict with any further territorial expansion. The American public wants a big truck, an ever-expanding stock portfolio, homeland security and cheap airline tickets; blind to the exceptional history that has allowed these desires to become rights, it is also intolerant of empires, Enrons, Worldcoms and KIAs. Contrary to the beliefs of conspiracy theorists, at the heart of US success is the absence of a masterplan. As the CIA is beginning to realize, a fundamentally devolved belief-driven organization is far more resilient than a traditional state entity such as Iraq. Many have proclaimed that the United States is not a country but an idea, a religion, a belief; it is also fundamentally devolved. From this comes its strength, but also its undoing. It is incredibly resilient but cannot be reliably directed. Correspondingly it cannot be held responsible for effects caused by its aggregated action.

The problems that the United States faces now are the descendants of its past successes; they are structural, endemic,

systemic, innate. To characterize America’s predicament as a political problem of the current administration is a dangerous (if socially comfortable) mistake. At most, the administration’s direct influence will last for another five years, but regardless of political affiliation, whoever is to follow them will face the same tensions. With the rise of the eastern powers and the progressive unification of Europe, the US will be able to retain its hegemony only if it abandons the principles fundamental to its self-image and previous success. Any self-conscious concept of a New American Century is fundamentally flawed: there will never again be another twentieth century. The American dream itself, in all of its guises, its promise of everything for everyone at no cost to anyone else, is over.

¹ Ignatieff, Michael. 2003. Empire-Lite. *Prospect*, 17 January.

² Kagan, Robert. 2003. *Of Paradise and Power: America and Europe in the New World Order*. New York: Alfred A. Knopf.

³ Kagan, Robert. 2002. The Power Divide. *Prospect*, 25 July.

⁴ Bacevich, Andrew. 2002. *American Empire: The Realities and Consequences of U.S. Diplomacy*. Cambridge, Mass.: Harvard University Press.

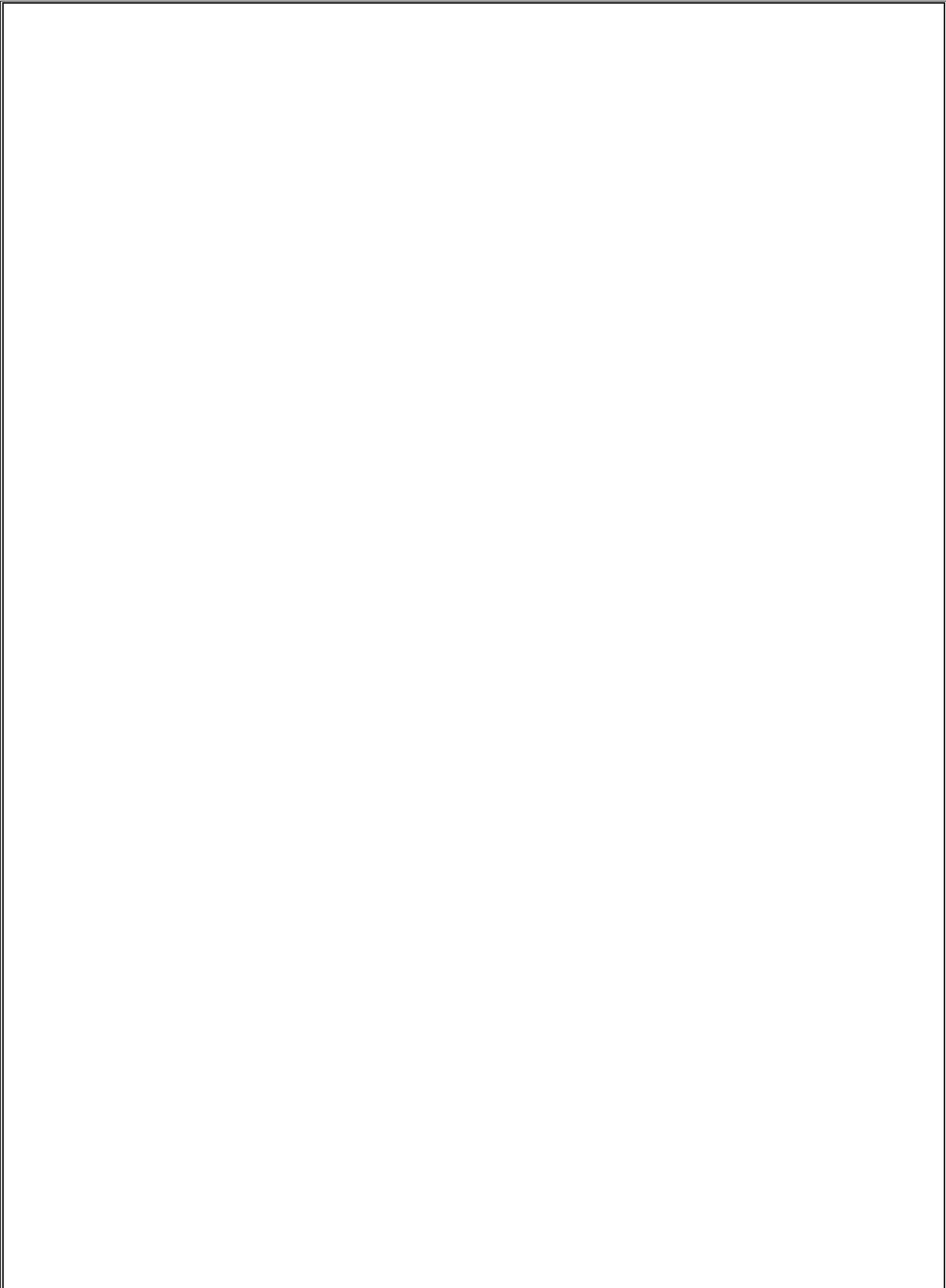
Richard Halkett is a first year MPP student and US-UK Fulbright Scholar at the Goldman School of Public Policy. He wishes to thank Niall Ferguson of New York University for assistance with developing this article.

Was that ever the American dream?

No native would reasonably claim an American dream that supplies “everything for everyone at no cost to anyone else.” Even Winthrop’s fellow Puritan William Bradford recognized “the city upon a hill” quickly turning into more of a model of consumption than one of human living. From America’s two original sins, the expulsion of the Native Americans and slavery, to the sweatshops and strawberry fields, the American dream always comes at the dire cost of another’s nightmare. The “Gold Mountain” fantasy, though realized by some, eludes most, and perhaps the greatest change is not the existence of that reality, but instead the stories that we read and the storytellers who write them. A new age of communication and mass media means that we need no longer take our worldview from John Smith’s heroic tales of taming a wild land for civilization or even Whitman’s “singing” American workers. In its place, the open-eyed American must now appreciate and grapple with the “costs” that abound both within America’s own borders and in the world beyond, “rapping at [our] chamber door.”

What do we mean by corporate responsibility?

While the malfeasance of Shell and other corporations is well-documented, it is the attribution of their actions as "American" or "Western" that is far less certain. Although Shell itself may be headquartered in the US (or another 'Western Nation' – wasn't it Dutch Royal Shell?), this hardly implies American responsibility. When you assign blame to a corporation, to whom are pointing the finger? Corporations are technically "controlled" by their shareholders, and although many of Shell's may be American, it is likely that just as many are not, and either way there is nothing distinctly American about a conglomeration of investors assembled purely around the profit motive. In other words, they don't call it "limited liability" for nothing – Mr. Halkett will have to do better than that if he wants to dish out guilt to Americans for the actions of their corporations.



Feature

POLITICAL CORRUPTION: TREATING THE DISEASE, NOT THE SYMPTOM

Jessica Rider

Widespread public sector corruption in developing and transition economies leads to the misallocation of society's resources, causes government bureaucracy to function less effectively, and produces lower quality goods and services. This article suggests a framework for thinking about corruption and calls on development economists, researchers, and policy analysts to address this major development obstacle head on.

Corruption and Its Consequences

What are the economic and social consequences of corruption?

As Daniel Kauffman of the World Bank Institute suggests, we can think of corruption as a tax on firms which increases their cost of doing business. Corruption can also act as a tax on individuals, particularly in areas where corruption is so pervasive that bribes are required in order to carry out the simplest official business. As with any tax, the efficiency implication is negative: a loss

will result due to the forgone economic activity caused by the higher price of interacting with the government. The "corruption tax" is often regressive, meaning smaller firms and poor households pay a larger percentage of their income in bribes or suffer the consequences of corruption more greatly.¹ Furthermore, society suffers from the drain on human capital caused by rent-seeking in bureaucratic positions: the best and brightest seek to gain and hold positions that are essentially a permit for bribe collection and theft, as opposed to employing themselves in more productive pursuits or making way for another potentially productive individual to hold the position.

Although some attempts have been made to economically justify corruption with a "grease the wheels" argument, it has become increasingly clear that corruption decreases efficiency rather than enhances it. The "grease" theory rests on the notion that the receiver of a bribe has the power to speed

up government procedures. More often, however, the result is that the non-paying firms/individuals are simply slowed down.² Furthermore, this argument assumes that government policies and procedures are not designed around some social good. For example, a firm that pays a bribe in order to avoid a larger pollution tax is NOT enhancing efficiency if the tax is intended to bring private costs of polluting in line with social marginal costs.

This argument further ignores competition and equity considerations. Bribes, for example, are not typically accepted as the result of a bidding process open to all. Often a select few are granted access to bureaucratic favor, and that favor usually has little to do with economic criteria, such as who could fulfill a contract at least cost. Evidence shows³ that firms paying bribes actually spend more, not less, time with government officials; this is due to the need to curry favor and maintain relationships in order to get access to government services. In effect, the firm is paying for certainty — investing time and money in order to guarantee a specific outcome. A certain outcome for an individual or firm, however, does not necessarily equal the best outcome for society. The idea that bribery “greases the wheels” is disproved by evidence showing that corruptly awarded contracts and

permits result in higher costs and lower quality.⁴

Categories of anti-corruption policy

Treating the symptom

Rather than conceiving of corruption as a phenomenon unto itself, it is useful to think of corruption as a symptom of bad governance. Anti-corruption policies can either “treat the symptom” or strike at the “disease” of bad governance itself. The most generally accepted and broadly used methods for fighting corruption are aimed at treating the symptom. First, anti-corruption task forces have been employed in many countries, e.g. Kenya, Nigeria and Hong Kong. Another popular strategy is the ‘crackdown’, where sting operations are set up to take out high profile targets. Finally, public awareness campaigns have been used in many countries, sometimes in combination with other programs, and occasionally as the primary anti-corruption tool.

Treating the disease

Policies that seek to strike at the disease of bad governance take two forms: institutional reform, and increasing participation in civil society. Institutional reform is characterized by a number of different activities. First, improving the strength of regulatory frameworks, through the simplification and documentation of bureaucratic processes,

can help officials and constituents understand government processes. Second, by establishing standardized procedures authorities can reduce bureaucratic discretion which is a major opportunity for corruption. Finally, governments can gain external credibility through increasing the transparency of their work. This includes disseminating information about the activities of government and ensuring that procedures are well understood.

The second broad swath of policies that seeks to ‘treat the disease’ centers on increasing participation in civil society. These may take the form of public scorecards, surveys, workshops, instituting public meetings and developing procedures for public input (comment periods, public hearings, and complaint procedures).

Treating the symptom vs. treating the disease: examining the track record

Traditional policies: crackdowns, task forces, and publicity campaigns

Following a corruption scandal, politicians frequently vow to crack down on corruption. Subsequently, arrests are made, an Anti-Corruption Task Force is created, and a public campaign to send the message that ‘corruption must be stopped’ ensues. Kenya, for example, has repeatedly cracked down on corruption, established the Kenyan Anti-Corruption Authority (KACA), and publicly acknowledged that corruption has

not only hurt Kenya’s ability to develop economically, but has also harmed the poorest of the poor who suffer from the lack of public services. Yet since these initiatives were launched in 1995, Kenya has made little progress and is still considered one of the most corrupt countries in the world.⁵ This story has been repeated throughout Africa and around the world. Why is this so? First, crackdowns, publicity, and task forces alone do virtually nothing to remove opportunities for corruption from the system. Implementing such policies in the absence of wider institutional reform assumes that corruption is simply a moral or cultural failure, and that if officials would simply “straighten up and be honest” corruption would cease to exist. Second, such policies are quick and easy to implement and give the impression something “is being done about corruption”. These policies are simply placebos, political measures that can be implemented even in the absence of true political will to rid the system of corruption

If political will exists, they can be more than placebos. In Hong Kong, a 1973 corruption scandal led to the establishment of the Independent Commission Against Corruption (ICAC). Although there was great bureaucratic resistance, ICAC managed to battle corruption, particularly police corruption, with some success. In this case, the only metric available to indicate success is the high number of arrests and

prosecutions and an 84% conviction rate between 1974 and 1993. ICAC staff cite the high level of political will, ICAC's independence, proper legislation and enforcement, and good publicity as keys to their success. However, it is unclear that corruption has actually been reduced in Hong Kong — in the first 10 months of 1974 there were 3,000 corruption complaints and in 1999 there were 3,500 such complaints.⁶ Although the crackdown/task-force policy has ensured that those caught will be prosecuted, there is little evidence to suggest that this is a deterrent to engaging in corrupt acts.

Institutional reform and increasing civil society participation

In contrast to the “fight the symptom” approach, policies aimed at reforming institutions and increasing civil society participation require political will because they are often very specific, require detailed analysis, and are implemented either at the agency/department level, the local level, or in cooperation with localities. There is a potential selection bias when examining those choosing such policies — opting for institutional reform or increasing civil society participation implies the existence of the requisite political will to fight corruption. “Treating the disease” of bad governance in order to fight corruption is an acknowledgement that opportunities for

corruption must be reduced in order for corruption itself to be reduced. Rather than viewing corruption as a moral/cultural failure, this approach views corruption as an institutional failure.

Institutional reform tactic: increasing transparency

Opportunities for corruption may result purely from a lack of information or, more importantly, an information imbalance. By correcting this imbalance (the disease), corruption (the symptom) is automatically corrected by social and/or economic forces. In the case of school finance in Uganda, the corruption metric is the percentage of non-salary education block grants apportioned at the national level that actually reach local schools. In 1991, only 2% of apportioned grant money made it — the rest was siphoned off by district level officials that were tasked with distributing the money. In 1995, only 5% of funds made it to schools. The Ugandan central government decided to correct this information imbalance and bad regulatory design by shining a bright light on the grant-transfer process and clarifying the legal statutes. First, the government published grant transfer amounts in district newspapers and radio broadcasts. Schools were required to maintain public notice boards to post monthly transfer of funds. The government passed laws requiring information dissemination, required districts

to deposit grants directly into school accounts, and gave procurement authority directly to local schools. After the government clarified the regulatory framework, Uganda's powerful parent teacher associations did the work of monitoring and enforcing the process. By 1999, almost 100% of apportioned funds reached schools!⁷

Institutional reform tactic: simplifying procedures

A successful World Bank anti-corruption pilot project in Campo Elias, Venezuela involved publishing all government procurement procedures, purchases, permitting, etc. on the internet; citizens without computers were able to access the information on computers in public buildings. Another anti-corruption tactic in Campo Elias was to reduce the complexity of zoning laws, to make the process of getting a construction permit more obvious, and to simplify the tax code to make certification of tax payments easier. Pre- and post-implementation surveys indicate that the perception of administrative complexity more than halved (from 32 percentage points to 13 percentage points) during the same period that perceptions of corruption decreased and perceptions of effectiveness increased.⁸ By simplifying bureaucratic procedures, it is easier for citizens and civic groups to understand what the process

should look like and to monitor irregularities. This policy goes hand-in-hand with increasing transparency and publicizing the changes—simplifying procedures only works to the extent that the public is aware of the simplification.

Involving civil society

The participation of the public in government processes can improve monitoring and accountability. As described above, in the Ugandan school finance case, it was powerful local PTA's that acted upon the government's clarification of procedures and information. Once the lack of information had been ameliorated, civil society could step in and act as a watchdog and advocate for the public. In places where civic groups do not already exist, or if the government does not allow public participation, specific steps can be taken to stimulate such participation. For example, in the Campo Elias pilot, a public budgeting process was created. Public budget hearings were held and citizens and civic groups were invited to attend and speak.⁹

Civil society must be able to participate in public processes in a specific, meaningful, and on-going fashion. In Lithuania an effort to involve Lithuanian schools in the anti-corruption effort has involved local round-table discussions, workshops, and debates. Accompanying the program is a "Youth Against Corruption"

publicity campaign.¹⁰ The goal is to use Lithuania's youth as a source of ideas, strategies, and monitoring for lowering corruption at the local level. At present, however, it appears the Youth Against Corruption Program has not resulted in any specific action and has been more about rallying young people to fight corruption than giving them the tools or mechanisms to do so. As such, it is difficult to tie the Youth Against Corruption Program to any decrease in corruption, real or perceived. For increased civic involvement to make an impact, it is necessary that participation be structured and specific. General debates and public opinion surveys are only a first step. Formal complaint mechanisms, hearing procedures, comment periods, etc. must be established to lend structure, transparency, and regularity to civic participation.

The challenges of analyzing the effectiveness of anti-corruption policies

In order to evaluate the effectiveness of anti-corruption policies, one must have a way to measure corruption, or a proxy for corruption. One traditional metric is the number of arrests, prosecutions, and convictions resulting from anti-corruption enforcement. As noted previously, convictions punish corruption but it is unclear that punishment deters or reduces corruption in any way.

In the World Bank pilot project in Campo Elias, Venezuela, researchers developed detailed surveys that were implemented before and after the implementation of the pilot to assess the perceptions of citizens regarding corruption. However, although the surveys used by the World Bank were careful to use specifically designed and close-ended questions, it is difficult to judge the success or failure of a policy based purely on perceptions. A similar tactic is to design experiential surveys that attempt to ascertain how often in a given time period the respondent has witnessed or participated in corruption. Such surveys are problematic for obvious reasons—perceptions can be unreliable, and experiential reporting may be distorted depending on how much each individual trusts the anonymity of the survey.

Presently, many countries (not including the United States) allow firms to deduct the cost of bribes as a business expense. This is one of the few official data sources that measures corruption directly. Although it would be difficult to assemble the data for a global study, one could look at a particular country or locality and track the bribery amounts deducted by foreign companies before and after the implementation of anti-corruption policies. This data could be difficult to attain for private firms, and depending on the accounting requirements of various

countries, may not be as disaggregated to the local/regional level. Also, depending on the tax codes of various countries, firms may have an incentive to overreport this expense. How often, after all, is a receipt issued for a bribe? Still, this may be one of the only sources of information that quantifies corruption.

Choosing a proxy for corruption, e.g. funds leakage or other statistical information is another feasible approach. In the Ugandan school finance case, the reduction of funds leakage from 98% to nearly zero was a concrete indicator that corruption had decreased. In Campo Elias, zoning procedures were simplified and the process of getting a construction permit was made more obvious. A good metric for measuring whether or not this process is reducing corruption and/or enhancing efficiency is to examine the number and distribution of construction permits before and after the policy was implemented. Careful auditing to search for accounting irregularities, although difficult and time consuming, is an additional tool for evaluating the success of policies in decreasing corruption. Collecting data on queue times and fees would be a good proxy for measuring the impact of anti-corruption policies on efficiency.

Conclusions

Although the analysis of corruption and its effects is indeed becoming more systematic,

and the policy framework being used to address corruption problems is slowly shifting toward “treat the disease” solutions, it is still difficult to make analytically robust assessments of policy impact due to lack of appropriate data. Economists and policy analysts must therefore work to fill the gap in our understanding of corruption’s costs and benefits by collecting and analyzing data on corruption.

Rather than speaking of corruption as “cultural” (a term which often indicates veiled racism), “endemic” “intractable” or “un-measurable”, development professionals must lay open to policymakers the incentives driving corruption, the consequences of corruption, and the most effective tools for tackling the problem. Battling corruption successfully can result not only in improved economic efficiency, but also in improved regulatory frameworks that may actually improve governance in other ways. Finally, more robust analysis of corruption and its effects will clarify the relationship between governance and development, and help policy analysts determine the best policies to achieve development goals.

¹ World Bank Institute. *Handout for session on Governance and Poverty Reduction*. In Learning Activity "Attacking Poverty for APP Family" January 28 and 29, 2002, Washington D.C.

² Kaufmann, Daniel. “Corruption: The Facts”. *Foreign Policy*, Summer 1997.

³ Ibid.

⁴ Ibid.

⁵ Kivutha Kibwana, et. al. "Initiatives against Corruption in Kenya: Legal and Policy Interventions, 1995-2001" Claripress 2002.

⁶ UNDP Paragon Training Module on Public Service Ethics and Accountability. "Case Study: The Independent Commission Against Corruption." Hong Kong, China: G05A

⁷ Civic Engagement in Public Expenditure Management. Case Studies. "Uganda: Tracking Public

Expenditures (PETS)" The World Bank Group. <http://www.worldbank.org/participation/web/webfiles/cepemcase5.htm>

⁸ Ibid.

⁹ Ibid.

¹⁰ From the web site of the Special Investigation Service of the Republic of Lithuania. http://www.stt.lt/?lang=en&menu_id=1&sub_id=3

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How do we define corruption?

As we attempt to analyze corruption, we open the debate to more fundamental questions of governance. Is "corruption," in fact, only that which occurs when direct illegal payments or bribes are tendered? Or, do we need to include in these measures more subtle forms of influence and the informal avenues of its expression such as campaign finance, media manipulation, and those other things we politely call "hardball politics" in the developed world? As this article states, we can directly witness the graft that diverts the aid money (the development community's central concern) in many cases. But as we look to quantify the unsubtle effects of corruption in poor countries, we must also consider how money and political power is generated and transferred in our own countries, what unrecognized "taxes" our own economies may include, and whether we can devise ways to measure and analyze these forms of corruption as well.

Long-term solution or short-term remedy?

In Uganda and Venezuela, it is apparent that publicizing grants and procedures has worked well. What is not clear is whether this will work once the novelty has worn off. To produce similar publicity for all government programs would entail the setting up of an entire newspaper, radio and television channel to communicate the business of government. The United States has this: it is called C-SPAN, no one watches it, and it is unclear that government corruption, in all of its guises, is being substantially reduced as a result.

Perspective

Although the foundation of our discipline is necessarily empirical, good policy analysis maintains the balance between the objective, statistical truth and the highly personal impact of the options we are bound to evaluate. In "Perspective," PolicyMatters actively addresses this imbalance. The result is a deliberately personal and provocative narrative, with a firm policy-based foundation.

BATHROOM READING

Jessica M. Flintoft

Ever since I can remember, I have been unable to pee in peace. I regularly feel deep anxiety about using a public bathroom. Almost all of the gender typical, heterosexual people in my life don't understand. When I happen to mention a bathroom incident, they say, "you, Jessica? No...I would never mistake you for being a man. You have such a pretty face." or "But, your voice is so high." or "I bet she felt stupid when she realized her mistake." I then spend my time supporting the heteros' process of working through their incomprehension. My bathroom story always gets cut short. I hate that.

About me: from boy to man

A Manly Bitch. That's how strangers have described me — screaming in unison, assuredly, tearing around me in the parking lot. Yes, the young sleuths had solved the

mystery me: "That's a Dyke! That's a Bitch! That's One Manly Bitch!" So, uh, sure, I'll add "one manly bitch" to my lexicon of reclaimed terms.

Since age 4, I have encountered problems using public Women's Rooms. With my hair in a bowl cut, people saw me as a boy in the Women's Room, escorted by his mom and older sisters. I always got a nice smile from the ladies. At age 7, women and girls in the Women's Room still thought I was a boy, but treated me with depleted tolerance — though I might have been a Momma's Boy, I was pushing the implicit age limit on boys in the Women's Room. By age 9, no more smiles from the ladies. They were unable to notice my budding handsome looks, as they were preoccupied with the alarming fact that, "There is a Boy in the Women's Room!"

Now I am 26, and I am still interpreted as a Boy in the Women's Room.¹ Sometimes as a Man in the Women's Room. Rarely and correctly, as a Dyke in the Women's Room. The transition from Boy to Man in the eyes of people who see me walk into the Women's Room has reaped an increasing level of hostility, fueled by fears that I am a pervert, a child molester, a rapist, or a queer-in-the-bad-sense-of-the-word.

People who misinterpret me as being a boy inside or in line for the Women's Room respond to me in different ways. Some kindly inform me that I am in the wrong place. Others just politely direct me to the Men's Room. Or, they cordially extend redirection assistance even when I am already washing my hands at the sink. But other fellow bathroom users are skeptical of my intentions, and first ask if I *realize* that I am in the wrong bathroom.

Typically though, when I am inside the bathroom, in line or at the sink, women do double takes as they enter—stepping outside the door to re-read the sign, initially wondering if they have made a mistake. When they realize that they are in the “right” bathroom, they edge into line behind me with skepticism and distrust. They fold their arms and give a loud, exaggerated exhale to convey their disapproval or hate. Obviously exasperated about The World These Days, my presence in the Women's Room is to them, just one more annoying decline, along

with increased crime, how families don't eat dinner together anymore, and traffic jams.

When a woman is accompanying a child, usually a daughter, the outcome of our encounter depends largely upon which one feels more confused or frightened. If the daughter is more frightened, then I will say hello to the woman (always the mother first, never the child) with a smile that says, “Look, I'm a woman too.” She will usually respond in kind, cueing her child that I am a woman, and therefore, non-threatening. However, if it is the mother who is sufficiently frightened, she will guardedly hold her child, and glare disgustedly at me. I just stare at the floor, thinking about how much I hate having to use a Women's Room.

Once, after a mother and daughter had seen my girlfriend and me enter the Women's Room, their husband/father/protector barged in after us. He peered between the stall doors at me with my pants down, apparently to confirm my sex. We locked eyes for a long moment, and then he left abruptly without a word. My girlfriend and I quickly left the bathroom, passing the scornful mother and terrified daughter who were waiting until after the freaks left to use the Women's Room. At the Taco Bell somewhere between Los Angeles and San Francisco, I quickly realized that we had exactly zero friends.

Unlike so many gender variant people, I have never been physically or

sexually assaulted for my gender expression, but I have repeatedly come very close—I have been yelled at, laughed at, cursed at, taunted, and followed. My constant vigilance and planning may account for my being spared to date. But, mostly, I humbly attribute it to luck.

I employ a variety of strategies to minimize my risk of assault in public bathrooms. Always, I capitalize on the many other ways that I am the norm—white, in clean clothes, visibly able bodied, and generally friendly. Sometimes I decide to pass as a man to use the Men’s Room if it is single-stall, or if I am sure that a multi-stall is empty. I often choose to pass when I am traveling through a rural area with particularly polarized conceptions of gender: where I am more likely to be seen as a man, with little chance of being discovered as a dyke.

Other times, I make sure that my girlfriend, sister, or other feminine friend accompanies me to the bathroom. This fends off the woman who literally runs into the bathroom after me screaming, “There’s a man in the bathroom!” Having already quickly locked myself in a stall, my feminine bathroom buddy can assure the alarmed woman that I am, in fact, a woman. Or, they can argue about it for a while (“But, I *saw* him walk right in here.”) In any case, I thankfully avoid the confrontation, and

silently attend to my bladder in the refuge of my locked stall.

Another strategy I use is to simply avoid public bathrooms, waiting until I return home to “go.” When traveling, I restrict my intake of liquid to minimize the number of necessary bathroom stops. And, if I can sneak off behind some trees in the country, I will choose to bare my behind to the breezes over using a public bathroom.

My brethren of battered bladders

I hear similar experiences from women and transgender people who are also on the butch/masculine end of the spectrum. We occasionally swap bad bathroom stories, but more often, swap tips on where to find “cool places to pee.” How do my experiences compare with those of my brethren? My greatest defense in proving my legitimacy to use the Women’s Room is that I am, to them, a woman. That is, female bodied. After this is established, my confronter may blame me for “looking like a man,” but this is a separate issue.

It is an asset to assuredly proclaim that I am a woman, and to be able to offer many pieces of evidence. Wearing a tank top reveals that I, indeed, have breasts. If I speak, I have a relatively high voice. Sometimes, I even buy a tampon from the vending machine, an evidentiary trump card in the gender game. And for those who listen from outside my stall (and there are

those who really do), I produce womanly sounds—of my pants sliding down my legs, and a higher tone of tinkling into the basin that comes from only the height of one who is seated, not standing.

In the Women's Room, I am concerned foremost with two things: my immediate safety, and my bladder. So, for my safety and convenience, I pull the gender card: "I'm a woman." I fully consent to checking the F-box in their minds. I do not engage each person in conversation about why my gender or sex should matter to them in the first place, or why this whole system of gendered bathrooms is oppressive. Instead, I sell out — by conveniently riding the bi-genderist norms shared by other bathroom users.

There are a lot of women who don't have the gender card to play. Some women weren't born female, may not have breasts, have no need for tampons, and speak with low voices. Other people identify as a gender other than man or woman, or are multiply gendered. A diverse group of transgendered and non-transgendered people face similar, and often much worse, public bathroom experiences than I do. Sure, I can get harassed for being a dyke, or for being One Manly Bitch, or for being a woman. But that I can explain my way out of a bathroom confrontation by revealing myself, or by being revealed, as a woman is a form of non-transgender privilege. Indeed, consider the

interconnectedness, overlap, and popular misunderstandings around sex, gender, and sexual orientation. Given these realities, there is little meaningful difference in someone being assaulted for being a masculine-looking woman, or for being a not-masculine-enough-looking FTM (female-to-male transgendered person).

Being One Manly Bitch, does my self-identification as non-transgender matter? I am regularly identified by others as being gender deviant, and others' perceptions are the volatile independent variable. *So, what does it mean for me to play the gender card?*

If I did not pull the gender card, instead of arguing about whether or not I *am* a woman, I would have to argue about whether or not there *are* women. By winning this first argument, I broaden my opponent's conception of the spectrum of women's gender expression. But, by avoiding the second more difficult argument, when all is said and flushed, there are still only two categories in her mind, women and men.

Usually, I chalk up these remaining intact conceptions of bi-genderdom as collateral damage. Without qualms, I prioritize my personal safety in the bathroom above challenging dominant societal paradigms. But what is the cumulative effect of my choosing to fight, and to win, admission into the Women's

Room? My primary bathroom survival strategy of convincing people that I am a woman upholds the system of bi-genderdom that penalizes people who do not identify, or will not be identified by others, as being a man or a woman.

Getting into the club

There have been a significant number of individual and institutional victories that broaden the definition of “women” and “men” who can legally use the Women’s Room and the Men’s Room, respectively. Local anti-discrimination ordinances, private policies, and court rulings have advanced the rights of transgender people to use the bathroom of their choice. For transsexual people, much of their legal legitimacy as a “man” or a “woman” is rooted in the medical expertise of their doctors, or in the status of being post-operative.

The central schism in the nascent movement for bathroom liberation is that within the diverse group of people who encounter problems using the Men’s Room or Women’s Room, there are both those who want to use one of these rooms, and those who want to use an alternative to both of these. For me, as a woman with so little space not dominated by men, the Women’s Room *can* serve as a brief refuge. Some transgender people who identify as neither a man nor a woman may still have preferences over which bathroom they feel most safe

using. Also, because traditionally gendered restrooms are such highly gendered spaces, some transwomen and transmen may experience using traditionally gendered facilities as being particularly positive and socially significant.

“Gender Odyssey,” a recent conference for FTM’s, included a workshop entitled, “Men’s Room 101.” One participant describes the authoritative instruction from Miles, the workshop teacher:

“Miles demonstrated the must-have body language for the typical men’s room scenario. ‘Take up space,’ he said, planting his feet apart as if bracing for a tackle. ‘Pull your shoulders back. Open your lats.’ The directions peppered us like darts. ‘Don’t fuss in the mirror,’ he instructed. ‘Grunt. Adjust yourself, whether you’re packing or not. And, for God’s sake, don’t look anybody in the eye, or they’ll think you’re a homo. If the stalls are full, DON’T form a line.’ He shuddered at the thought. ‘Women line up. Men mill around.’”²

Miles may be sharing invaluable wisdom about FTM survival in the Men’s Room, but he is also promoting extreme norms of heterosexual masculinity. Grunting and taking up space may be reflections of these workshop participants’ most authentic selves. Or, these may be facades in order to maintain one’s safety in the bathroom. I support playing the gender game for one’s safety and convenience.

But, let’s not pretend that either one of us is revolutionizing the bathrooms just

because we get away with being in the Men's Room or the Women's Room. A sweetly smiling butch dyke in the Women's Room or a grunting FTM at the urinal in the Men's Room—we both only ingratiate ourselves with heterosexual sexists. And, we leave behind ourselves when we do not pass as a man or woman, and always leave behind those of us who never pass.

The root of the bathroom problem is left largely intact by the efforts of people (transgender and not) to be perceived as non-transgender in gendered bathrooms. One FTM reflects:

"I spent the first 40 years of my life being interpreted as one of those 'masculine-appearing women' who tend to have social difficulty when attempting to use public toilet facilities. Women tended to scream, or at least do a double take, when they saw me walk into a public restroom designated 'Ladies.'

"... But in 1994, when I was sufficiently masculinized that no one ever indicated gender uncertainty about me, that question came up once more in a classroom situation. A young man ... asked, 'What bathroom do you use?' I gave him one of those 'What could you possibly mean?' looks, and responded, 'I use the men's room. Do you think women want to have someone who looks like me in the women's room with them?'"³

Having come full-circle in relation to the Women's Room is a valuable illustration that the real problem is bathrooms being gendered at all.

I can get my women's space some other place

The primary policy alternative developed to address the problem of bi-gendered public restrooms is the adoption of gender-neutral bathrooms. Gender-neutral, multi-stall bathrooms are the norm on the fictional TV show *Ally McBeal*, and in some non-fictional parts of Europe. The replacement of gendered bathrooms with gender-neutral bathrooms would curb most bathroom violence against gender variant people because few bathroom users would ever question the "correctness" of another's gender. Gender-neutral bathrooms would also end the problem of inequity of using the Women's Room — both that there are typically longer lines, and that there are often fewer Women's Rooms in some universities and other places that have historically and architecturally been for men only. Parents would encounter fewer issues of having to use the "wrong" bathroom to accompany their children.

Two projects are at the forefront of the fight for gender-neutral bathrooms, and both are sponsored by non-profit legal advocacy organizations.⁴ People In Search of Safe Restrooms (PISSR) is a San Francisco-based direct action advocacy group affiliated with the Transgender Law Center. Their activities include compiling and distributing lists of gender-neutral

bathrooms, and advocating for more gender-neutral bathrooms around San Francisco.

In 2001, the Transgender Law Center undertook a survey to provide evidence to the San Francisco Human Rights Commission that there are significant bathroom needs of people who do not identify as either male or female that should be considered in the Commission's development of service standards. The survey was distributed to an intentionally skewed sample over various listservs and event, all of which were organized for genderqueer, transgender, and progressive LGB people. 487 people returned the survey. The survey measured both their personal experiences in Men's and Women's Rooms, and also their desire for gender-neutral bathrooms.

- The qualitative results tell personal stories of assault and anxiety in using bi-gendered bathrooms. The quantitative results of the survey tell a clear message:
- 99% of all people surveyed want some form of gender-neutral bathrooms;
- 95% want single-person gender-neutral bathrooms;
- 79% want multiple-person gender-neutral bathrooms;
- 57% want gender-neutral bathrooms in addition to Men's and Women's Rooms;
- 49% want gender-neutral bathrooms to replace the Women's and Men's Rooms.⁵

There is a decreasing level of agreement on how exclusive gender-neutral bathrooms should be (95% want single-serve, 49% want multi-serve). This is likely attributable to differing preferences for privacy, and real and perceived threats of violence from other people (of various genders). This survey is an important step in learning more about how to best ensure the safety and dignity of gender variant people in public bathrooms. A more in-depth assessment of the sampled population's preferred structural alternatives (e.g. multi-person or single-person, in addition to or in replacement of Men's and Women's Rooms), would be instructive.

Critical to the implementation of gender-neutral bathrooms is sound research and education of the general populace around aspects of gender-neutral bathrooms. Aspects include perceptions of women's and children's safety, the uncleanly state of many Men's Rooms, and the cost of physical conversion of facilities. Lessons can also be learned from historical public bathroom movements waged by women, and by the street homeless. There is much work to be done to advance the right of access to safe public bathrooms. Until the general populace grants that right, the rest of us will continue grunting, smiling, and sneaking our way into the Women's and Men's Rooms.

¹ Commonly mistaking a 26 year old for a boy can be explained with an extension of the accepted age conversion of dog years to human years (7 dog years \approx 1 human year). Building upon this established methodology, we can reasonably posit that 1.7 butch dyke years approximates 1 teenage boy years. My personal experiences of at times attracting the gaze of older gay men, and once being pulled over by a policeman so that he could ask me, “Son, how old *are* you?” support this conversion rate of 1.7 to 1.

² Catherine Guthrie, “A Men’s Room of One’s Own: A Workshop Teaches Transgendered Men How to Go

with the Flow,” *Nerve.com* 17 June 2002. Reprinted in *Transgender Crossroads* www.tgcrossroads.org.

³ Jamison Green, “Visible Man: Which Bathroom Do You Use?” 17 December 2002. *Planet Out* www.planetout.com.

⁴ The two projects are the Sylvia Rivera Law Project of the Urban Justice Center in New York City, and the Transgender Law Center, recently spun off the National Center for Lesbian Rights, in San Francisco.

⁵ *Gender Neutral Bathroom Survey* San Francisco Human Rights Commission 2001 available at www.srlp.org or www.pissr.org.

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Policy in practice

Does perfect policy exist? Does more policy always translate to a better world? One of the challenges policy analysts face is to fully project the consequences of their recommendations. "Policy in Practice" is designed to help the iterative process of policy design by dissecting the effects of a traditional policy on an untraditional area.

ENVIRONMENTAL POLICY AND UNIVERSITY ARTS INSTRUCTION

Ian Hart

The intersection of environmental policy and art instruction is not an intuitive one, but in the past decade the former has in fact been changing decades- (and centuries-) old habits of the latter. In university art programs across the country, the threat of fines or lawsuits is accomplishing what years of warnings from health professionals did not: it is forcing universities to clean up their studios, teach safe art practices, and formalize their waste generation and disposal procedures.

Art materials and practices can constitute a health threat to artists and others who work in their environment. Studio toxins enter the body through ingestion, inhalation, or absorption through the eyes and skin. The impact of exposure can be acute, as in a headache acquired while working, or chronic, as in respiratory cancer

developed decades later.¹ Some artists, teachers, and students have developed occupational diseases akin to those found in industry. Actual studio hazards vary considerably by medium, but are present whether the studio caters to drawing, painting, ceramics, sculpture, printmaking, or photography. Toxins are not the only threats – injuries and fatalities have resulted from fires and machinery accidents in art schools and university art programs.²

Art practitioners and public interest groups drove the initial push towards safer art practices. Their efforts culminated in the Labeling of Hazardous Art Materials Act of 1988, which standardized the labeling practices of art supply producers. The Act sought to allow artists and teachers to make more educated choices. Before the Act, only the most informed consumer could have

differentiated between products containing lead or mercury and those products that were safer to use. While a shift toward use of safer art supplies among artists was not apparent,³ the standardized labeling of toxins made the job of regulating their use much easier. Two agencies are doing the majority of that regulating: the Occupational Safety and Health Administration (OSHA) or the designated state agency charged with enforcing the Occupational Safety and Health Administration Act (OSHAct), and the Environmental Protection Agency (EPA) or its state equivalent.

OSHA works to ensure that employers provide safe workspaces for their employees. In the art studio, instructors and students working on campus are entitled to a campus and studio environment that is reasonably free of acute and chronic dangers. Such an environment includes awareness of hazardous substances, sufficient ventilation, proper handling of dangerous materials, and training and supervision on the use of equipment.⁴ OSHA's enforcement of university art studios is uneven across the country. In some states, colleges are not faced with a real threat of fines. But in states where OSHA regulations are enforced strictly, change is apparent. In 2000, California lifted public agencies' exemption from California OSHA fines. Assembly Bill 1127 now threatens University of California (UC) schools with fines up to \$7,000 for

non-serious violation and up to \$25,000 for a serious violation.⁵

The EPA's Resource Conservation and Recovery Act (RCRA) governs hazardous waste management from "cradle to grave," from generation through disposal.⁶ There are a multitude of RCRA requirements for art departments falling into one of three categories: storage and disposal, record keeping, and training. Beginning in the late 1990s, four of the ten EPA regions now hold university campuses to the same RCRA standards as industries. In those regions, RCRA has become *the* biggest enforcement and fiscal threat to university art departments.⁷ Through self-audits and EPA inspections, schools, including the Rhode Island School of Design and the Pratt Institute have been fined in amounts ranging from the tens of thousands to nearly one million dollars.⁸ The costs of compliance, however, may be significantly higher.

The impact on art instruction and the studio environment goes beyond the new warning signs and material safety fact sheets. At the School of the Museum of Fine Arts in Boston, students, staff, and faculty are required to attend Hazard Communication training. Similar classes and lectures on OSHA standards are now offered across the country. In response to citations, every jar in the UC Davis art department is now meticulously labeled with contents and start dates and is tightly sealed whenever not in

use.⁹ Other schools are substituting safer materials or safer processes – UC Berkeley digitized its entire photography studio, freeing up hours of staff time and substantial waste disposal costs. Access to hazardous equipment has also been restricted to classroom hours. While some of these changes have reduced cost, compliance still overwhelmingly represents an increase in cost, reduced instruction time due to increased administrative requirements of instructors, and an overall reduction of time students can spend in the studio.¹⁰

OSHA, the EPA, and other agencies do not single out art departments; universities' science departments, physical plants, and residence halls are all subject to these policies. Because they generate relatively little waste, the actual costs of compliance for art departments may in fact be lower than for other departments. The relative cost of compliance, however, may be significantly higher for the arts, since other departments tend to enjoy significantly larger budgets.

Art departments' ability to enforce these regulations is hindered by their collective personality. The values of art faculty – inspiration, creativity, and spontaneity – have not made for an easy transition to the rigid regulatory environment.¹¹ Further complicating the adjustment is the diminished understanding of art materials among instructors, after a

century of artists' interest in craft giving way to concepts.¹²

Neither the costs nor benefits of compliance are fully quantifiable. Art instructors have noticed a beneficial change in student behavior as OSHA compliance is taught and enforced – open-toed shoes and food in the studio are a thing of the past. But a tradeoff is that today's art students have diminished access to facilities and instruction due to the supervisory restrictions of OSHA.¹³ When compliance is carried too far, traditional artistic methods are at risk of being lost completely.

Safe artmaking habits and protection against potential lawsuits may justify the costs of compliance with OSHA, but the punitive and compliance costs imposed by the cloud of RCRA do not appear to have a silver lining. The EPA did not approach universities out of an interest of preventing any acknowledged environmental damage; it approached universities in an interest of closing a perceived loophole – that which exempted schools from the same laws faced by industries. This problem is more perceived than actual, as hazardous materials were collected before RCRA, and the benefit of more stringent and expensive collection practices is unclear. Also, by enforcing RCRA in only certain EPA regions, the Administration has given a competitive advantage to those art programs in EPA

regions where RCRA regulations are not enforced.¹⁴

Currently, universities from around the country are fighting to have the EPA balance their environmental concerns with the realities of the university landscape.¹⁵ The EPA sought public comment on the matter in the summer of 2003,¹⁶ and they received 48 comments from universities and related associations and laboratories. Unfortunately for student-artists, there was not a single art school or department among the commentators. The changes to be implemented by the EPA, if any, remain to be seen. In the meantime, Art Departments would be wise to get involved in the process.

¹ Merle Spandorfer, Deborah Curtiss, and Jack Snyder, Making Art Safely, (New York: Van Nostrand Reinhold, 1993), 4-7.

² Michael McCann, Art Safety Procedures for Art Schools and Art Departments, (New York: Center for Safety in the Arts, 1998), <http://www.uic.edu/sph/glakes/harts/HARTS_library/Artdept5.txt> (10 November 2003).

³ Susan Josephs, "The Perils of Painting," ARTNews, December 1999, 164.

⁴ Michael McCann, Art Safety Procedures for Art Schools and Art Departments, (New York: Center for Safety in the Arts, 1998), <http://www.uic.edu/sph/glakes/harts/HARTS_library/Artdept5.txt> (10 November 2003).

⁵ Rockwell.

⁶ "Paints/Glazes: RCRA - Storage/Disposal > Details," Environmental Virtual Campus, <http://www.c2e2.org/evc/ArtPainRCRA1_Detl.htm> (4 December 2003).

⁷ "Protecting Health and the Environment On and Off Campus," Environmental Protection Agency Region 2, <<http://www.epa.gov/region02/p2/college/protect.htm>> (6 December 2003).

⁸ Jeffrey Brainard, "Pratt Institute Faces Environmental Fines," Chronicle of Higher Education, (31 May 2002), 23.

⁹ Rockwell.

¹⁰ Tim Higbee, Randy Hussong, and Katherine Sherwood, aculty members: UC Berkeley Department of Art Instruction, personal interview, 24 November 2003.

¹¹ Higbee, Hussong, and Sherwood.

¹² Mark D. Gottsegen, The Decline of the Visual Education of Artists, and the Remedy, 2003, <http://www.artrenewal.org/articles/2003/Decline_Education/decline2.asp> (23 November 2003).

¹³ Higbee, Hussong, and Sherwood.

¹⁴ Ibid.

¹⁵ Campus, Safety, Health and Environmental Management Association, et al., Environmental Excellence in Higher Education, (2002), 1-2.

¹⁶ Environmental Protection Agency, "Announcement of a Public Stakeholder Meeting on Management of Hazardous Waste in Research and/or Academic Laboratories," Federal Register, (3 June 2003), 331210-33123.

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Second opinion

The value of any policy 'answer' lies in the quality of the question asked and the analysis conducted. Ideology, poor methodology, or over-simplification of questions or results can all undermine the value of a piece of policy analysis. This section of PolicyMatters is a place for second looks. Was the answer to this policy question arrived at and disseminated in a responsible and reliable manner? Was this the right question to ask in the first place?

LYING WITH STATISTICS

Campaign contributions and Iraq reconstruction contracts

Jack Glaser

In his November 11, 2003 column in the New York Times, David Brooks provided a nice illustration of how misleading statistics can be. Brooks cited an analysis reported by Daniel Drezner on Slate.com (Nov. 3, 2003) to conclude that "there is no statistically significant correlation" between the size of campaign contributions to President Bush and the size of contracts awarded to companies working in Iraq. Drezner, asserting that the Center for Public Integrity, whose dataset he used, "has no evidence to support its allegations" of political favoritism, reports a correlation of .192 (small to medium in size by scientific standards) with a sample size of 70. When Brooks and Drezner say the correlation is "not statistically significant," they mean that it does not meet a conventional standard

used to determine if a result should be relied upon.

Usually, we use a five percent chance of a false positive result as our cutoff, somewhat arbitrarily, to call something "statistically significant." This vaunted " $p < .05$ " basically means that, based on the size of the effect and the size of the sample from which it was calculated, there is less than a .05 probability that the observed relation (correlation, difference in averages or percentages, etc.) one has obtained is merely due to chance, perhaps poor sampling, as opposed to reflecting a real state of affairs in the population in which one is interested. There seems to be something about a one-in-twenty chance that people are comfortable with.

The significance level for Drezner's .192 correlation would be .056 (meaning a 5.6% chance that the relation observed in the sample does not reflect a real one in the population). But it is irresponsible to utterly dismiss a finding that comes that close. There is no magical difference between a .05 probability and a .056 probability! Would you disregard a result with a p-value of .051, but take your .049 to the bank?

Policy analysts should be especially wary of falling prey to .05 demagoguery. Our samples are often small, and smaller samples have higher p-values. It is our job to make accurate assessments and projections, and significance testing is useful in giving us a sense of the confidence we can have in our results, but it should not necessarily lead us to reject useful information based on inflexible adherence to an arbitrary standard. On the other side of the spectrum, many samples are so large that even trivial effects are "statistically significant," but they may not be meaningful. Rigid use of the $p < .05$ criterion to determine if something is worth reporting can prove misleading under these conditions as well.

The eminent psychologist and statistician, Jacob Cohen, in fact, published a forceful essay challenging the orthodoxy of the .05 criterion. He titled the paper, with tongue firmly planted in cheek, "The Earth is Round ($p < .05$)." As a result of efforts by Cohen and other respected statisticians,

social scientists are moving away from an over-reliance on p-values, focusing increasingly on the actual size of the effects in question, whether or not they replicate, and other approaches.

Brooks's second-hand report skipped over the correlation coefficient, so those who don't read Slate didn't even have a chance, unless they went snooping, to judge the effect size for themselves or see just how not statistically significant it was. This further illustrates the pitfalls of judging results by the dichotomous standard of whether the p-value is greater than or less than .05. Once an effect gets tagged "not significant" it loses all nuance.

Having said all that, the point is somewhat moot. Huh? Why? Because in Drezner's analysis he was not really working with a "sample" but rather with the data from essentially the whole "population" (or very close to it) of contractors working in Iraq. Remember, the point of significance testing – of calculating that p-value – is to generate an estimate of how likely it is that the result observed in the sample is representative of the population. So with population data it is meaningless to engage in this kind of significance testing. The correlation is what it is. The one in question, .192, is not huge (indeed there must be many other factors, such as appropriateness of capabilities and negotiating skills, that

predict contract size) but it's clearly greater than zero.

People who question that there is a *quid pro quo* in Iraq reconstruction contracting would be well advised to conduct an analysis that takes into account the size of the companies in question. Bigger companies are more likely to give bigger contributions *and* get bigger contracts (although General Electric is a gargantuan company that made mammoth campaign contributions but got relatively small contracts, perhaps merely due to a mismatch of capabilities and needs, so that may undermine such an attempt).

There must be many factors that contribute to whether or not a company is awarded a contract and the size of the contract. Careful consideration of such factors might indeed explain away any observed correlation between campaign contribution and contract size. But until then, the most reasonable interpretation of Drezner's result as reported in Slate (and misused in The New York Times and elsewhere) is simply that there is a relation between campaign contributions and contract size, and it should not be so readily dismissed by statistical sleight (or Slate?) of hand.

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