

UNLIMITED FREEDOM:

HOW COMPETITION, SPEED
AND FEAR FRUSTRATE REFORM

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FRUSTRATE REFORM**

Examining the incentive gaps for changing campaign finance, entertainment values, TV news, free trade and pro sports and offering reform proposals

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Note: This version does not contain an index, the original book did.

To Samuel

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Introduction

“Even though the Founders feared the instability that may result from mobocracy, the government institutions they created to disperse power, when coupled with innate American individualism and skepticism, encourage instead power structures dedicated to the preservation of economic royalism and corporate conservatism.” —Former U.S. Senator and presidential candidate, Gary Hart, 1993

“Liberty produces wealth, and wealth destroys liberty.” —American writer and reformer Henry Demarest Lloyd, 1894

What links Gary Hart’s observations on power structures with Henry Demarest Lloyd’s insight on human nature is the corrupting nature of money. The most influential development that has affected politics, economics and culture over the last 20 years is that the determining aspect of key decisions is increasingly purely financial. This trend has produced many positive outcomes, all based upon a fixation maximizing societal economic efficiency and individual creative expression. Organizational efficiency and individual talents often combine to produce substantial wealth. While American society celebrates the organizations and individuals that prosper in this system, there is a dark side of this trend. As cultural, political and ethical factors are increasingly relegated to a secondary status, many of our important societal institutions have been weakened by this very same trend.

Unfortunately, because American society has a “winner-take-all” mentality that shapes many of our institutions and discourse, the negative consequences of this hyper-financialization are rarely analyzed, much less publicly debated. Because American society is becoming increasingly unequal and harsh, it is of critical importance that the negative manifestations of this trend be explained and analyzed.

Today, free market principles are almost completely embraced by our country’s major institutions. One of the main reasons for this development is the lingering rhetorical effect of the Reagan revolution on American society. These effects are an unhealthy (and often obsessive) distrust of government, an almost religious devotion to privatization, and a complete unwillingness to honestly analyze the consequences of unchecked economic freedom on our society. The discourse of contemporary economics — how society values the forms of cultural expression and the structure and content of national politics — reveals that this change has occurred. Most important, the values of the marketplace are putting tremendous pressure on human values.

I am not alone in calling for reform. Many individuals and organizations have proposed numerous reforms, all designed to fix whatever problem is diagnosed. Political reformers want to curb the power of special interest money. Economic reformers want to change the discourse of international trade so that political factors such as labor and environmental factors are included in future trade agreements. Cultural reformers want Hollywood to produce more movies and TV shows that accurately reflects contemporary American life: not entertainment that appeals to the base drives and urges of sex and violence. Media

critics berate the tabloidization of television news and push the networks to emphasize substance and context in their broadcasts. Sportswriters angrily criticize the selfishness and greed of professional sports and propose reforms that emphasize community and association values.

The most significant obstacles to public understanding involve the relationship between reform and money. In particular, how the quest for the economic “bottom line” can create inordinate fear, trigger senseless competition and remove reasonable limits and shame from many aspects of American life. Technology contributes to these problems as it removes traditional restraints with ever increasing speed.

There are few financial incentives to lessen the coarseness, to tone down the rhetoric, to move towards compromise and civility in our institutions. In fact, the opposite is true: there are many strong incentives embedded in our economic system, cultural mores and our laws that actually encourage our society towards acquisitiveness, obsession and trivialization.

The incentives are almost exclusively financial and push decisions towards a “bottom line” mentality. The economics of entertainment products, TV news, international trade policy and pro sports often reign supreme. The money involved in political campaigns often trumps the debate of ideas. The bottom line politically is winning elections and maintaining power. For contemporary entertainment, international trade policy and pro sports, the bottom line is often the maximization of profit. I call the lack of incentives to reform these policies “incentive gaps.”

THE STRUCTURE AND INTENT OF THE BOOK

This book examines five current controversies by outlining the present situation, describing and analyzing a number of examples that illuminate the problems associated with the controversy and offering various reform proposals. Chapter one analyzes campaign finances, chapter two looks at entertainment values, chapter three studies the trivialization of TV news, chapter four analyzes free trade and the problems of the World Trade Organization, and chapter five focuses on professional sports. The conclusion explores the challenges of getting our governmental and societal institutions to enact these reforms.

The intent of the book is to begin a dialogue on freedom. In particular, I wish to show that unrestrained freedom, whether it is economic, political or cultural, can set in motion dynamics that contribute to a weakening of institutions. Specifically, competition without reasonable limits can lead to a lowering of societal standards, a diminishment of shame and an inordinate climate of fear.

Even though the book (for the most part) does not directly criticize the U.S. constitutional freedoms protected by the First Amendment, an implicit criticism can be reasonably inferred. Unrestrained freedom, legally embraced by corporations, political parties, and individuals, is often used chiefly for exploitation. It is my belief that freedom means very little unless it is accompanied by responsibility.

A standard counter-argument is “that is the price American society pays for freedom.” While that defense is logical, it loses truthfulness if it is only applied rhetorically, and in the abstract. Instead, “the price” American society pays for freedom *increasingly without limits* should be analyzed with regard to specific controversies and topics.

It is my hope that, after reading this book, more people will begin to realize the links between ravenous economic, cultural and political freedoms and the weakening of key U.S. institutions. Additionally, I hope that influential business, political and cultural leaders will perceive the connections and not only speak out on them, but also reform their own (or their company’s) behavior.

Chapter 1

Campaign Finance

On a very fundamental level, the corrupting nature of money on democracy is a problem that the United States will always have, to one extent or the other. As long as the country has a market-oriented economic system, backed by constitutional protections, money will always be around to bias and limit the practice of democracy. During the last two decades, however, the American governmental system has found it increasingly more difficult to discipline the power of money in politics. Money is beginning to define the limits and possibilities of how we practice our democracy in ways that would shame our forefathers. Innovative solutions to difficult policy questions never get serious consideration if they threaten the power of special interest groups. Congress ignores creative reform proposals because they threaten members' ability to raise campaign money. Instead, the creativity of people drawn to politics is channeled into imaginative fund-raising techniques. Many people and organizations are angry at these developments and have proposed reforms to limit the influence of money in politics.

The Present: Unfocused Anger and Numerous Ideas for Reform

There's anger at the influence of money on politics. Consider the following comments:

- Paul Taylor, a former reporter: "Elections have lost their pride of place at the center of our democratic life. They are bloated with money, stale with ads, devoid of [the average] citizen's [input] and impervious to change. No one knows this better -or profits from it more- than members of Congress."¹
- Writer Elizabeth Drew: "Indisputably, the greatest change in Washington over the past 25 years ... has been in the preoccupation with money.... It has transformed politics and it has subverted moral values. It has led good people to do things that are morally questionable, if not reprehensible. It has cut a deep gash, if not inflicted a mortal wound, in the concept of public service."²

¹ Paul Taylor, "Campaign Reform: A Way Forward," *The Washington Monthly*, March 1999, p. 34.

² Elizabeth Drew, *The Corruption of American Politics* (New York: Overlook Press, 1999) cited by David Broder, "A Battle of Bank Accounts," *The Washington Post*, July 7, 1999, p. A19.

- Political consultant William S. Klein: “The Cold War may be over, but a arms race continues. Only now, the weapons aren’t nuclear. Today’s leaders try to annihilate their political competitors with war chests of money and high-priced advice — and it’s democracy that’s getting blown to bits.”³

The two biggest costs that make elections so expensive are political consultants and television. The anger over money and politics can be directly tied to the role they play in elections. Political consultants have a variety of skills that politicians and special interest groups pay for: polling, focus groups and television ads are the most prominent. These skills combine with each other to create either a positive image for their client or a negative image of the party, candidate or cause which is opposing them. The images that they create are communicated visually through television advertisements.

Increasing amounts of money have poured into politics in recent years. In the past 30 years, campaign spending has increased more than 12 times, outpacing the inflation rate.⁴ It is estimated that \$4 billion was spent on the 1998 elections, a record for a non-presidential year. Where did the money go? A lot of it went for television ads, as \$531 million was taken in by TV stations in 1998.⁵ In the spring of 2000, Republican presidential nominee George W. Bush had raised a record \$88 million, spending \$1.3 million *a week* on his campaign.⁶

If political participation and trust in government were high, these developments would not be very significant. Unfortunately, participation is declining and trust in government continues at record lows. Voter turnout declined to 36 percent of eligible voters in 1998, the lowest in more than 50 years.⁷ A February 1999 CNN poll discovered that only 34 percent of the public trusts the government in Washington to do what is right all or most of the time.⁸ A July 1999 poll found that only 25 percent of the public think that government pursues the people’s agenda while 64 percent feel that they are disconnected

³ William S. Klein, “Who’s Driving Up the Cost of Democracy? Consultants. Trust Me,” *The Washington Post*, April 25, 1999, B04.

⁴ The Research and Policy Committee of the Committee for Economic Development, *Investing in the People’s Business: A Business Proposal for Campaign Finance Reform*, 1999.
<<http://www.ced.org/REPORTS/Intro.htm#cftr>>

⁵ Taylor, p. 34.

⁶ “2000 Presidential Race: Total Raised and Spent,” The Center for Responsive Politics, 2000.
<<http://www.opensecrets.org/2000elect/index/AllCands.htm>> and Holly Bailey, “George W’s Spending Spree,” *Capital Eye*, volume 7, no. 1, The Center for Responsive Politics, 2000.
<<http://www.opensecrets.org/newsletter/ce71/01/bush.asp>>

⁷ *CQ Researcher*, March 19, 1999, p. 236. The major problem doesn’t seem to be with the difficulty of getting citizens to register to vote. In 1998, states reported that 70.1 percent of the voting-age population was registered, the highest percentage in a non-presidential year since 1970. The Federal Election Commission believes that the National Voter Registration Act of 1993 (Motor-Voter law) is the cause for the increased registration levels. See “Motor Voter Study Shows Hike in Registrations, Not Voters,” Amy Keller, *Roll Call*, July 8, 1999< <http://www.rollcall.com/newspapers/4thscoop.html>>

⁸ CNN <<http://www.cnn.com/ALLPOLITICS/stories/1999/02/17/poll/>>

from their government.⁹

As the money in politics has progressively increased over the years, there had to be a place for it to go. The explosion of political consultants and TV ads helps fill this void. Unfortunately, a vicious circle has developed among the major players in elections. Political consultants, special interest groups, political parties and television (ads and journalism) now interact with each other in a way that feeds cynicism. It's become a vicious circle, and neither party seems able to perceive their negative contribution. For example:

- A survey of political consultants sponsored by the Pew Charitable Trusts released in June 1999 found that 48 percent gave themselves "good" or "excellent" ratings. Moreover, they believed they were the highest quality professionals involved in elections and politics. While 56 percent saw their profession improving their accomplishments, forty-three percent said "print journalists who write about politics" have gotten "a lot" or "somewhat" worse during the time they worked in politics, while 59 percent said broadcast journalists have gotten worse.¹⁰

Many political observers believe that journalists cannot perceive their own contribution to the decline in voter participation and trust in government. As author James Fallows writes, "The media establishment is still in the denial stage ... mainstream journalism has fallen into the habit of portraying public life in America as a race to the bottom, in which one group of conniving, insincere politicians ceaselessly tries to outmaneuver another...By choosing to present public life as a contest among scheming political leaders, all of whom the public should view with suspicion, the news media help bring about that very result."¹¹

- Fundamentally, special interest groups cannot perceive how their *individual* actions may diminish the *overall* rate of political participation or damage the *overall* public trust in government. By definition, their purpose is to advance the interest of their members only. Most significantly, relatively narrow interests are more represented by special interest groups than groups to advance wide public concerns. Founding Father James Madison's hope that our constitution would encourages a multiplicity of interests so that no *single* interest can ever tyrannize the others¹² has given way to "a political scene dominated by a rapidly growing number of special interests sturdily equipped with modern communications technology and lots of

⁹ "America Unplugged" poll as cited by Jeff Flock, "Survey Shows Young Americans Feel Politically Disenchanted," *CNN*, July 27, 1999. <<http://cnn.com/ALLPOLITICS/stories/1999/07/27/political.survey/>>

¹⁰ Amy Keller, "Poll of Consultants Finds Frequent Breaches," *Roll Call*, June 24, 1999
<http://www.rollcall.com/election/politics2.html>

¹¹ James Fallows, *Breaking the News: How the Media Undermine American Democracy*, (New York: Pantheon, 1996), pp. 4, 7.

¹² Theodore Lowi, *American Government: Freedom and Power 4th Brief Edition*, (New York: W.W. Norton, 1996), pp. 284, 302.

money (which) is James Madison's nightmare."¹³

- Seventeen months *before* the 2000 election, the two major parties raised \$2.8 million — \$1.5 million for the Democrats with and \$1.3 million for the Republicans. Large contributors to the Democrats included Bernard L. Schwartz, chairman of Loral Space and Communications Inc. and Steve Wynn, CEO and President of Mirage Resorts in Las Vegas. The Philip Morris Companies, San Diego Charger owner Alex Spanos and Oklahoma oil tycoon David H. Koch were top contributors to the Republicans. These contributors' business interests are related to many policy questions before the federal government. Loral Space and Communications has been involved in the controversy over technology sales to China, the Mirage resorts has an interest in gambling policy, Philip Morris has a keen interest in the federal government's lawsuit against the tobacco industry and it is logical to assume that David H. Koch has an interest in energy policy.¹⁴
- In 1999, \$2.8 million was given by large entertainment corporations and their executives to federal candidates and parties for the purpose of publicly pushing Congress to grant China permanent most-favored nation trading status. Granting China this status would facilitate its entry into the World Trading Organization and open up business opportunities for corporations such as Disney, Time-Warner and Viacom. In April 2000, President Clinton and Vice President Gore raised \$5.4 million in two separate fund-raisers for the Democratic Party in one weekend. High-tech sponsors in Silicon Valley hosted one fund-raiser while Hollywood supporters in Beverly Hills hosted the other. Both industries would financially gain from Congress granting China permanent most-favored nation status. In May 2000, the House of Representatives voted to grant China this status. Associates of the Business Roundtable, a lobbying group for corporate interests, contributed approximately \$15.2 million to House members in 1999-2000 before the China vote. Individual companies that will financially gain from liberalizing trade with China contributed a substantial share of this money, including \$1.8 million by United Parcel Service (UPS), \$1.4 million by Federal Express and \$857,000 by Boeing.¹⁵ Why *wouldn't* these donations cause citizens to become cynical about the election process?

The harsh reality is that there are no incentives for any of these actors to change the way

¹³ G. Calvin Mackenzie, *The Irony of Reform: Roots of American Political Disenchantment*, (Boulder: Westview, 1996), p. 62.

¹⁴ These are all "soft money" contributions. See Susan B. Glasser, "Political Parties Rake in Soft Money," *The Detroit News*, May 19, 1999. <<http://www.detnews.com/1999/nation/9905/19/05190170.htm>>

¹⁵ Holly Bailey, "The Great Wall: Hollywood's Push for China Trade," *Money in Politics Alert*, The Center for Responsive Politics, March 20, 2000 <http://www.opensecrets.org/alerts/v5/alert5_41.htm>, Paul Leavitt, "Clinton, Gore raise \$5.4 million at two California events," *USA Today*, April 17, 2000, p. 14A, Eric Schmitt and Joseph Kahn, "House, In 237-197 Vote, Approves Normal Trade Rights For China," *New York Times*, p. A1 and Holly Bailey, "So Who's Spent More Money Lobbying Congress On China Trade? Choose One (1)Business, (2)Labor," 2000. Found on *TomPaine.com* <<http://www.tompaine.com/print/php3?id=969>>

they participate in elections. Even though they all benefit from the status quo in the short term, the long-term health of American democracy suffers.

The Context and Discourse of Reform

There is no shortage of well-thought-out campaign finance reform proposals. Reformers such as John McCain (R-Arizona) and Russ Feingold (D-Wisconsin) have led the way in the U.S. Senate. Marty Meehan (D-Massachusetts) and Chris Shays (R-Connecticut) have spoken out eloquently for the need for change in the U.S. House of Representatives.

Numerous local politicians have led efforts to curb the power of money in state elections.

Through the referendum process, a number of states have actually enacted reform laws. Interest groups such as Common Cause have developed reasonable proposals that try to limit money's influence on politics.

Unfortunately, many reform proposals will never be passed into law. And the ones that are passed may not be upheld constitutionally. Many politicians and judges believe that political money is free speech and thus cannot be limited.

Opponents of reform fall into two main categories. The first equates political money with free speech. Any restriction on campaign finance would be a threat to the First Amendment and is thus unacceptable. The second realizes that big money advantages can distort the democratic choices of citizens, but also believes that the individual politician can, and should, rise above money's influence and vote according to conscience or constituency. It is this second category which I suspect is the biggest obstacle to reform. Why? Because it fits so well into our national self-identity of heroic individualism. Although unfashionable to admit, many Americans secretly harbor a Frank Capra-type of political patriotism. Maybe the classic movie *Mr. Smith Goes to Washington* captures more of American's inner feelings about what politicians should be like than the recent releases, *Primary Colors* or *Bullworth*.

Senator Feingold is a modern day hero to many political reformers. He directly challenged the unstated assumptions about money and politics in his 1998 re-election campaign. Feingold put a limit on how much money he would spend and refused financial help from sympathetic interest groups. Although he won, his race was much closer than expected. He was widely praised for elevating political principle into a major campaign theme.

But Feingold is a maverick and not many politicians will follow his example. Why should they? Feingold's "unilateral disarmament" almost cost him the election. His self-imposed restrictions gave his opponent more opportunities to negatively define him and paint a public-relations portrait designed to make him look like the devil. Some voters perceived his not fighting back as either confirmation that his opponent's characterizations were true or that he was "above" trying to refute them. Fortunately, a majority of voters did not view his actions this way. Michael Dukakis was not so lucky when he chose unilateral disarmament for most of his 1988 presidential campaign, and he

lost to George Bush.

Bill Clinton didn't get elected to two terms in the White House by practicing unilateral disarmament. He knows how to win. He had his war room, James Carville and Lincoln bedroom sleepovers.

What example should our politicians follow? Was Russ Feingold stupid, yet lucky? Was Michael Dukakis principled, but unlucky? Is Bill Clinton calculating and cynical or sincere yet pragmatic? The answer to these questions can only be found in the hearts and minds of these politicians. But in one sense, they all miss the mark. American society should first come to grips with this incentive gap, but there are assumptions about money and motivation in American institutions that American society can't yet articulate.

Americans are unwilling to look this incentive gap straight in the eye. One of the major reasons is that acceptance of this gap would call into question a central part of our political creed: In the end, politicians can be called on to do the right thing. There is a hidden reservoir of idealism that is deep in our national political psyche.¹⁶ Americans have to openly acknowledge the sentimental portion of it. In a way, the mythical William Jefferson Smith of Mr. *Smith Goes to Washington* would have to die. Instead, we would have to admit to ourselves (and have legislative reforms reflect this) that politicians respond to the same incentives that average citizens do. They are not superhuman heroes who have no faults. Like all of us, they have difficulty resisting temptation.

The debate over campaign finance reform is similar to an old movie that we have already seen many times: we know the plot, what the major characters are going to say and how it will turn out. Because of this, more and more people refuse to watch it or even care that it is showing. With few exceptions, the mass media is uninterested. The arguments are stale and the debate is predictable.¹⁷

Why is this so? One of the reasons is how the public and the mass media perceive the debate. The issue is represented as a simplistic battle in which there are only two sides to the issue: one side that wants reform and the other that wants to keep the status quo. The surface analysis is that the political establishment does not want to see change while self-styled outsiders, whether just barely elected politicians or public-interest reformers, want to make the system more accessible to the average citizen.

¹⁶ For an interpretation of how unmet idealism helps create political conflict, see Samuel Huntington, *American Politics: The Promise of Disharmony*, (Cambridge: Belknap Press, 1981).

¹⁷ However there has been some small movement towards reform recently. In mid 2000, Congress passed a proposal that would force tax-exempt groups that influence elections to reveal their activities. Before this reform, these "527" committees could spend money through polling and advertising and not have to account for how the money was spent. With this reform, the groups would have to report to the Internal Revenue Service how they spent their money and who donated to them. See Juliet Eilperin, "Campaign Disclosure Bill Passes The House, *The Washington Post*, June 28, 2000, p. A01.
<<http://www.washingtonpost.com/cgi-...ni/print&articleid=A8026-2000Jun27>>

While this analysis is fundamentally true at the *systemic* level, it is false at the *individual* level. It is false because it misses the complexities of what motivates politicians. It is also so because it assumes that all politicians are basically alike. It is only through recognizing the diversity of politicians and the complexities of their motivations that will allow the public to understand politicians as a class. And it is politicians, either responding to outside pressure or individually motivated to enact meaningful reforms, which will ultimately change the system.

The greatest unarticulated assumption is that all politicians are similar; specifically, that all they are interested in is winning elections. This perception is caused, at least partially, by how politicians are presented to the public. It seems that the only time that the mass media analyzes politics in depth is around elections. Thus the image of politicians is presented as them being predominately strategic and tactical beings primarily interested in winning. After they are elected, the details and complexities of legislating are usually ignored or relegated to the small audiences of C-Span, CNN, public broadcasting or the major national newspapers.

This is nothing new, as the mass media has always been attracted to the “horse race” aspects of politics: who is ahead, who is close behind and how might the race get closer. However, what has changed is what the press is emphasizing. In 1975, the press wrote articles about how a relatively obscure one-term Georgia governor was trying to build grassroots support in Iowa and New Hampshire. The focus was on how Jimmy Carter met with party activists to try to enlist them to join his campaign. The emphasis was on people, ideas and organization. Money was important, but only insofar as to how it would buttress the other elements of his campaign.

The 2000 campaign is vastly different. The emphasis of the articles and newscasts on political campaigns is concerned with how well the candidates are doing in their fund-raising. *The Washington Post* writes about “Bush’s Dash for Cash,” *The New Republic* profiles Vice-President Al Gore’s campaign as a “Political Machine,” and the *Associated Press* reports that “Kennedys to open Camelot’s summer home to big donors” and that “Forbes Outspends Rivals.”¹⁸ The most important question is: How much money will the candidate have and how fast can they get it? Will he have enough to compete? What must they do to get more? People, ideas and organization are important, but only insofar as to how they will help raise money.

The popular perception that all politicians are alike when it comes to money is accurate in this case. With very few exceptions, they don’t care where the money comes from or how it is raised. Who can blame them? The United States has a system set up which allows money to do just about anything. Money pays for political consultants who take polls,

¹⁸Susan B. Glassner, “Bush’s Dash for Cash,” *The Washington Post*, April 7, 1999, p. A1, <<http://www.washingtonpost.com/wp-...gns/wh2000/stories/bush040799.htm>>, Dana Milbank, “Political Machine,” *The New Republic*, January 25, 1999, pp. 18-23 and *Associated Press*, April 6 and July 20, 1999 <<http://www.cnn.com/ALLPOLITICS/stories/1999/04/06/kennedy.compund.ap/>>

conduct focus groups and create ads. Money pays for staff and offices and buys direct mail, TV and radio time. Money also pays for fund-raisers, who (if they do their job right) will raise more money. A lot of money in the bank can also scare off potential opponents.

Why isn't this truth articulated more often? Because it is usually communicated in dualistic extremes: either through cynical resignation (the system is fixed) or sluggish protests (it may be flawed, but it is the best there is). Neither is accurate. The system was set up by politicians, who we have control over. The public can demand change if the outrage is high enough. There is no alien force that is stopping us from reforming the system. If the system is "fixed," it is "fixed" by us. There should be no victims in a working democracy.¹⁹

What is needed is a more mature, and realistic, view of money and politics. Americans need to remember that politicians respond to the same incentives that any other person does. Organizations, whether they are governments, families, businesses or professional groups, create incentives in order to produce a desired outcome.²⁰ It is simply unrealistic to think that our politics will change without acknowledging the incentives built into the current system.

Limits and Political Money

One of the major problems encouraging the destructive influence of political money is the complexity of the campaign finance system. The system is so complicated and full of loopholes that its original purpose, to put limits on money and force transparency on contributors, has been completely evaded. One of the key concepts that must be understood before any type of genuine reform is enacted is *limits*.

It is human nature to want to go beyond limits. Surpassing limits can be a positive and growing experience in many ways. In war, men often transcend their own fears and survive harrowing combat experiences. Women survive childbirth and are often stronger as a result. Personal ambition drives many to go beyond societal-imposed limits and create businesses, organizations and art which change the world. Ironically, the major failures of the campaign finance system have been caused by that same human drive.

A Brief History of Evading Limits: The Beginning

¹⁹ One of the few exceptions who communicate this truth directly is political consultant (and former Clinton advisor) Dick Morris. He has written several books on the crass reality of how money can intimidate challengers successfully create images and win elections.

²⁰ One of the best examples of how states use incentives are enterprise zones. Enterprise zones are specific geographic areas that have old housing, poverty and high unemployment. Redevelopment is targeted for these areas by giving businesses exemptions, credits, deductions, regulatory relief and tax breaks if they move in and create jobs. 37 states currently use this approach for economic development. See "Enterprise Zones Are Popular Incentives," *State Legislatures*, April 1998, p. 8.

The contemporary campaign finance reform era began in 1971 when Congress created the Federal Election Commission (FEC). For the first time in history, the U.S. government allowed unions and corporations to create and manage political action committees (PACs) and request contributions.²¹ In 1974, Congress amended the law to place a \$1,000 limit on both contributions and expenditures to candidates in federal elections. There were also amendments that provided for public financing of presidential elections and required full disclosure of campaign contributions and expenditures.²² The law was challenged and the Supreme Court ruled on its constitutionality in 1976 with its *Buckley v. Valeo* decision.

The *Buckley v. Valeo* decision invalidated all restrictions on expenditure limits (except if the candidate accepted public financing) yet upheld all contribution limits to campaigns. Contribution limits were upheld on the ground that the restriction on the contributor's ability to participate in free communication was only of a marginal nature. Moreover, the Court did not see a correlation between the size of the contribution and the quantity of the speech it produced. The court reasoned that contributing was a *symbolic* act intended to help give a candidate the ability to speak.

While the Court didn't find a correlation between the amount of the contribution and free speech, it did so regarding the amount of the expenditures and free speech:

The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government, but the people ... who must retain control over the quantity and range of debate on public issues in a political campaign.²³

In one sense, the decision to outlaw expenditure limits was not necessary because of the existence of a loophole in the law. The loophole was that political action committees could spend as much money as they could legally raise as long as the expenditures were not for a clearly identified candidate. The Court said that as long as there were no limits on this type of spending, the expenditure limit applied to federal candidates was worthless: "It would naively underestimate the ingenuity and resourcefulness of persons and groups desiring to buy influence to believe that they would have much difficulty devising expenditures that skirted the restriction on express advocacy of election or defeat but nevertheless benefited the candidate's campaign."²⁴

The Court was correct. Groups that wanted to influence elections would find many ways to spend money that, technically, did not advocate a particular result. In the 1994 election cycle, groups that were opposed to President Clinton's health care reform put out many

²¹ Herbert A. Alexander, *Financing Politics: Money, Elections and Political Reform*, 3rd Edition. (Washington: Congressional Quarterly Press, 1984) p. 89.

²² James A. Curry, Richard B. Riley and Richard M. Battistoni, *Constitutional Government: The American Experience*, 2nd Edition. (Dubuque: Kendall/Hunt, 1994), p. 504.

²³ *Buckley v Valeo* 424 U.S. 1 1976.

²⁴ *Ibid.*

advertisements that urged citizens to call their representative (or senator) and tell them to oppose the bill. Even though they were not technically supporting (or opposing) a particular candidate, the context in which the ads were aired was designed to influence the elections. The 1994 elections were heavily influenced by the defeat of President Clinton's health care reform as the Republicans captured the majority in the U.S. House for the first time in 40 years.

There was one critical piece of reform, however, which was yet to be enacted. Because the two major political parties were restricted in how much they could spend in the 1976 presidential election, most of the spending went to television advertising. Traditional grassroots activities, such as setting up voter registration drives, getting out the vote and buying signs and bumper stickers were downplayed. In 1979, Congress amended the Federal Election Campaign Act to permit parties to spend unlimited amounts of money on party-building and grassroots activity.

The change in the law did not recognize that party-building activities benefited candidates for *state* elections as well as one for federal elections. Since the reforms regulated federal election activities only, there were many questions as to how this new law would be applied. The FEC issued rulings that clarified the situation. Parties could now keep separate accounts for state and federal funds. The difference between hard money and soft money had been created.²⁵

TYPE OF MONEY	ELECTION TYPE	RESTRICTIONS
HARD	FEDERAL	CONTRIBUTION LIMITS
SOFT	NON-FEDERAL	NONE, EXCEPT AS DETERMINED BY THE STATE. CAN BE USED TO FINANCE GENERAL PARTY-BUILDING ACTIVITIES

The principle of creating limits, which was at the heart of the 1971 and 1974 reforms, was now effectively history.

WHAT THE MONEY IS SPENT FOR	WHICH TYPE OF ELECTIONS	RESTRICTIONS ON USE
GENERAL PARTY-BUILDING ACTIVITIES	ALL	NONE

According to the Committee for Economic Development: "The FEC's decisions essentially freed parties to engage in unlimited fundraising as long as they abided by the technical requirements of the law. They could now raise (and spend) monies obtained from sources that were banned from participating in federal elections or from individuals and PACs that had already donate the legal maximum. These changes in the rules thus

²⁵ The Research and Policy Committee of the Committee for Economic Development, p. 23.

gave parties a strong incentive to raise soft money.²⁶

Self-interest, Incentives and Change

The anger at money's role in political campaigns is diffused. There isn't a single villain society can blame for its existence and growth. Instead, a multitude of organizations, individuals and institutions can be blamed. Some critics blame PACs for giving large sums of money to candidates, an activity political parties did before the growth of the PACs. Others blame political parties for soliciting large contributions from PACs. Individual candidates are to blame say others. If they would only refuse to take party-laundered PAC money, the situation would be improved. Perhaps television is to be blamed. If TV ads weren't so expensive, there wouldn't have to be so much money raised in the first place. The consultants and the pollsters are the real villains, say others. They charge enormous amounts of money for services that no one can prove actually work. Finally, maybe the Supreme Court's interpretation of the First Amendment is what is essentially wrong. Unlimited expenditures for political advertising are not what the founding fathers had in mind when they protected freedom of speech.²⁷ All of these criticisms are justified, to one extent or the other. However, all the important parties involved are only protecting their own *self-interest*. It should not be expected that they would stop practicing activities that have gained them wealth and influence:

- PACs have grown from 900 in 1976 to over 4,500 in 1998. They gave \$23 million to congressional candidates in 1976 and \$216 million in 1998.²⁸
- The Republicans and the Democrats were the two major political parties in 1976, and they remain so today. Because there are no financial limits on their party-building activities, they have been allowed to essentially act as middlemen for wealthy individuals and well-connected PACs. By any account, their party-building activities have been extraordinarily unsuccessful: Since 1976, the number of Independents has increased and voter turnout has declined.
- Candidates and politicians, *as individuals*, cannot be expected to reform the system. Candidates who refuse to participate in the political money system usually don't get elected. Even politicians who want to reform the system feel many different pressures that make reform difficult. They may be party leaders whose job is to increase their membership. They may feel the pressure of a potentially close race next time and not want to risk re-election for doing the "right thing." Most important, it is that very system, however corrupt, in which they won election in the first place. Old

²⁶ Ibid, p. 24.

²⁷ The Brennan Center for Justice at New York University School of Law has ongoing research and advocacy project on campaign finance reform. Their work critically analyzes the legal and political deficiencies of the original Buckley decision as well as many other aspects of the topic. See their web site at <<http://www.brennancenter.org/>>

²⁸ The Research and Policy Committee of the Committee for Economic Development, p. 15.

habits are difficult to change.

- Television is the most important aspect of most races for federal offices. At least every two years, the stations are guaranteed sources of revenue, which increase their bottom line.²⁹ The electronic press can use the First Amendment as their intellectual justification for airing the advertisements, even when many television stations are devoting increasingly less coverage to political races.³⁰
- The importance and wealth of consultants and pollsters have grown in the last 20 years. It would be occupational suicide for some of them to publicly admit that, at best, their *advice* is well-informed speculation. The manipulation of public opinion is an inexact science. Even though a consultant may have worked on several winning campaigns, they usually don't *know* what particular aspect of their work "made the difference" and helped produce the victory. There are simply too many variables. So pollsters ask many different questions, in various ways, in order to get more information. Different ads are produced and shown to numerous focus groups to gauge reactions. All of these activities cost money.³¹

The acceptance of the "political money equals free speech" equation by so many politicians and judges reveals how deeply imbedded capitalism has become in our political framework. The rules and values of the market have been incorporated into the rules of the American electoral system. The deeper question is the degree that they have changed the *values* of the American political system.

There is a direct relationship between the self-interest of the particular actors who benefit from the current campaign finance system and the *absence* of incentives from those same very actors to reform the system.

Experimenting With Reform at the State Level

²⁹ Because Republican presidential candidate Steve Forbes spent so much money on television advertising in the New Hampshire primary in 1995-96, WMUR-TV in Manchester, New Hampshire (the only state-wide non-public television station) considered naming their new building wing after him. This story was told to the author on a visit to New Hampshire in January 1996. WMUR has continued to profit because of the New Hampshire primary: As of January 31, 2000 the station was estimated to have received more than \$2.5 million for the 2000 primary. See Martha T. Moore, "WMUR Is 'Station of Record' In Primary," *USA Today*, January 31, 2000, p. 8A. Additionally, 1998 California gubernatorial candidate Alfred A. Checchi spent approximately \$25 million for television ads in his unsuccessful quest for the Democratic nomination. See Susan Glasser, "In Costly California Race, Control Was Key," *The Washington Post*, May 1, 2000, p. A01. <<http://www.washingtonpost.com...dyn/articles/A45082-2000Apr30.html>>

³⁰ An example of this trend is the coverage of the 1998 California gubernatorial race. In the 90 days preceding the election, there were 27 hours of local TV coverage while there was 190 hours of television advertising ("Ticker," *Brill's Content*, April 1999, p. 128).

³¹ For a good article on the influence and wealth of political consultants, see Susan B. Glasser, "Hired Guns Fuel Fundraising Race," *The Washington Post*, April 30, 2000, p.A01. <<http://www.washingtonpost.com...dyn/articles/A41200-2000Apr29.html>>

There needs to be incentives for politicians to remain within limits. A number of states have recognized this need and passed laws which reward candidates that stay within limits with public financing. Maine has set up a Clean Election Fund that will distribute a fixed amount of public money to eligible candidates. Candidates must successfully collect a fixed number of \$5 contributions from district voters in order to become eligible for funds. Vermont has set a spending limit for gubernatorial candidates and other races. In 1998, Arizona passed the Citizens Clean Elections Act. This limits spending (including personal money) and contributions by qualified candidates who agree to receive public money. Massachusetts passed a similar proposal in 1998 that limits spending and contributions in campaigns for qualified candidates who receive public funding. Florida's constitution was amended in 1998 to allow the state to determine spending limits and provide public financing for candidates for statewide offices.³²

The most populous state that is experimenting with reform is California. In 1996, voters passed proposition 208, which put a ceiling on expenditures and limited contributions. The far-reaching measure also banned fund-raising in off-election years and prohibited lobbying groups from contributing money to political campaigns. The proposition was ruled unconstitutional in 1998 and is currently under appeal.³³

Even with the adverse judicial ruling, California reformers have not given up. In March 2000, Proposition 25 was put on the ballot. It would have banned corporate donations, imposed voluntary spending limits for ballot initiatives and state candidates, limited individual contributions and legalized a partially-publicly funded campaign finance system. Proposition 25 was defeated 65 percent to 35 percent. A more modest campaign finance reform proposal is expected to be on the ballot for November 2000.³⁴

In January 2000, the Supreme Court ruled that states have the legal authority to limit political contributions.³⁵ Even though that ruling strengthens the ability of states to regulate campaign finance, states still must adopt reforms within the legal context of the *Buckley* decision. As long as spending limits are viewed with constitutional skepticism, reformers will likely remain frustrated.

Incentives and the Judicial Interpretation of Free Speech

Although this goes against the American creedal belief that the judicial branch is separate from politics, we need to ask the following question: What incentive can American

³² John J. Mountjoy, "The Buck Stops Where?" and Chester Hicks, "Voting for Campaign Reform," *State Government News*: March, 1999.

³³ Ibid, Mountjoy.

³⁴ Mary H. Cooper, "States Embrace Fundraising Reforms," *CQ Researcher*, March 31, 2000, p. 270, "Campaign 2000 California Primary," *Los Angeles Times*, March 2000 http://www.latimes.com/news/politi...ct2000/california/prop_results.htm and "Imperfect Will Do," *Los Angeles Times*, editorial, July 6, 2000. <http://www.latimes.com/news/comment/20000706/t000063475.html>

³⁵ "Court Affirms State's Power To Impose Campaign Contribution Limits," *The Associated Press*, January 24, 2000. <http://www.cnn.com/200...scotus.contributions.ap/index.html>

society provide the judiciary that would force it to reinterpret the “political money equals free speech” equation? The problem can also be viewed from a different perspective: What incentive does the judiciary have (which would be in their own self-interest) that would persuade them to reinterpret the “political money equals free speech” equation?

The biggest incentive that courts have is to preserve their own power. Many times throughout American history, the Supreme Court has blocked legislatively enacted progressive change. The most famous example was in the 1930s, when the court repeatedly blocked many of Franklin Roosevelt’s economic recovery programs. The important first ones passed in 1933 — the Bituminous Coal Conservation Act, the Agricultural Adjustment Act and the National Recovery Act — were ruled unconstitutional. In 1936, FDR won a landslide reelection. After his victory, he announced a plan for the voluntary retirement of justices over age 70. If the elderly justice chose not to retire, the president could appoint an additional new justice, up to a maximum of 15 justices.³⁶

Even though the plan never became law, the court soon began to change its interpretation of the Constitution. Voting by two key justices changed after the proposal, and Roosevelt’s economic recovery plans soon began to be upheld as lawful exercises of governmental power. Thus it was primarily political pressure and electoral change which forced the Supreme Court to rethink critical portions of how they interpreted the constitution.

Because there has not been any substantial federal campaign finance reform recently, it is premature to speculate on any potential political pressure that the Supreme Court might feel if they were to decide its constitutionality. Moreover, the specific circumstances of any successful federal reform will help shape the nature and amount of political pressure the court may feel. For example, if a weak campaign finance reform bill is passed with little broad understanding or support, then that may indicate that there is little political pressure to uphold its provisions (if challenged in court). However, another scenario is possible: A strong reform bill (supported by a relatively high degree of public awareness and support) gets passed. If that happens, then there might be enough political pressure to sustain a court challenge.

It would be more than just crude political pressure, however, that could create an incentive for the Supreme Court to uphold strong reform legislation. It would be to preserve its own power. The court’s power is sustained on perception and myth. The myth is that the Court is above politics and not affected by contemporary political debate. The ironic reality is that to be “non-political,” they have to be concerned (at least somewhat) by politics. Their exalted status as the interpreters of the constitution (and not policy) is protected by their ability to separate their institution from Congress, the President, interest groups and state political leaders. However, if more and more *elected*

³⁶ Curry, 124.

politicians decide to reform campaign finances, their role strictly as interpreters could be put in jeopardy if they continuously thwart change. Their institution could be seen as reactionary — actively stopping democratic change from occurring.

Incentives and the Personalities of Politicians

A reassessment of politicians' personal psychological traits is important for successful reform to occur. While the mass media generally describe the characteristics and motivations of politicians in simplistic or dichotomous terms, scholars have recognized the diversity. In *The Motivations of Politicians*, the authors attribute seven primary incentives to politicians. The particular motivations are status, program, conviviality, obligation, game, mission and adulation. People drawn to politics usually have one of these incentives as their primary motivating force.

Among the motivations that apply to politicians engaged in the campaign finance reform debate, the obligation, mission and game incentives are the most significant. The obligation incentive feels compelled to engage in what they see as moral behavior and follow their conscience. The mission incentive feels a deep-seated need to be committed to a cause that gives value and direction to their life. The game incentive likes to be challenged and compete in intellectually stimulating actions.³⁷

One of the major reasons the campaign finance reform debate has been so predictable is that the debate has been dominated by psychological extremes. These extremes represent a minority viewpoint, with regard to what most people consider political reality. On one side, the reformers tend to be either the obligation or mission type of politician, following what they consider their obligation to “clean up the system.” Political reform is a deep-seated “cause” for them. A good example is U.S. Senator Paul Wellstone (D-Minnesota). His passion during a recent debate reveals the depth of his outrage:

This system right now does not meet the standard of representative democracy, because the standard of real representative democracy ... is that each person counts as one and no more than one. I dare any one of my colleagues to ... come out here on the floor and say, given the system we have right now and the reliance on huge contributions-whether it be soft money, PAC money, or individual contributions-that, as a matter of fact, each and every citizen has the same influence over our political process. It is simply not true. And it is certainly not the perception that many have of our system.³⁸

On another side, there are politicians who see politics as a game. The rules of the game include raising money. Fund raising becomes both an intellectual and practical challenge. They may agree with the goal of mission-oriented reformers but that is not as important as rising to the challenge of getting enough money to compete.

There are other mission/obligation-oriented politicians in the campaign finance reform

³⁷ James L. Payne, *The Motivations of Politicians*: Chicago: Nelson-Hall, 1984), p. 10

³⁸ Trautman, Karl G., ed., *The New Populist Reader*, Westport, CT., 1997): Praeger: 168.

debate. They passionately defend the equation of free speech with political money and seek to stop any sort of reform that limits what money can do in politics. Senator Mitch McConnell (R-Kentucky) is the most powerful national politician who represents this point of view. He states:

The First Amendment of the Constitution is America's political reform. To reformers, it's a 'loophole.' The Supreme Court has repeatedly ruled that because communication with voters costs money, campaign spending is protected by the First Amendment and cannot be rationed by the government.... Political parties, unions and newspapers have a constitutional right to spend as much as they choose to affect elections.³⁹

During a 1997 congressional debate, McConnell placed into the public record an essay by columnist George Will, in which Will warns:

With a moralist disproportionate to the merits of their cause, members of ... [Washington's political] class including the exhorting, collaborative media are mounting an unprecedentedly sweeping attack on freedom of expression. Nothing in American history not the left's recent campus 'speech codes,' not the right's depredations during the 1950s McCarthyism or the 1920s 'red scare,' not the Alien and Sedition Acts of the 1790s-matches the menace to the First Amendment posed by campaign 'reforms' advancing under the protective coloration of political hygiene.... what today's campaign reformers desire is a steadily thickening clot of laws and an enforcing bureaucracy to control both the quantity and content of all discourse pertinent to politics.⁴⁰

The discourse of the debate lurches from demands for moralistic reform to moralistic protection of the Constitution and ends up with most viewing the debate as essentially procedural, and thus not as important as ideological or policy goals.

The Lack of Systemic Incentives

From a systemic perspective, the power of money is not divided into ideology, party or geography: it is widely spread throughout the political system. Money can help individual parties, particular candidates and specific regions. For example, it is widely believed that conservative Republicans support business interests while Liberal Democrats are hostile to business and support labor unions. Ideology and campaign rhetoric push this view. While this may be true on a macro level,⁴¹ particular examples reveal this belief as an outdated generalization.

³⁹ This was written for *USA Today* by Senator McConnell and introduced into the Congressional Record. See "Bipartisan Campaign Reform Act of 1997," *Congressional Record*, October 6, 1997, p. S10343

<<http://thomas.loc.gov/cgi-bin/query/D?r105:28:./temp/~r105LxtrYf:e32486:>>,
<<http://thomas.loc.gov/cgi-bin/query/D?r105:28:./temp/~r105LxtrYf:e36994:>>

⁴⁰ "Bipartisan Campaign Reform Act of 1997," <<http://thomas.loc.gov/cgi-bin/query/D?r105:1:./temp/~r105xMPsUI:e164867:>>

⁴¹ For example, of the total business associations PAC contributions to federal candidates for 1997-98, 89 percent went to Republicans and 11 percent to Democrats. Of the total industrial union PAC contributions to federal candidates for 1997-98, 98 percent went to Democrats and 2 percent to Republicans. See *The Center for Responsive Politics* web site <<http://www.opensecrets.org>>

There are many examples where liberal Democrats support business. The key is what *type* of business. In order to protect the economic interests of the major automobile companies, Michigan Democrats regularly fight against new environmental regulations. For example, Democratic Congressmen James Barcia, Dale Kildee, Sander Levin and John Dingell voted for a bill that would have overturned new Environmental Protection Agency (EPA) standards for soot and smog and imposed a four-year moratorium on the EPA creating new standards.⁴² The job of protecting the business interests of trial lawyers also belongs to the Democrats. This is not surprising considering that of the \$2.4 million contributed by the Association of Trial Lawyers of America PAC in the 1997-98 election cycle, \$2.1 million went to Democrats.⁴³ Democrats also support the entertainment industry's economic interests.⁴⁴

There are many examples where conservative Republicans are hostile to business. Trial-lawyers' business interests are regularly in danger when Republicans are in control. Republicans routinely criticize Hollywood. Even some Republicans are beginning to suggest that gun manufacturers might have some responsibility for societal violence.

Incentives, Change and Restraint

The paradox Americans must confront is that the key to unlocking change is restraint. It seems counterintuitive; change is thought to come about by forceful, organized action. Americans should think about how they could put in place incentives that reward restraint. All the incentives now go in the opposite direction: consultants, TV stations, pollsters, special interest groups and parties prosper from a lack of restraint. Occupationally and individually, they can prosper. But the damage they do to the overall polity is severe. They have *some* responsibility for the widespread political cynicism and the declining voter turnout. The situation is analogous to the lack of personal responsibility for members of a firing squad. Members fire all at once, avoiding the responsibility and/or guilt involved in the death of the target. In this case, the firing squad is the consultants, special interest groups and TV stations, and the victim is our democracy.

Conclusion

The three main concepts that are central to the debate are limits, fear and fear of limits.

⁴² Michigan Public Interest Research Group (PIRGIM) <<http://www.igc.apc.org/pirg/score/98/states/mi>>

⁴³ Ibid, *The Center for Responsive Politics*.

⁴⁴ This is not surprising since nine of the top ten U.S. Senate recipients of TV/Movie/Music PAC and individual donations from 1993-1998 are Democrats and seven of the top ten U.S. House recipients of TV/Movie/Music PAC and individual donations from 1997-98 are Democrats. See "Money in Politics Alert: Star Power; Hollywood, Youth Violence and Washington, *The Center for Responsive Politics*, June 21, 1999 <http://www.opensecrets.org/alerts/v5/alertv5_21.htm>

LIMITS: Overall expenditure limits are critical to addressing the problem. As long as there are no effective limits, there will continue to be money indirectly poured into the system, crippling the potential for any effective reform.

FEAR: The public should acknowledge that fear is what drives election campaigns. Candidates are afraid that they will either not have enough money to get their message on TV, or they will not have enough money to refute the attacks made on them by their opponents— or both.

FEAR OF LIMITS: Underlying the argument that unlimited campaign spending equals free speech is a belief that the government should not be able to limit political speech in *any* way. This is based on a fear that a limitation on spending will be transformed into a limitation on content. But this argument commingles the quality and quantity of political speech and distorts the essence of the concept. Ideally, political speech should educate, persuade and move the citizen. With no limits, political speech instead becomes effective in *quantity* only: repeated, simple and popular messages designed to unconsciously link the candidate to the theme. The result freezes democratic debate as “... unlimited expenditures stop acting as the source of new ideas, and becomes a form of repetitive propaganda, making it impossible for poorer candidates to get a fair hearing.”⁴⁵

The effectiveness of political speech need not be compromised by a limitation on its quantity, as long as all sides have the same limitation. Creativity can flourish with limited, yet equal, expenditures.⁴⁶ Public financing of congressional elections is a method to achieve that goal. Supporters of public financing are no longer restricted to reform-minded interest groups, members of Congress and scholars. Support has broadened to include major religious groups. For example, in June 1999, Wisconsin’s Roman Catholic bishops issued the following statement:

The use of tax dollars to fund campaigns of qualified candidates without regard to their philosophy can effectively foster the common good by encouraging more people of diverse backgrounds to seek public office. To the extent that public financing makes candidates less dependent on the funds of special-interest groups, the public debates over issues will be less subject to domination or distortion by special interests.⁴⁷

As long as the limitations are voluntary, freedom is preserved. Reasonable limits, designed with fairness and flexibility, are the best path for reform. In a June 19, 1998, statement, nine former leaders of the American Civil Liberties Union (ACLU) said:

⁴⁵ Burt Neuborne, *Campaign Finance Reform and the Constitution: A Critical Look at Buckley v. Valeo*, 1998. <<http://www.brennancenter.org/CFR1.pdf>>

⁴⁶ There is no constitutional or political way that personal wealth can be banned from elections. Even though the recent campaigns of presidential candidates Steve Forbes and Ross Perot and New Jersey U.S. Senate candidate Jon Corzine present disturbing trends, personal wealth is too intimately related to freedom for any such proposals to become law.

⁴⁷ Steven Walters, “State’s Catholic Bishops Call For Campaign Finance Reform,” *Milwaukee Journal-Sentinel*, June 28, 1999. <<http://www.jsonline.com/news/state/jun99/bishop29062899a.asp>>

We have devoted much of our professional lives to the ACLU, and to the protection of free speech. We are proud of our ACLU service, and we continue to support the ACLU's matchless efforts to preserve the Bill of Rights. We have come to believe, however, that [some of the] opposition to campaign finance reform ... misreads the First Amendment. In our opinion, the First Amendment does not forbid content-neutral efforts to place reasonable limits on campaign spending. We believe that the First Amendment is designed to safeguard a functioning and fair democracy. The current system ... makes a mockery of that ideal by enabling the rich to set the agenda, and to exercise disproportionate influence over the behavior of public officials.⁴⁸

Specific Reform Proposal

The critical ingredients to add into reform are benchmarks, or performance goals. How would this work? Integrate into the proposal a time frame where measurable progress could be ascertained. The simplest approach would be to measure the change in voter turnout (as a percentage of eligible voters) after a selected time period. If the goal were not met, then the law would automatically expire. This contingency type of law could be appealing to citizens because it has the same type of discipline that free markets have: it punishes failure and automatically ends experiments that don't work. Motives would be taken out of the picture. The difficulty would be to design a benchmark that was sufficiently realistic, yet also ambitious enough to justify the boldness of the reform.⁴⁹ The reform could be phased in over several years, with the goals reflecting the incremental pace of the change. The reform would also take into account that presidential election years historically have greater turnout than non-presidential years:

CURRENT SITUATION: No Congressional Expenditure Limits, Soft Money Loophole and No Public Financing of Congressional Elections

**TURNOUT: (Presidential Year) 1996: 50%
(Non-Presidential Year) 1998: 36%**

REFORM PROPOSAL

⁴⁸ "Statement of Persons Who Have Served the American Civil Liberties Union in Leadership Positions Supporting the Constitutionality of Efforts to Enact Reasonable Campaign Finance Reform," *The Brennan Center for Justice at New York University School of Law* <<http://www.brennancenter.org/>>

⁴⁹ On a broad scope, this type of experiment is presently occurring in Oregon. The state has instituted benchmarks, or performance goals, for specific public policy outcomes. See the Oregon Progress Board <<http://www.econ.state.or.us/opb>>

YEAR	SUBSTANCE	TURNOUT GOAL
2002 (NON-PRESIDENTIAL)	SOFT MONEY BAN	42%
2004 (PRESIDENTIAL)	EXPENDITURE LIMIT	54%
2006 (NON-PRESIDENTIAL)	CONGRESS:PUBLIC FINANCING	47%
2008 (PRESIDENTIAL)	⌘	62%
2010 (NON-PRESIDENTIAL)	⌘	53%

⌘ IF THE TURNOUT GOAL IS NOT REACHED IN BOTH 2008 AND 2010, THE LAW EXPIRES.

This reform could be thwarted in many ways. Both supporters and opponents could manipulate voter registration numbers. Supporters could try to dampen new efforts at registration in order to concentrate on getting the already registered to vote, so that the law becomes permanent. Opponents could try to get large numbers to register but also try to dampen turnout of the newly registered, in order for the law to expire. However, these attempts, if detected and publicized, could create a backlash.

On a broader note, the mass media's role in monitoring the progress would play a critical role in the success of the law. But instead of selling soap, cars, beer or computers, the media (and TV in particular) could publicize how the reform is working and what groups are seeking to manipulate it for their own purposes. This could produce *positive* incentives for citizens and the press to aim for. Every campaign could be analyzed in the context of how their tactics effect voter turnout.

Many would fear that this could lead to dull elections, where candidates would be ostracized for tough hard-hitting campaigns. I doubt this would occur. There is too much in the American national character and history for that to happen. There is also too much power at stake. Instead, the nature of the contest could change from negative and fear-based to issue-oriented differences. Tough, comparative campaigns can just as easily be based on policy differences as on character assassinations. Bold campaign finance reform, designed to embrace experimentation and practicality, could bring hope to progressive-minded Americans of all political persuasion.

Chapter 2

Entertainment Values

On the same fundamental level that money corrupts American democracy, the pursuit of profit can pollute American culture through the mass media. As long as the First Amendment to the Constitution is revered and legally protected, money will always move the mass media towards representations that are unnecessarily base and low. However, in the '90s, the media movement towards debasing American culture has accelerated. This has occurred because of both technological innovations that gave rise to new forms of media (such as the Internet) and a government policy of deregulation. Even though there are regular calls that denounce the media's contributory role in the cultural decay, not much is ever done. Too often creative people use their imagination to produce works that titillate and shock, rather than educate and elevate.

Sex and Television

There are many individuals and groups that are outraged at the current state of the media's representation of our culture. There are a wide variety of critics ranging from interest groups such as Focus on the Family, the Family Research Council and the Christian Coalition to research-oriented groups such as the Parents Television Council to individuals such as writers William Bennett and Michael Medved to politicians such as US Senators Sam Brownback (R-Kansas), Joe Lieberman (D-Connecticut) and former Vice-President Dan Quayle. Medved sums up the feelings of many culturally conservative critics when he states:

America's long-running romance with Hollywood is over. As a nation, we no longer believe that popular culture enriches our lives. Few of us view the show business capital as a magical source of uplifting entertainment, romantic inspiration, or even harmless fun. Instead, tens of millions of Americans now see the entertainment industry as an all-powerful enemy, an alien force that assaults our most cherished values and corrupts our children. The dream factory has become the poison factory.¹

A lot of the criticism directed towards Hollywood concerns how sex is represented on television. The specific concern is that the prevalence of sex and the lack of context surrounding its depiction are unhealthy representations for American society. Recent surveys reveal that there are a lot of facts that support the criticism. According to a 1999 survey conducted for the Henry J. Kaiser Family Foundation, sex is excessively displayed and irresponsibly portrayed on TV: 85 percent of soap operas, 83 percent of movies, 78 percent of talk shows, 58 percent of dramas and news magazines and 56 percent of

¹ Michael Medved, 1992. *Hollywood vs. America: Popular Culture and the War on Traditional Values*, (New York, Harper Collins, 1992), p. 3.

sitcoms contain sexual material. Moreover, less than 10 percent of TV shows with sexual content include any mention of risks or responsibilities.²

This is a concern because much of television is directed towards capturing young viewers. Because of their life experiences and maturity, adults can usually recognize the unrealistic nature of the media's depiction of sex. Children and teenagers, however, are far more vulnerable. They are still in their formative stages of emotional and social development and are more impressionable than adults.

Because young people have more free time than adults, they are likely to watch more television. A 1999 study by the American Academy of Pediatrics found that, if you combine video game playing with TV viewing, teenagers are spending 35 to 55 hours per week in front of the television. Moreover, while every year an average teenager views almost 15,000 sexual jokes, references and innuendoes on television, less than 170 refer to pregnancy, sexually transmitted diseases, birth control or abstinence.³

There are numerous shows that reflect these findings:

- ***Friends*:** This top-rated NBC show has been a staple for Thursday night viewing for many people for several years. It has recently gone into syndication where it enjoys strong ratings as well.⁴ The show deals with several young, single professionals living in New York City. A lot of young adults can identify with the situations that the main characters confront each week. The show is funny, well written and the actors have a camaraderie with each other that is appealing to the audience. *Friends* also appeals to teenagers,⁵ who wish for the independence and freedom that the characters display. Although the show is realistic in many ways, it is extremely unrealistic in how it portrays sexual situations. For example in one episode, Rachel, one of the main characters, says, "I feel like I need to have one last fling, to get it out of my system...I need to have some meaningless sex with the next guy I see." Chandler, overhearing

² Kaiser Family Foundation. Press Release: "*Sex on TV: Content and Context: A Biennial Report to the Kaiser Family Foundation*" February 9, 1999

<<http://www.kff.org/archive/media/entertainment/sex/sex.html>>

³ "Study: 'Electronic baby sitter' overexposes youth to sex, violence," CNN: January 6, 1999

<<http://www.cnn.com/HEALTH/9901/06/media.kids/>>

⁴ As of June 27, 1999, *Friends* is the #1 rated prime-time program for the 1998-99 season, according to Nielson Media Research <www.ultimatetv.com/nielson/season/990627.season.html>. In syndication, the show is also very popular, ranking #4 for the week of June 14-June 20, 1999.

<<http://www.ultimatetv.com/nielson/syndication/990614syn.html>> The show has continued to do well in the ratings in the 1999-2000 season: For example, two of its regular network episodes ranked #8 and #10 for the week of May 1-May 7, 2000 and its syndicated episodes ranked #5 and #18 for the week of January 3-9, 2000, #5 for the week of March 27-April 2, 2000 and #6 for the week of May 22- May 28, 2000. See *Zapit.com* at <<http://tv.zap2it.com/...atings/networks/000501network.html>>

<<http://tv.zap2it.com/...atings/syndication/000103syn.html>>

<<http://tv.zap2it.com/...atings/syndication/000327syn.html>> and

<<http://tv.zap2it.com/...atings/syndication/000522syn.html>>

⁵ It ranks as the ninth most popular program for teenagers during the week of April 5-April 11, 1999

according to Nielson Media Research <<http://www.ultimatetv.com/news/nielson/teens/99045teens.html>>

her, shakes his pool cue in a semi-phallic manner, then drops a billiard ball and says to Rachel, "Excuse me. I seem to have dropped my ball."⁶ On another episode:

Longtime pals Chandler and Monica, in London for a friend's wedding, discuss having spontaneously slept together the previous night.

Monica: "How could we have let this happen?"

Chandler: "Seven times."

Monica: "I blame London ... So, look, while we're still in London, we can keep doing it."

Chandler: "I don't see that we have a choice ... You know, I saw a wine cellar downstairs."

Monica: "Meet you there in two minutes."⁷

This dialogue conveys the message that expressing your sexuality can occur without any emotional or psychological consequences, either to yourself or to your partner. This signals the viewer that they can segment off the physical part of themselves without it interfering with their emotions or mental health. At the essence, this communicates an unrealistic vision of life, as many adults will confirm. As Larry H. Huff of the Family Research Council writes, "... sex for sport is not free, and most folks know it. In the deepest part of us, we know casual sex has an emotional and psychological cost that is far greater than its momentary gratification... In the sobriety of the morning light ... we are all too aware that there is a hole in our hearts that sex alone can never fill."⁸

Another troubling aspect is the time slot of the show. It is aired in the "family hour" at 8 p.m. when many young people are watching television. The show also airs in the late afternoon (in syndication) where many unsupervised young people can tune in.

- ***Dawson's Creek***: This show is on the WB (Warner Brothers) network and specifically appeals to teenagers. It also airs at 8 p.m., part of the "family hour." The show revolves around the lives of high school students. The subplot for many of *Dawson's Creek*'s episodes is sex, as this example indicates: from the 1997-98 season: Episode #103 titled "Discovery." (the former title was "Carnal Knowledge"). "On the day of Dawson's parents' twentieth wedding anniversary, he spots his mother with another man ... Meanwhile, Pacey and Ms. Jacobs continue to grow closer but they are having a hard time keeping their tryst a secret after Dawson unknowingly captures their romance on videotape." The image of Dawson's mother kissing another man is vividly displayed on the website.

The 1998-99 season continued this trend. In "Alternative Lifestyles" (Episode #203), a class project pairing with Dawson provides Jen with the perfect opportunity to use her power of seduction to draw him away from Joey... Meanwhile, Mitch is doing his best to repress his anger towards Gale for

⁶ "Unintended Consequences: With Ratings System in Place, TV More Offensive Than Ever," Parents Television Council Special Report, May 26, 1999 <<http://www.mediaaresearch.org/specialreports/>>

⁷ "Brought To You By...The Sponsors of Prime Time's Most and Least Family-Friendly Programs," Parents Television Council Special Report, February 11, 1999 .

<<http://www.mediaaresearch.org/specialreports/ent/adstudy.html>>

⁸ Huff, Larry H. "Real World Friends," Family Research Council Perspective, January, 1996

<<http://www.frc.org/perspective/pv96aicu.html>>

her affair, but in desperation decides that an open marriage is the only way to get back what they lost.” This episode has a video summary on the show’s website that is full of kissing and seductive embraces. In “High Risk Behavior” (Episode #210) as “Dawson hashes out his entire relationship with Joey in his new script, his real life heats up as a collaboration with Jen on his new movie is thick with sexual tension that may inspire Dawson to act on impulse for once in his life. Meanwhile, Joey has graduated from fruit bowls to male nudes in art class, but may have bitten off more than she can chew when Jack accidentally ruins her classwork and offers to pose for her ...”⁹

A lot of the description of the shows (including titles) link sex, secrecy and danger together, most likely to spark the interest of the targeted teenagers. Examples include: “Discovery,” “Truth or Consequences,” “Express Yourself,” “A First For Everything,” and “Revelations.”¹⁰

Some of the dialogue on *Dawson’s Creek* is very explicit and direct. For example: “Ever notice how the most interesting part [of Porno movies] is the title? You’ve got *Sperminator*, *Romancing the Bone*, *Little Oral Annie* ...” asks one character. “I don’t know why they bother being creative. They should all have the same title: *Women Pacey Will Never Do*.”¹¹ Or the following scene with 16-year olds Joey and Dawson talking about their new romance. Joey says, “Now you have to endure the agony of, ‘Well, I’ve already kissed her, so should we just check into a motel room and go at it like porn stars?’” Dawson replies, “I think I can handle that.” Joey says, “Good, because I know a good hotel.”¹²

There are many problems with *Dawson’s Creek*. First, it should be broadcast at a later time period. The material and situations are adult-oriented and should be reserved for later time slots. Second, the predominance of sex sends out the wrong message to young adults. While sex is a natural and healthy part of life, it should not be the prime obsession of the leading characters of the show. Moreover, sex is a very powerful *part* of ourselves and it should not be separated out and used to attain particular goals. Third, while most teenagers may be able to handle the topics addressed, many younger children cannot. As reporter Jane Hammerslough observes: “While *Dawson’s Creek* revolves around a foursome of 15-year-olds, chances are that the show will ‘skew down’ to reach much younger kids. Already in Westport, Connecticut, it’s the talk of the fourth grade.”¹³

There are numerous other examples of shows where sex is the prime attraction. The genre of the daytime talk show is famous for them, including the Jerry Springer, Ricki Lake and the Sally Jesse Raphael shows. Consider the episodes scheduled for air on July 16, 1999: Jerry Springer: “Sex Star Fantasies!” Sally Jesse Raphael “Top Ten Worst Cheaters,” and

⁹ *Dawson’s Creek* <<http://www.dawsons-creek.com/episodes/>>

¹⁰ Ibid.

¹¹ Ibid, “*Unintended Consequences: With Ratings System in Place, TV More Offensive Than Ever.*”

¹² Ibid, “*Brought to You By...The Sponsors of Prime Time’s Most and Least Family-Friendly Programs.*”

¹³ Jane, Hammerslough. “TV Teens; Raging Hormones: Sex-Crazed ‘Dawson’s Creek’ Is No Place for Your Little Ones,” *The New York Post*, January 18, 1998, p. 51.

Ricki Lake: “You Treated Me Badly ... Today You Pay!” Jerry’s Springer’s guests include “hispanic boyfriend Matt (who is) cheating on white girlfriend Aaron (and) sleeping with white mistress Candy and Candy’s hispanic boyfriend Anthony” and “white bisexual wife Nicole wants Missy to be in a porn movie with her (who is) cheating on white husband Chris (and is) sleeping with Nicole’s white friend Missy.”

Sally Jessy Raphael’s top 10 cheaters include “white husband Steve ... [who is] cheating on white wife Linda [and is] ... sleeping with Linda’s white sister Myra,” and her number one cheater is “white husband Michael (who is) cheating on white wife Allison [and is] ... sleeping with other women and white son Mikey.” Ricki Lake’s guests include “white bisexual Keith [who is] cheating with...white bisexual Chuck [by] sleeping with ...white mistress Sunshine and black mistress Tanya.”¹⁴

All of the above are syndicated shows and are thus shown at different times in different markets. A sample of their time slots in reveals that some of these are shown at times when teenagers are apt to be at home. For example: Sally Jessy Raphael’s show is broadcast at 4:00 p.m. in Baltimore and San Diego. Ricki Lake’s show is on at 5:00 p.m. in Baltimore and Jerry Springer is on at 3 p.m. in Baltimore and Milwaukee and 5 p.m. in San Diego.¹⁵

These shows exploit their guests in order to attract viewers. The public display of emotional pain and anger by the guests panders to the lowest common denominator of humans. These shows have been a ratings success. Jerry Springer has been at the top of the ratings for syndicated shows for the last several years while Sally Jessy Raphael and Ricki Lake have also done well.¹⁶

A number of these talk shows blatantly appeal to people who are troubled and confused. For example, the following message was placed by the Queen Latifah show on a TV talk show website: “If you know a teen who is in a violent relationship— or if you know of a promiscuous teen or a teen who desperately wants to have a baby, e-mail the Queen Latifah show or call...” Another message reads: “Kathie Lee: We put the ‘fun’ in dysfunctional! Visitors who need help, Click here!” The viewer is then connected to

¹⁴< www.tvtalkshows.com/today/>

¹⁵ These time slots were accurate as of July 2000. <www.tvguide.com/> Link to “TV Listings,” “Change Provider” and then type in the zip code for the city.

¹⁶ The Jerry Springer Show was the tenth ranked syndicated program for the week of January 3-January 9, 2000, the eleventh ranked syndicated program for the week of March 27-April 2, 2000 and the twelfth ranked syndicated program for the week of May 22-May 28, 2000. In 1999 it did very well too: it was the fifth ranked syndicated program for the week of June 28-July 4, 1999, the sixth ranked syndicated program for the week of June 14 –June 20, 1999, the fourth ranked syndicated program for the week of May 10-May 16, 1999, and the fifth sixth ranked syndicated program for the week of January 11-January 17, 1999. Sally Jessy Raphael was the 18th highest rated syndicated show for the week of June 28- July 4, 1999, the 22nd highest rated syndicated show for the week of June 14- June 20, 1999 and the 21st highest rated syndicated show for the week of May 10- May 16, 1999, The show did well in 1998 as well. Ricki Lake’s show was the 22nd highest rated syndicated show for the week of June 28-July 4, 1999. Ibid *Zap2it.com* and <www.ultimatetv.com/news/nielson/syndication/> and <<http://www.tvtalkshows.com/archive/ratings/1998/>>.

favorite talk show therapists, including “having your favorite talk show host discipline your teenager,” with a connecting site titled “bootcamp.”¹⁷

These are just the latest examples of talk shows that direct their appeal to the base sexual curiosity of viewers. The most famous recent example is a never-aired Jenny Jones show that led to the death of a guest. In March 1995, Jonathan Schmitz of Michigan was invited to appear on a segment about secret crushes. Schmitz thought he would be introduced to a woman. Instead, he met Scott Amedure, who revealed that he was the one who had the crush on Schmitz. Three days later, Schmitz murdered Amedure. Schmitz was convicted of second-degree murder in 1996. However, his conviction was overturned because of a jury-selection error. He was retried in August 1999 and convicted again.¹⁸

In May 1999, the family of Scott Amedure won a lawsuit against the Warner Brothers owned *The Jenny Jones Show*. The show was found negligent and \$25 million in damages was awarded to Amedure’s family. A sociologist testified that representatives of the show were warned about the possibility of violence when guests reveal personal secrets.¹⁹ In his argument for a conviction, Geoffrey Feiger, one of the Amedure’s family attorneys, stated that “they [the staffers] solicited a victim. They picked a murderer and provided a motive... They did everything in this case except pull the trigger.” The jurors were pushed to “be a voice of justice for us all against an industry full of empty souls and absent consciences.”²⁰

Daytime talk shows have come a long way since Phil Donahue pioneered the format on the national scene in the 1970s. Donahue’s topics (except for his last few years) managed to be informative and educational and his approach entertaining yet non-exploitive. For example, he did shows that showed a baby’s birth, a film of an abortion and a reverse vasectomy and a film about a tubal ligation reconstruction. He also had Masters and Johnson discuss homosexuality and had parents of gays discuss their situation.²¹

In the last 20 years, there has been a change in the way sex is presented on television. The change is both qualitative and quantitative. Quantitatively, there is more sex on television because there are more channels, with the addition of cable and satellite options. Qualitatively, the difference is that sex is used to shock and grab audiences in more ways than the past. In the 1970s, *Charlie’s Angels* was a blatant attempt to attract male viewers through the use of pretty women who sometimes worked with little clothes on. At the

¹⁷ <<http://www.tvtalkshows.com/>>

¹⁸ Jim Suhr, “Jenny Jones defends talk show, saying it doesn’t ambush guests.” *Associated Press*, April 13, 1999. <http://www.foxnews.com/news/national/0413/d_ap_0413_13/.sml> and Bryan Robinson, “Schmitz Receives 25 to 50-year Sentence for ‘Jenny Jones’ Slaying – Again,” *Court TV Online*, September 14, 1999. <http://www.courtvtv.co...s/schmitz/091499_sentence_ctv.html>

¹⁹ Jim Suhr, “Witness Says Show Warned: Professor Testifies She Told Jenny Jones of Potential Violence.” *Associated Press*, April 2, 1999. <<http://204.202.13/116/sections/us/dailyNews/jones990401.html>>

²⁰ Justin Hyde, “Talk Show Ordered to Pay: Jury Awards \$25 Million to family of *Jenny Jones Show* Guest.” *Associated Press*, May 7, 1999. <<http://more.abcnews.go.com/sections/us/dailyNews/jones99050/.html>>

²¹ Phil Donahue, *Donahue: My Own Story* (New York, Fawcett Crest, 1981), pp. 222-3.

beginning of the new millennium, more is needed: the women use sex as their primary focus in each episode. The stranger (or more extreme) the sexual quandary, the better.

The disconnect between sex presented on television and the trend towards more responsible sexual behavior²² is caused by the television shows “need” to shock and compete in the increasingly unregulated entertainment marketplace. Being unfaithful or promiscuous is not different enough to be on television anymore. Instead, a combination of promiscuity, racial differences and possible violent reactions *might* be enough to build a character or show around.

On another level, however, the irresponsible portrayal of sex on television is just a surface indicator of a more deep-seated development in American society. The media’s emphasis on self-observed characters and their narcissistic behavior are the underlying problems. Almost by definition, sex is relational and communicative. However, media representations of sex give the impression that sex is wholly about using other people to satisfy one’s urges, or impulses.

Violence in Movies and Television

Similar to sexual situations, the major concern over media violence is directed at its effect on children and teenagers. Adults, it is reasoned, are mature enough to discern the unrealistic depiction of it in the mass media. Numerous studies have been conducted on how TV violence affects teenagers and children. The American Academy of Child and Adolescent Psychiatry summarizes, that “children may become ‘immune’ to the horror of violence; gradually accept violence as a way to solve problems; imitate the violence they observe on television; and identify with certain characters, victims and/or victimizers...”²³ That group is not alone in their findings. According to the American Academy of Pediatrics, the National Institute of Mental Health, the American Psychological Association and the American Medical Association (in studies conducted from 1990 through 1996), TV violence abetted real world violence.²⁴

The amount of violence that children and teenagers are exposed to in the mass media is almost overwhelming. A recent study found that, on average, children watch 10,000 violent acts each year on television.²⁵ A 1995 National Television Violence Study found that 85% of shows on premium channels, 59% on basic cable and 44% on network stations contained some violence.²⁶

²² According to the National Center for Health Statistics, teen pregnancy rates have declined, births to teens have dropped, the number of teen abortions have declined and the percentage of 15 to 19 year old sexually active girls has dropped. See: Gregg Easterbrook “America the O.K.,” *The New Republic*, January 4 & 11, 1999, p. 21.

²³ “Children and TV Violence,” *The American Academy of Child and Adolescent Psychiatry*, 1999
<www.parenthood.com>

²⁴ Michael Massing, “Movie Violence, Still Playing: The Liberals Just Don’t Get It,” *The Washington Post*, July 4, 1999, p. B-1.

²⁵ “Study: ‘Electronic baby Sitter’ Overexposes Youth to Sex, Violence”

²⁶ Szaflik, Kevin, “Violence on TV: The Desensitizing of America,” Ridgewood (Illinois) High School Online, 1997. <www.ridgenet.org/szaflik/tvrating.htm>

Some recent movies (which often appear later on television) contained large amounts of violence. For example, the plot of 1998's *Very Bad Things* (a comedy) is centered on the mutilation of several men in the aftermath of a bachelor party. 1999's *Idle Hands* has numerous features such as knitting needle driven through a policemen's ear, a severed hand that fondles and strangles a girl and a circular saw decapitation.²⁷ In *Fight Club's*, opening scene, a handgun barrel is lodged in the mouth of the main character.²⁸

The plot of *The General's Daughter*, a top 1999 hit for Paramount, is about the fight for truth in the context of the military justice system. The substance deals with the ramifications of a rape committed long ago. Unfortunately, there is an excessive use of sex and violence, as the following review from *Focus on the Family* makes clear (the names are characters in the movie):

Several times Brenner beats the men he questions. Early in the film, a gun-runner for a paramilitary group comes to Brenner's living quarters and opens fire with a machine gun. The fight that ensues includes more gunfire, hand-to-hand combat and a knife fight. The man is gruesomely killed when Brenner forces his head into the whirling blades of a power boat propeller. The scene lingers as blood sprays and the water turns red. Sunhill is assaulted at the scene of the crime, threatened with rape to teach her a lesson, then beaten. Colonel Moore kills himself with a bullet to the head. When investigators find him, he is sprawled on his couch, dripping with blood. Again, the cameras linger on his mutilated head with grim fascination. The man who killed Elizabeth blows himself up with a landmine.²⁹

It is difficult to link any particular instances of violent behavior to the massive media bombardment of violence on children. However, the April 1999 massacre of Littleton, Colorado, teenagers at Columbine High School sparked many people to consider the possible connections. Added to the previous school shootings of recent years in West Paducah, Kentucky, Jonesboro, Arkansas, Pearl, Mississippi and Springfield, Oregon, a national debate has begun over why some teenagers are so violent and deadly.³⁰ Translated into party politics, the debate has taken on the simplistic "either-or" causal link with the culprit being media violence (by the Republicans) or the lack of effective gun control (the Democrats).

How the mass media represents and communicates through the debate, however, is much more complicated. Even though it seems obvious to conclude that there is *some* type of relationship between media violence and the recent teen killings, a great deal of moderate and liberal people find it difficult to speak openly about the link. In *The Washington Post*,

²⁷ Joseph Lieberman, "Testimony of Senator Joe Lieberman Before the Senate Commerce Committee Hearing on the Marketing of Violence to Children," May 4, 1999
<www.senate.gov/member/ct/lieberamn/general/r050599a.html>

²⁸ Frank Rich, "Washington's Post-Littleton Looney Tunes," *The New York Times*, June 19, 1999
<<http://www.nytimes.com/library/opinion/rich/061999rich.html>>

²⁹ "Plugged In: Film Reviews: The General's Daughter," *Focus on the Family*, 1999
<<http://www.fotf.org/pplace/pi/films/a0006551.html>>

³⁰ The debate has moved into the legal realm with the Jonesboro shootings. A class-action lawsuit has been filed against the makers of some video games. The suit claims that the shooter was influenced to commit his crime by his repeated interaction with the games.

writer Michael Massing recites a recent east-coast dinner party conversation in which he tried to bring up the link and was dismissed with statements such as “You don’t really think that violence in the media has anything to do with Littleton, do you?” or “I don’t see how beating up on Hollywood is going to have any effect on the level of violence in this country.”³¹

Similarly, Bruce Grierson writes in *The Progressive Populist*, “Condemning media violence isn’t very intellectually fashionable these days. It puts you in the camp of puritans, orthodox pressure groups, censorship advocates, tabloid readers and Shirley Jones.” However, the need to speak out is powerful: “... increasingly, good conscience forbids any other position. Something profound is happening out there ... The school yard killing sprees...are of a sort never before seen...The attackers...in virtually every case...(were) obsessed with violent pop culture.”³²

Jerry Springer and the Incentive Gaps

In July 1999, an idea was publicly discussed that crystallized the need for reforms of both the political and entertainment businesses. Jerry Springer was considering running for the U.S. Senate. He has been called everything from a “ratings whore —panderer to an audience of morons [while] conning cretins into performing for the prurient”³³ to “an ‘entertainer’ who appeals to humanity’s basest instincts and urges...”³⁴ Desperate to field an opponent against U.S. Senator Mike DeWine (R-Ohio), Ohio Democrats publicly floated the idea with both Springer and the news media. The headlines in Ohio newspapers were generally negative: The *Cincinnati Enquirer*: “Candidate Springer: Insane or inspired?” The *Cleveland Plain-Dealer*: “Quoth the jackass: ‘Jerry Springer!’” and the *Dayton Daily News*: “How desperate an a party be?”³⁵

The idea of Jerry Springer as a potential candidate for the United States Senate crystallizes the point where the incentive gaps intersect for politics and entertainment. Springer makes his money by exploiting the base human curiosity of sex and violence. His incentive *to* exploit is financial success; his show is top-rated. The incentive *to resist* exploitation is purely moral, and thus not necessarily transferable to economic gain.

What are the incentives *for* Ohio Democrats to consider nominating Springer? Political success: they want to win. Springer has things Democrats want in Ohio: instant name recognition and money. Montgomery County (Ohio) Democratic Party Chairman Dennis

³¹ Massing, p. B-1 .

³² Bruce Grierson, “The Profits of Violence: There’s Gold in Them There Kills,” *The Progressive Populist*, June 1999, p. 12 .

³³ Dick Feagler, “Quoth the jackass: ‘Jerry Springer!’” The *Cleveland Plain-Dealer*, July 21, 1999
<<http://www.cleveland.com/news/pdnews/opinion/y21feag.ssf>>

³⁴ Springer? Say It’s A Joke,” Editorial, *Cleveland Plain Dealer*, July 21, 1999
<<http://www.cleveland.com/news/pdnews/opinion/y21spri.ssf>>

³⁵ Michael Hawthorne, “Candidate Springer: Insane or inspired?” *Cincinnati Enquirer*, July 21, 1999
<http://enquirer.com/editions/1999/07/21/loc_candidate_springer.html> Martin Gottlieb “How desperate can a party be?” *Dayton Daily News*. July 21, 1999
<<http://www.activedayton.com/partne...day/932548465.03342.4182.0197.html>> and Feagler.

Lieberman said, “I don’t think we should write Springer off just because he’s a talk show host The younger generation in particular views his show like they do professional wrestling: It’s not real, it’s entertainment...”³⁶

The main incentive to *resist* the idea of getting behind Springer is embarrassment. As editorial writer Martin Gottlieb writes: Suppose Springer...could defeat [U.S. Senator Mike] DeWine ... Would it really be worth it for the party? Isn’t the party’s self-respect worth more than one seat in the Senate? ... If [the party leaders] use the party’s power to reward a guy who feeds gluttonously off the worst in human nature, they devalue the party even more than if they lose a few elections.”³⁷

There are no incentives besides shame that hold back the all-powerful drive to win elections or gain viewers.

Marketing Incentives That Encourage the Harmful Influence of Sex and Violence in the Media

Marketing is the area where the entertainment industry’s influence is most troubling to American society (in general) and to teenagers and children (in particular). It is worrisome because its influence is subliminal and very difficult to prove, or disprove. Some methods include a moving image or video clip on a website, a quick few words and a clip sandwiched between the end of a TV show and a commercial or a well-packaged movie trailer. This type of appeal is designed to evoke an emotional reaction in the viewer and spark their curiosity. An effective approach is a quick image or/and sound(s) that is either violent and/or sexual in nature. Kevin Szaflik describes how this works with regard to television promotions and violence:

Viewers see violence in the promos encouraging them to watch both the entire announcement and the program it advertises. When they tune in, viewers see violence in the preview at the beginning of the show. During the show, commercial and promos often interrupt violent scenes or occur just as violence is about to erupt to ensure viewers will continue watching.³⁸

Why do so many promos contain sexual and violent images? Time constraints. As Szaflik writes: “Promos have only a very short time to show something interesting enough to attract the viewer. Most promos contain several scenes thus complicating efforts to explain the plot in 10 or 20 seconds. With so little time, the easiest things to feature are those that require little explanation: sex and violence.”³⁹

This type of marketing also occurs in movies. The genre of “teensploitation” movies is a good example. “Teensploitation” movies are designed to attract teenagers with images of perversity, sex and violence. Recent examples include *Cruel Intentions*, *Bride of Chucky*,

³⁶ Hawthorne.

³⁷ Gottlieb.

³⁸ Szaflik.

³⁹ Szaflik.

I Know What You Did Last Summer and *Scream*. These movies are R-rated but are marketed to children under 17. They are advertised on shows and networks that teens watch regularly, such as *Buffy the Vampire Slayer*, *Dawson's Creek* and MTV. Many of the “teensploitation” movies use actors from these television shows in order to create the interest in the movies.⁴⁰

On a broad level, the rise of “shock” advertising is indicative of the depths that marketers will go to. As writer Bruce Grierson states:

For ads to work, the industry is conceding, they have to be rare and juicy and in your face. They have to offer back-of-the-cabinet images few of us have ever seen — like a black horse humping a white one, or a supermodel taking a dump, or a woman aiming a jet of breast milk into another woman's cup of coffee. Advertisers will tell you that shock boils down to truth. Drop a truth-teller into a dinner-party full of genteel liars and shock ensues.⁴¹

In a fundamental way, the pervasive nature of marketing is sabotaging technological solutions to the problem of media sex and violence. A good example of this is the much-heralded V-Chip. At the beginning of 2000, every television set larger than 13 inches manufactured in the United States must be equipped with it. The chip receives encoded information from the broadcast networks, which enables viewers to block out shows they find objectionable based on content and age ratings.⁴² Coupled with a television ratings system that eventually all the networks adopt, the V-Chip is supposed to empower parents and allow them to control what is brought into their home through television.

However an analysis released in June 2000 by the Annenberg Public Policy Center reveals many that the V-Chip has not yet lived up to its promise. The study reports that many parents don't use the V-Chip, are unaware of the television ratings system and don't know how to use the guidelines set up by the ratings system. For example, 70 percent of the parents surveyed believed that “Who Wants To Be A Millionaire” was labeled an educational show that was intended for children.⁴³

Additionally, the ratings system may not become very effective because of the insidious spread of advertising. Increasingly, networks are promoting their shows in the middle of other programs. In a letter to the editor of *The Washington Post*, Susan Schulman writes:

What good is a TV ratings system that does not prevent stations from airing offensive commercials during an otherwise innocuous program? It has become impossible to watch a family-friendly program that would be approved by most ‘parental control levels’ with

⁴⁰ Ibid, Lieberman.

⁴¹ Grierson, Bruce, “Shock's Next Wave,” *Adbusters*, Spring, 1998
<www.adbusters.org/magazine/20/shock.html>

⁴² “FCC Says Most Networks Use Ratings,” *The Associated Press*, July 20, 1999
<<http://www.nytimes.com/aponline/w/AP-V-Chip-Ratings.html>>

⁴³ Jesse J. Holland, “Devices Designed To Block Programming Not Being Used,” *The Associated Press* in *The Lansing State Journal*, June 26, 2000, p. 3A.

or without a V-Chip or to watch sports without being bombarded by offensive ads for UPN or Fox shows that would make even Jerry Springer blush.⁴⁴

Another way marketing encourages the harmful influence of sex and violence is through the movie ratings system. One problem concerns the “R” rating. Even though these films are restricted to people 17 and older (unless a parent or guardian is present), the exclusion is widely ignored. One of the major reasons it is ignored is that “R” movies are advertised on television shows that anyone can watch, thus whetting the appetite for teenagers under 17. Even though President Clinton has spoken out publicly for the ratings system to be enforced, follow through will be difficult.

Additionally, some critics have suggested that the “PG-13” rating is not meaningful, and thus not useful for parents to determine the suitability of a movie. The specific concern is that there is too much violence in many of these films, making them inappropriate for young adults. Particular violent scenes in the recent movies *Wild, Wild West*, *Star Wars, Episode 1: The Phantom Menace* and *The World Is Not Enough* have been objected to.⁴⁵

The Absence of Shame

Increasingly, entertainment shows are abandoning standards in order to attract audiences. This downward movement is only possible in the context of a society that is increasingly shameless. Even though it is almost impossible for Hollywood to embarrass itself anymore, it is trying. According to *The New York Times*, the 1999 fall television season was the rudest and crudest ever: “‘The trend that has turned vulgarity and bodily functions into big-screen entertainment will spread to mainstream television in September.’”⁴⁶ The Fox network in particular is pushing the boundaries of broadcast television. For the fall 1999 season, the network introduced programs such as *Get Real* and *Action*, that were designed to retake television viewers that have switched to more edgy cable shows.⁴⁷ *Get Real* is a “‘nontraditional family series’ about a couple and their three teenage children” in which the husband and wife walk around the house in their underwear.⁴⁸ *Action* is about an unprincipled movie producer and contains unethical behavior, sex and obscenities covered by bleeps.⁴⁹ Distinguished film critic Roger Ebert writes “what used to be called ‘good taste’ is no longer a factor in Hollywood’s screenplay decisions I make this observation . . . as a reporter. I go to all the movies,

⁴⁴ “Unsavory Commercials,” *The Washington Post*, letter to the editor, July 7, 1999: A18
<<http://www.washingtonpost.com/wp-s...te/1999-07/07/0501-070799-idx.html>>

⁴⁵ Andy Seiler, “Critics Pan Warner Bros., MPAA ‘censors’” *USA Today*, July 22, 1999.
<<http://www.usatoday.com/life/enter/movies/1film864.htm>> and Daphne White, “PG-13 Movies In The Late-Bond Era,” *The Washington Post*, January 18, 2000, p. C04.
<<http://www.washingtonpost...rv/style/feed/a59151-2000jan18.htm>>

⁴⁶ “TV Set to Follow Movies, Politics Into Sewer,” *PTC E-Alerts* (Parents Television Council), July 21, 1999, <www.parentstv.org/publications/cyberbites/ecyb19990721.html>

⁴⁷ Bob Tourtellotte, “Fox Network’s New Shows Push TV Boundaries,” *Reuters*, July 22, 1999
<http://dailynews.yahoo.com/headlin.../nm/19990722/re/leisure_fox_2.html>

⁴⁸ Ibid

⁴⁹ Lynn Elber, “Fox Executive Defends Bawdy ‘Action,’” *The Associated Press*, July 22, 1999
<<http://www.newsday.com/ap/rnmpet0p.htm>>

and I observe that ordinary characters in movies made for ordinary people are talking and acting completely without inhibition.”⁵⁰

The fall 2000 season continues the trend towards the absence of shame in television. For example, the Fox network is planning to introduce a show that features comedian Robert Schimmel. According to one critic, his humor is centered on communicating “...sex itself, the mechanics of the physical act.”⁵¹ The popularity of “reality-based” television shows will bring the show *Wanted* to Fox in the future. Its premise has bounty hunters chasing three teams of two players. In the summer of 2000, NBC was negotiating to air *Chains of Love*. Its premise is “a woman...handcuffed to four men for a week, unshackling them one by one until she’s left with her dream date.”⁵²

Shame is closely related to privacy. Television in particular has allowed people, without much difficulty, to view nearly anything without any shame. As psychiatrist Donald L. Nathanson observes, “...we can look at the face of another who is there but who is not there to respond to our gaze ... information previously available only from intimacy is now accessible without the risk of shame.”⁵³ Without the risk of interaction, anything goes. Without the risk of detection, shame becomes impossible.

Incentives and Change

How do some of these cultural conservatives envision change occurring? US Senator Sam Brownback believes that if individuals would start looking at what is in their own home, change could begin. He asks, “What is coming into your home right now? Do you have things that ... are violent, that are of a nature with which you wouldn’t agree, or over the Internet, magazines, video games, movies or television? We are not powerless to stop it...”⁵⁴ A firm hand by parents restricting their children’s media habits could also be useful, according to *Family Research Council* writer Gina R. Dalfonzo: “Saying ‘no,’ ... is ... one of the most important things parents can do for children. The immediate effect... is that it keeps children away from images and messages that may at worst poison their minds and attitudes and have devastating effects on their behavior. It also shows them...that their parents care enough about them to want to protect them from bad influences.”⁵⁵

Self-restraint on the part of Hollywood is another way for change to occur. Like most conservatives, former U.S. Senator and Republican presidential nominee Bob Dole relied

⁵⁰ Roger Ebert, “Raunch Rules in Dumber Summer,” *Chicago Sun-Times*, July 8, 1999

<<http://www.suntimes.com/output/eb-feature/08eber.html>>

⁵¹ L. Brent Bozell III, “Fall Lineups: The Networks In Denial,” May 24, 2000, *Creators Syndicate*

<<http://www.creators.com>>

⁵² Gary Levin, “All Reality, As Far As The Eye Can See,” *USA Today*, July 5, 2000, pp. 1-2D.

⁵³ Donald R., Nathanson, *Shame And Pride: Affect, Sex and the Birth of the Self* (New York, W.W. Norton, 1992), p. 453.

⁵⁴ Sam Brownback, “Teen Violence,” *Congressional Record*, April 26, 1999.

⁵⁵ Gina R. Dalfonzo, “They Are What They Watch: Protecting Kids From Harmful Entertainment,” *Insight* July, 1998 <<http://www.frc.org/insight/s98g2cu.html>>

upon freedom as the ultimate stopgap when he said in 1996: “some in the [entertainment] industry may wish to produce movies that are degrading, debasing, tawdry, second-rate, anti-heroic. But I ask them to spare us ‘the market made me do it’ excuse. This is a free country. No one is forcing you to do anything.”⁵⁶

Emphasizing individual freedom in this way obscures the economic obstacles involved in resisting the temptation to resort to sex and violence. Although the market doesn’t force one to do anything, creating entertainment programs doesn’t occur in a vacuum either: financial backing is needed, distribution outlets are necessary and support from the Hollywood elite is critical. It is in those places where the incentive gaps are most evident. Competition makes it more difficult for values-oriented programs to survive because of the bottom-line mentality. Television ratings are tracked nightly, and high quality (but low-rated) shows are sometimes given very little time to develop an audience. Movie sales are tabulated every weekend, and the scope of their distribution is based on how well they are doing financially. Patience is not a value market economics recognizes.

Dole’s call for individuals and corporations to resist the lure of short-term profit is more difficult than his rhetoric implies. People work within an economic system where businesses — if they are responsible to their owners or shareholders — can’t always resist this lure. Entertainment executives who publicly refuse to bankroll a project out of moral concerns (and ignore a potentially wide or affluent audience) could find themselves out of a job. A company that steadfastly refuses to present programs which appeal to the lowest common denominator might see their ratings decline and thus lose advertising revenue.

Many incentives actually encourage this trend. One of the most important factors that contribute to this mentality is the system for tabulating corporate profits on a quarterly basis. Speculative pressures and the resulting job insecurity of executives contribute to an environment where prosperity must be achieved quickly. The emphasis is on evaluating commercial success in shorter and shorter periods of time. The time that a show is given to develop is increasingly truncated by the need to almost instantly evaluate its appeal to consumers. Overnight TV ratings and weekend movie sales are only two examples. It is not inconceivable that technological changes will speed up the pace of evaluation even further. How many “hits” a web site receives is measured daily, with advertising rates set accordingly.

According to one study, the *fear* that profits might diminish if more restraint and responsibility were considered in making entertainment products doesn’t seem to be justified. An extensive 1999 Dove Foundation study discovered that sex and violence don’t sell as well as some thought. The foundation reviewed over 2,300 films between 1987 and 1997 and found that G-rated films made \$94 million in gross profits, PG films made \$26 million and R-rated films just \$11 million.⁵⁷ Moreover, there are many top-rated television shows that deal responsibly with sex and violence such as CBS’ *Touched by an Angel*.

⁵⁶ Karl Trautman, *The New Populist Reader* (Westport, CT.: Praeger, 1997), p. 92.

⁵⁷ “Culture Facts,” *Family Research Council*, March 11, 1999 <www.frc.org/culture/cu99c2html#title15>

How then can one explain the irresponsible sex and excessive violence in entertainment? Perhaps there is a *belief* that sex and violence sell, a belief that is not born out by the facts. What could be happening, however, is a byproduct of the increasing *speed* at which society (in general) and the media (in particular) is developing. Sex and violence grab people, but perhaps not for long. But if the tools used to measure viewer attention increasingly get more precise (and minute), it can *seem* that sex and violence appeal to people.

Conclusion

Similar to political reform, there are four main concepts that are central to the debate on sex and violence in entertainment.

LIMITS: Limiting the amount, and providing the proper context, of violence and sex in entertainment is critical to addressing the problem. As long as Hollywood feels that there are no effective limits, they will continue to create shows aimed to titillate and shock the viewer.

SHAME: The lack of shame in American society allows Hollywood to continue to create shows aimed to titillate and shock the viewer. Writing in 1995, the late Christopher Lasch asked: “Is there anything our culture still attempts to conceal — anything, that is, that can be exploited for shock value?” He answered that “nothing can shock us anymore, least of all intimate revelations about personal life.”⁵⁸ Had he lived, he might have revised his opinion. 1998’s *Starr Report*, which detailed President Clinton’s affair with intern Monica Lewinsky (and his attempts to conceal it), was popular with the American public. Television reports of the scandal also brought high ratings, indicating there is still a strong market for shock.

FEAR OF LIMITS: With their strong belief in the First Amendment, many intellectuals are reluctant to objectively discuss the implications of sex and violence in the entertainment industry. Their reluctance is based on a fear that a serious, bipartisan (or nonpartisan) discussion could lead to a broad societal consensus demanding restraint and responsibility. First Amendment *purists* have no room for restraint.

COMPETITION: Underlying the trend towards the media debasement of popular culture is a relentless competition for the entertainment dollar. Even though a majority of Americans want restraint, a free market that responds only to the bottom line is what rules the day. Journalist Morton Kondracke describes how this has occurred:

While most Americans might want the tone of society to improve, powerful forces are pushing in the opposite direction — mainly big media, driven by competition, which feed trash to the public and corrupt its taste. Violence, sex and profanity came to dominate the movies, various top producers admit, because of competition from television. In the same way, sex, foul language and tabloidism are dominating television — including TV news

⁵⁸ Christopher Lasch, 1995. *The Revolt of the Elites and the Betrayal of Democracy*, (New York: W.W. Norton, 1995) p. 198.

— because cable TV and Internet gossips are pressuring the networks and mainstream newspapers.⁵⁹

Kondracke then goes on to describe the *link* between the political incentive gap and the cultural incentive gap: “The danger is that an entire dynamic exists to drive the culture ever downward. Personal attack ads turn ordinary citizens off to politics, leaving it in the hands of a minority of hyper-partisans who’ll stop at nothing to destroy their enemies, further alienating the general public.”⁶⁰

Reform Proposals

- Recognize a direct relationship between the business values of Hollywood and the content of the product produced. Any type of honest dialogue on moderating the excess of Hollywood entertainment must begin with this recognition.
- Make a public moral appeal to members of the entertainment community. In July 1999, 56 eminent Americans joined together to issue a public “appeal to Hollywood.” This appeal took the form of an opinion column in the *Los Angeles Times*, with the text simultaneously released on the Internet. A wide range of professions, backgrounds and ideologies were represented. Former Presidents Ford and Carter, entertainer Steve Allen, social critic William Bennett, General Colin Powell, author Stephen Covey and singer Naomi Judd were among the signatories. The appeal calls for:

Industry leaders in all media-television, film, music, video, and electronic games-to band together to develop a new voluntary code of conduct ... The code we envision would (1) affirm in clear terms the industry’s vital responsibilities for the health of our culture; (2) establish certain minimum standards for violent, sexual, and degrading material for each medium, below which producers can be expected not to go; (3) commit the industry to an overall reduction in the level of entertainment violence; (4) ban the practice of targeting of adult-oriented entertainment to youth markets; (5) provide for more accurate information to parents on media content ... and, finally (6) pledge the industry to significantly greater creative efforts to develop good family-oriented entertainment.⁶¹

A strong, non-partisan moral appeal, combined with a clear recognition between the link of profit and vulgarity, could help bring more responsibility to the entertainment industry. The result could be a mass media that is more reflective of American hopes, rather than fears.

⁵⁹ Morton Kondracke, “Commentary: State of the Union Is, Culturally, Increasingly Coarse,” *Naples Daily News*, January 19, 1999 <<http://www.insidenaples.com/today/editorial/d301296a.htm>>

⁶⁰ Ibid

⁶¹ “An Appeal to Hollywood,” <<http://www.media-appeal.org/appeal.htm>>

Chapter 3

TV News

The same forces that corrupt politics and entertainment also contribute to the ethical decay in the current state of TV journalism. Over the last 15 years, a bottom-line mentality has overtaken traditional journalistic standards as the most powerful value in TV news. In order to increase ratings, and profits, TV news has increasingly resorted to “celebrity worship.” The focus is on the personal tragedy of the elite: O.J. Simpson in 1994, Princess Diana in 1997, Bill Clinton in 1998 and John F. Kennedy Jr. in 1999. Extended analysis is offered on any minute detail that is conceivably related to the topic. On many nights, the network TV news shows are indistinguishable from tabloid-style celebrity shows such as *Entertainment Tonight* or *Inside Edition*. Children are not spared this “celebrity worship” either, as the coverage of the death of JonBenet Ramsey and the Cuban boy Elian Gonzalez reveal. To many Americans, television journalism has *become* entertainment.

The Present: Anger and Disappointment over the Lack of Standards

There are many people who have noticed the TV news movement towards tabloidization. Consider the following observations:

- Marvin Kalb, former TV news reporter: “The Chinese wall that used to separate tabloid from traditional news ... [is] breached and in some places shattered. During the O.J. Simpson trial, the *New York Times* used a tabloid as its source for a major story. During Monicagate, ABC used Matt Drudge. The ‘new news’ has emerged on television as endless, coifed chatter ... [and] as ... highly commercial and homogenized packaging of information, whose reliability is often uncertain.”¹
- Richard Cohen, columnist: “By and large, TV news is a joke. The network news shows are now parodies of themselves — anchors standing and anchors walking and anchors pretending to bring you an in-depth report when, half the time, they are rehashing that morning’s paper. Compared with what they once were, these network shows are to journalism what burlesque was to theater. Once proud news organizations now report to accountants. Bureaus all over the world have been closed,

¹ Marvin Kalb, “The Rise of the ‘New News’: A Case Study of Two Root Causes of the Modern Scandal Coverage,” Discussion Paper D-34, October 1998, *The Joan Shorenstein Center on the Press, Politics and Public Policy*, Harvard University <<http://ksgwww.harvard.edu/~presspol/home.htm>>

and great reporters talk like boobs — simple sentences, simple words: simply awful.”²

- Todd Gitlin, author: “How did the news business, also known ... as the profession of journalism, turn into a nonstop strip-search? How ... [do you] account for the sheer volume of the scandal coverage, and the gloating tone of much of it, the gleeful obsession, the overkill and wallowing that [has] seized hold of journalism in these United States?”³

Recent polls suggest that many Americans believe the press has gone too far and endorse restrictions. A 1999 Freedom Forum poll found that there were significant changes in public attitudes towards press freedom. For example, the percentage of Americans who believe that the press has “too much freedom” went up from 38 to 53 percent in two years. Additionally, the percentage of Americans who believe that the press should be regulated by the government went up from 20 to 35 percent in two years.⁴ Even journalists recognize the decline of standards in their craft. A poll released in 1999 by the Pew Research Center found that 69 percent of national journalists agree that the differentiation between commentary and reporting has seriously eroded. This was up 16 percent from 1995. Moreover, almost one-third thought that the media had a growing credibility problem, and over 50 percent thought that they were out of touch with the public.⁵

The dismal condition of TV news is symbolized by four main developments: the proliferation and tabloidization of news magazines, the increased number of political talk shows, an overemphasis (bordering on obsession) on “the big story” and the sharp decline in international coverage. These developments occurred in the deregulatory environment of the last 20 years. The debasement of TV journalism coincided with the sale of the major networks from family-owned enterprises to large business conglomerates and the growth of new technological alternatives to over the air broadcasting, such as cable, satellite and the Internet.

The Proliferation and Tabloidization of News Magazines

For many years, the major networks produced quality news documentaries that emphasized the thorough investigation of single subjects. Although they aired infrequently, shows such as *CBS Reports*, *ABC Close-Up* and *NBC White Paper* were examples of television investigative journalism at its finest.⁶ Today very few of that genre air on network television. Instead, the majority of hour-long news shows are

² Richard Cohen, “Radio We All Need,” *The Washington Post*, August 5, 1999, p.23
<<http://www.washingtonpost.com/wp-s...te/1999-08/05/1161-080599-idx.html>>

³ Todd Gitlin, “The Clinton-Lewinsky Obsession,” *The Washington Monthly*, December 1998, p. 13.

⁴ Alexandria Marks, “Media lose public’s respect in coverage of the ‘big story’” *The Christian Science Monitor*, July 22, 1999, p. 2 <<http://www.csmonitor.com/durable/1999/07/22/p2s2.htm>>

⁵ Dylan Loeb McClain, *The New York Times*, “More Journalists Are Critical Of The Media,” April 5, 1999, p. C9 and “Ticker,” Brill’s *Content* July/August 1999, p. 143.

⁶ Neil Hickey, “Money Lust: How Pressure for Profit Is Perverting Journalism,” *Columbia Journalism Review*, July/August 1998 <<http://www.cjr.org/year/98/4/moneylust.asp>>

magazines, with each segment lasting approximately 15 minutes. The longest running is CBS's *60 Minutes*. Known for analyzing controversial subjects and the hyper-adversarial interviewing style of correspondent Mike Wallace, *60 Minutes* has been a rating leader for many years. The show is very influential, as many of its segments set the agenda of national political debates. Its popularity has translated into high profits for CBS.

Unfortunately, what has been good for *60 Minutes* has been bad for the rest of the network news operations. What *60 Minutes* offers in quality and "hard" news,⁷ the other networks are trying to match with quantity and "soft" news. Seeking to duplicate the profits of *60 Minutes*, ABC and NBC have recently expanded their offerings of newsmagazines. For the 1999-2000 season, CBS offered *48 Hours* and *60 Minutes II* once a week (in addition to *60 Minutes*) while ABC put on *20/20* four nights a week and NBC offered *Dateline NBC* five nights a week. A number of the topics featured are not critical political, social or economic controversies. For example, in August 1999, *48 Hours* aired a segment titled "Hollywood Grins and Bears It: Earning \$10,000 a day may seem like a dream, but for movie star Bart The Bear, that's the going rate." In 1999, *60 Minutes II* aired segments titled "Tom Jones, 60 And Sexy," and "Madonna at 40." On its August 20, 1999, episode, *Dateline NBC* aired "Buying The Right Shampoo: Shampoo bottles make promises, but which brands come through?" *20/20* shows in 1999 and 2000 included "Were You at Woodstock '99?" "Who Killed Superman?" and a show about "parking meters that cheat you." In June 2000, *20/20* placed a blurb on their Internet site soliciting "viewers who refuse to part with their pets despite their allergic reactions" for a future segment.⁸

Network newsmagazines descended into new ethical lows with *20/20*'s March 3, 1999, broadcast. The program featured Barbara Walters interviewing Monica Lewinsky. The presidential mistress did not leave much information uncovered, as the world learned her intimate thoughts and feelings. It seemed like no question was too personal, as Walters asked about the exact location and nature of her physical contact with President Clinton. The program was a ratings blockbuster for ABC: it became the most-watched news show in TV history with 70 million viewers tuning in to some portion of the broadcast.⁹

These shows are profit makers for the networks. They are owned by the news divisions of the networks,¹⁰ consistently attract high ratings and cost less to produce than standard drama or comedy shows.¹¹ But there are major problems associated with them. Besides

⁷ However even *60 Minutes* has not been immune from the trend towards "softer" news. A study of its shows for the first six months of 1998 found that 60 percent were "human interest" pieces, defined as lifestyle, celebrity profiles or "can you believe?" type stories, See Kalb, p. 21.

⁸ The major network web sites are <www.cbs.com>, <www.nbc.com> and <www.abcnews.go.com>. Follow the links to the particular shows and/or archives. Other segments on network newsmagazine shows which were mainly entertainment-based included Diane Sawyer's conversation with Michael Jackson and Lisa Marie Presley and a NBC segment on actress Pamela Anderson. See Hickey.

⁹ "Monica Makes History, Again" <www.abcnews.go.com/onair/2020/2020_990304_monicaratings.htm>

¹⁰ Paul Farhi, "Cable Stays in Running by Rerunning," *The Washington Post*, February 3, 1999, p. A1.

¹¹ Six out of the top 20 highest rated primetime programs for the season from September 21, 1998, to August 8, 1999 were network news shows <www.ultimatetv.com/news/nielson/season/990808season.htm> For one hour, the average drama cost NBC \$1.2 million to produce while *Dateline* only costs \$450,000. See Kalb, p. 21.

the fluffy content, these shows are under constant pressure to ignore standards in order to increase ratings. A good example is how they get guests. The case of landing an interview with Brenda L. Hoster, the first woman to accuse Army Sergeant Major Gene C. McKinney of sexual harassment, is instructive. Sam Donaldson of ABC resorted to writing a letter to her lawyer that stated, “We think what happened to her is both shocking and, sadly, all too common....” He added: “We aren’t ‘just after the ratings’ but after a change in attitudes towards sexual harassment.” A producer for CBS News told Hoster’s lawyer that CBS would fly her anywhere in the world on a waiting Lear jet. In the end, McKinney was acquitted of all sexual misconduct charges.¹² Where were the traditional standards for objectivity and balance?

Another problem is the suppression of news that is potentially embarrassing to the network’s owner. A good example is the case of ABC News and a story about alleged lax hiring practices at Disney’s Magic Kingdom. The particular story involved allegations that Disney allowed the hiring of convicted pedophiles at their hotel and theme park in Florida. Investigative reporting discovered that Disney didn’t authorize criminal background checks on all new hires, which is the standard practice of the theme parks in the region. Sex-crime detectives from two local sheriff departments and the state police, a child abuse activist and local prosecutors told ABC News about particular cases that backed up the allegations. The story was slated to air in September 1998 on *20/20*, perhaps as the season premiere. However, the piece was never broadcast.¹³

Since Disney owns ABC, it is logical to suspect that Disney didn’t want this story to air. There is no direct evidence that top Disney executives ordered the story squelched. The structural relationship between ABC and Disney, however, didn’t require any such explicit action. Instead, there were statements from top officials as to why the story wouldn’t air. ABC News president David Westin cited the inability of the report to meet editorial standards, and Disney chairman Michael Eisner commented that it was inappropriate for ABC to cover Disney because of a potential conflict of interest. Independent reporting of the details of the “non-story” supported the substantiality of the report and revealed contradictions involving the stated reasons for the non-broadcast.¹⁴

This episode reveals the diminution of independence for ABC News. The freedom to pursue and air any topic that is considered newsworthy has been curtailed because of their corporate ownership. As writer Elizabeth Lesly Stevens states, “... in killing the Disney story, [ABC News President] Westin seems to have demonstrated that at ABC, intimidation — whether overt or implicit — of a news organization by a corporate parent is no longer a hypothetical byproduct of a network’s loss of autonomy.”¹⁵

¹² Lawrence K Grossman, “TV News: The Great Celebrity Chase,” *Columbia Journalism Review*, July/August 1998. <<http://www.cjr.org/year/98/4/grossman.asp>>

¹³ Stevens, Elizabeth Lesly, “Mouse-ke-Fear,” *Brill’s Content*, December 1998/January 1999 <http://www.brillscontent.com/features/mouse_0199.html> Note: The original allegations surfaced in a book by Peter Schweizer and Rochelle Schweizer (*Disney: The Mouse Betrayed*, Regenery, 1998).

¹⁴ Ibid.

¹⁵ Ibid.

Additionally, there is a problem of supply and demand with these newsmagazines. Simply put, the abundance of them demands that more and more stories be found. Consequently, a few newsmagazines have resorted to hiring independent “story brokers.” These people search for people who are willing to tell (and hopefully show with home videos or photographs) powerful personal stories on the air.¹⁶ The news value of these shows is obviously compromised by the methods used to secure the segments. Instead of investigative journalism driving the choice of stories, all too often it is the productivity of the middleman that determines what is aired.

A study of how the press reacted during the first six days of the Monica Lewinsky scandal reveals that newsmagazines (among other media) ignored traditional news standards and practices in pursuit of the story. The study, conducted by the Princeton Survey Research Associates and designed by the Committee of Concerned Journalists, was calculated to find out both what the media provided to the public and how well verified the information was. The results showed that several TV newsmagazines used pure speculation for a significant proportion of their statements about the story. 29 percent of *Dateline*, 13 percent of *Primetime Live* and 17 percent of *20/20*’s statements were speculation without sourcing. Newspapers, on the other hand, fared much better. During the same time frame, just two percent of the statements about the story from the *Los Angeles Times* and the *St. Louis Post-Dispatch* and three percent from the *Washington Post* were found to be speculative.¹⁷

The Increased Number of Talk Shows

Before the expansion of cable television in the last 20 years, political talk shows were usually staid half-hour programs that almost exclusively aired on Sunday mornings to tiny audiences. NBC’s *Meet the Press*, CBS’s *Face the Nation* and ABC’s *Issues and Answers* usually invited government officials who answered polite questions with a reasonable amount of dignity and restraint. What these shows lacked in excitement they made up for with substantive discussion of important policy issues.

The contemporary television environment for political talk shows has significantly changed. Today there is a multitude of shows, most of them on cable, which offer continuous opinions of their host and guests. Although there are some shows which offer (most of the time) serious discussion of important political topics, the majority of them are filled with endless speculation and gossip. The trend towards entertainment-based gossip started with how television handled the O.J. Simpson trial and has continued through the coverage of the deaths of Princess Diana and John F. Kennedy, Jr. and the Monica Lewinsky scandal.

The major reason why there are so many political talk shows is the growth of cable. In the summer of 2000, the following cable networks had political talk: Cable News Network (CNN), MSNBC, CNBC and the Fox News Network. (MSNBC and CNBC are

¹⁶ Grossman.

¹⁷ Bill Kovach, and Tom Rosenstiel, *Warp Speed: America in the Age of Mixed Media* (New York: Century Foundation Press, 1999), pp. 100,113.

both owned by NBC.) These networks offered a multitude of choices, as the following shows illustrate. CNN: *Crossfire*, *Capital Gang* and *Burden of Proof*; CNBC: *Hardball With Chris Matthews* and *Rivera Live!* (with Geraldo Rivera); MSNBC: *Equal Time* and *The Mitchell Report* (with Andrea Mitchell); and Fox News Network: *The Beltway Boys* and *The O'Reilly Factor*.¹⁸

The occupational background and professional training of the hosts of these shows reveal that most of them are either lawyers (Greta Van Susteren and Roger Cossack of *Burden of Proof* and Geraldo Rivera), ex-political operatives (Oliver North of *Equal Time* and Bill Press of *Crossfire*) or journalists (Bill O'Reilly, Mark Shields and Chris Matthews). For these people to be effective as lawyers, political operatives or journalists, it is reasonable to assume that they communicate to others with a certain level of dignity and civility. The professional atmosphere in which they persuade, interpret or inform contains basic standards of personal conduct that are known and usually adhered to. For the most part, political talk shows *do not* operate in such an environment.

Increasingly, political talk shows are verbal food fights, where the loudest guests, rudest hosts and most extreme viewpoints are rewarded with return invitations and public speaking requests. Exaggerated emotions (sometimes purely contrived) crowd out complicated, yet thoughtful, analysis. How some of these shows exploited the Clinton-Lewinsky scandal is illustrative of long-term trend in TV news towards sensationalism.

Many critics suggested that, in particular, CNBC and MSNBC were two cable networks that exploited the scandal the most. If you watched these networks, you would have seen a breathless Geraldo revealing President Clinton's political/legal strategy for the next day and quoting an unidentified White House source (repeatedly) as its origin. A perpetually outraged Chris Matthews would go on for hours throwing softball questions at culturally conservative Democrats and exasperated Republicans and allow them to hit them out of the park. The White House was seemingly in crisis every day. In fact it was, according to former MSNBC anchor Keith Olberman, who hosted two shows every weeknight called *The Big Show* and (aptly titled) *The White House in Crisis*.¹⁹

The usual cast became predictable after a very short while as lawyers and political consultants for the Democratic establishment would spar with Republican House members and media-savvy members of key Republican interest groups. As writer David Halberstam puts it, "Talk shows, allegedly public affairs oriented, desperate for even the smallest share of a fractured market, have become ever more confrontational — anxious ... to shed heat instead of light."²⁰ It was great theater. No one could finish a sentence.

¹⁸ See the network web sites at www.cnn.com, www.nbc.com, www.foxnews.com and follow the links to the particular show.

¹⁹ Alicia C Shepard., "White Noise," American Journalism Review, January/February 1999
www.ajr.newlink.org/

²⁰ David Halberstam, "Preface," in Kovach and Rosenstiel, p.x.

One host who realized the depths that he was sinking to was Keith Olberman. Olberman, who was a rising star on MSNBC,²¹ decided to leave at the height of his popularity and return to hosting a cable sports show. In the middle of his decision process, he addressed the 1998 graduates of Cornell University. He publicly questioned the morality of how he was earning his living:

My network starts covering this story 28 hours out of every 24, and six days after the story breaks more people watch my show than watch my old show ... And while I'm having the dry heaves in the bathroom because my moral sensor is going off but I can't even hear it, I'm so seduced by these ratings that I go along with them when they say do this not just one hour a night, but two, thus bringing my own skills and talents to bear on the process by which the snowball runs faster and faster down the hill About three weeks ago, I awakened from my stupor ... and told my employers that I simply could not continue doing this show about the endless investigation, and the investigation of the investigation, and the investigation of the investigation of the investigation. I had to choose what I felt in my heart was right over what I felt in my wallet was smart ... I let them balance for themselves their professional and moral forces ...²²

It is difficult for networks to balance moral and professional forces when the executives who run the networks are beholden to the fiscal bottom line. Television news (however vaguely defined) is no longer allowed to lose money year after year, like they were up until the mid-1980s. When television networks are owned by large, publicly traded conglomerates, it is simply impossible to justify any part of your business as only marginally profitable or, heaven forbid, structurally unprofitable. As Steven Brill points out, market capitalism is the primary cause of this situation: "... today's public company CEOs can say they care about [public service and community standing], and even do care about in the abstract, but which they can't responsibly act on if they are going to keep their pact with Wall Street. On Wall Street, making good money isn't enough. A CEO has to make more each year to keep the stock price going."²³

The profit motive is one reason why there are so many political talk shows. They are inexpensive: they cost less to produce than putting on the results of investigative journalism. As Marvin Kalb writes, "Cable television feasts on ... talk shows, largely because talk has proven to be the cheapest form of television information and entertainment, the combination of which has been dubbed 'infotainment.'"²⁴ The major expense is paying the salary of the host. For example, CNBC's Geraldo Rivera is in the middle of a six-year, \$36 million dollar contract,²⁵ while the Fox News Network's Bill O'Reilly makes \$950,000 a year.²⁶ Their guests are usually more than willing to appear for free, as their appearance helps out their own careers.

²¹ One of his programs, *The Big Show* increased its audience size 148 percent from October 1997 to October 1998. See Shepard.

²² Keith Olberman, "Talk Back: Blame Me Too," *Brill's Content*, September 1998.

<http://www.brillscontent.com/columns/talkback_0998.html>

²³ Steven Brill, "Rewind," *Brill's Content*, November, 1998.

<http://www.brillscontent.com/columns/rewind_1198.html>

²⁴ Kalb, p. 9.

²⁵ Abigail Pogrebin, "Lack Attack," *Brill's Content*, February 1999, p. 97.

²⁶ Eric Effron, "1999 Salary report: Who gets Paid What; Television," *Brill's Content*, May 1999.

<http://www.brillscontent.com/features/salary_0599.html>

NBC is a good example of a network that has helped create this trend. In 1996, NBC put MSNBC on the air, a new cable network that they created out of a joint venture with Microsoft. MSNBC is a 24-hour network based in Secaucus, New Jersey, where it has a technologically sophisticated set, rotating anchors and a website that is constantly updated.²⁷ NBC also owns CNBC, a cable network devoted to financial news in the daytime and talk shows in the evening. NBC's strategy is to create synergy among MSNBC, CNBC and NBC. Many of their news shows are cross-promoted, and a number of reporters and anchors work on all three networks. This arrangement has proved to be a successful financial move for NBC, as NBC News made a \$200 million profit for the network in 1998. This was 40 percent of the network's overall profit and more than four times as much as ABC News and 10 times as high as CBS News.²⁸

A negative effect of the proliferation of these political talk shows has been to increase the temptation for more traditional ones to adopt tabloid mores. For example, as Geraldo, the Internet's Matt Drudge or Chris Matthews informed their viewers about rumors and innuendoes concerning Monicagate, these same rumors became "legitimate" news and were discussed on shows such as *Meet the Press*. Some of these rumors turned out to be outright false.²⁹ In the quest for the story, competitive pressures trumped traditional journalistic standards on sourcing.

In essence, many of these talk shows are simply vehicles for argument and gossip. An illustrative example is Chris Matthews' *Hardball*, as Bill Kovach and Tom Rosenstiel write: "[The show] ... has no grounding in reporting, no basic news function, is not designed to elicit facts or explore issues with policymakers [the] program, and ... [the] selection of guests, is grounded in argument."³⁰ While gossip is hardly a new phenomenon, the wholehearted embrace of it by much of television journalism is potentially damaging to democracy. As writer Todd Gitlin observes: "Gossip displaces news When gossip metastasizes, myriad important matters go unattended. As the media surrender their sense of proportion, a bedazzled people grow disconnected from democratic self-governance."³¹

Looking for the Next "Big Story"

Another negative development, which has occurred over the last few years, has been TV news' increasing focus on finding, and exploiting, the "big story."³² The journalistic roots of this phenomenon go back at least to 1979, when ABC News turned the story of the

²⁷ Pogrebin, p. 95.

²⁸ Kovach, and Rosenstiel, pp. 64

²⁹ For example, conservative activist Ann Coulter made the inaccurate claim that Clinton slept with more interns besides Monica Lewinsky on *Rivera Live!* on January 23, 1998, and repeated by Matt Drudge on *Meet the Press* on January 25, 1998: Ibid, p. 29.

³⁰ Ibid, p. 71.

³¹ Todd Gitlin, "Why Gossip Can Be Hazardous," *Brill's Content*, May 1999.
<http://www.brillscontent.com/features/gossip_gitlin_0599.html>

³² Bill Kovach and Tom Rosenstiel describe this trend as the hunt for a "blockbuster story." Kovach and Rosenstiel, pp. 74-6.

American hostages held in Iran into a nightly news show with Ted Koppel.³³ For over a year, the media (at *first* with little protests from the Carter White House) made this the number one story in the nation. The political symbolism of the evolving situation was analyzed and debated nightly until the crisis ended with the hostages' safe return on January 20, 1980. ABC News's *Nightline* was born out of that crisis.

Although the media reported on, and analyzed, several "big stories" throughout the 1980s (Iran-Contra for instance), a couple of major developments in the late 1980s began to change both the quality, and quantity, of the coverage. The end of the cold war and the buying of the networks by large conglomerates began to shift TV news from responsible analysis of important political events to frivolous speculation involving the social side of politics. The collapse of communism in the Soviet Union left a large news hole for journalism. The emotional intensity of the cold war conflict was soon filled by commensurate domestic conflicts, which centered on the personal and moral failings of celebrities. When conglomerates bought the networks, there was pressure for the news divisions to make profits. NBC is the network which best illustrates the trend towards a focus on the "big story."

According to writer Abigail Pogrebin, exploiting one important story is the deliberate strategy of NBC News President Andrew Lack: "Take the 'Big Story' of the day and stay on it — whether it's Monica, Jon Benet Ramsey or Marv Albert. If you leave it for a moment, don't venture far. Saturation coverage."³⁴ Done in this manner, a single story can increase revenues for a network like the Iran hostage crisis did for ABC.³⁵ Because NBC, CNBC and MSNBC follow this strategy, a competitive environment has been produced which tempts the other television networks to mimic their manic coverage. There is a fear in TV newsrooms that if a network follows traditional journalistic standards, and doesn't continue to focus on one story when there is nothing new to report, then they might be left behind. This trepidation quickly leads TV news into hyper pack journalism, where accuracy, perspective and context are often lost, as the following example illustrates.

On January 25, 1998 (which just happened to be Super Bowl Sunday), Jackie Judd of ABC News reported on *This Week* that there might be witnesses to a presidential encounter with Lewinsky. Her sources were either unknown or unnamed. Later that day, NBC decided to interrupt its pre-Super Bowl telecast with news bulletin. The bulletin essentially repeated the morning allegations, adding nothing new to the story. Chief NBC News anchor Tom Brokaw admitted that competitive pressure was behind their decision.³⁶

³³ In 1999, former PBS broadcaster Robert MacNeil described how this all started in speech to journalistic fellows at the Media Studies Center. See Maya Dollarhide, "Blather, rinse, repeat: The vicious cycle of 'obsessive news,'" *The Freedom Forum Online*, April 27, 1999. <www.freedomforum.org/professional/1999/4/2/macneil.asp>

³⁴ Pogrebin, p. 97.

³⁵ Stephen Brill, "Pressgate," *Brill's Content*, August 1998, p. 134.

³⁶ Kalb, p.18.

The operating principle for much of contemporary journalism seems to be to go with a story as long as other news outlets are reporting it. Known as being “out there,” this practice justifies the airing of numerous rumors and innuendoes and helps *create* a big story. For example, during the week beginning January 21, 1998 (the very early stages of the Clinton-Lewinsky scandal), 75 percent of the questions directed to Mike McCurry, presidential press secretary, centered on the scandal. The environment of the Washington press corps bordered on hysteria, as Marvin Kalb observed: “The pursuit of scoops reached wild levels of distortion and exaggeration with one reporter out-sensationalizing another, using unchecked sources and rarely pausing to check a ‘fact.’ Even the best of journalism ran with the Monica story as if no other existed. *Nightline* dedicated every program for three weeks to different aspects of the Monica scandal.”³⁷

A study by the Committee of Concerned Journalists found that during the first six days of the Clinton-Lewinsky scandal, 41 percent of the cable news, newspaper reporting and network news coverage was pure speculation, judgment, opinion and analysis.³⁸ With so few facts known, interpretation overwhelmed newsgathering. Although the national press did not create the scandal, it can be argued that they helped created the *crisis*. Several TV news broadcasters communicated a sense of urgency. For example, with the scandal less than a week old, ABC’s Cokie Roberts said, “There’s only one real question that’s being asked in Washington this week, and that is, can President Clinton survive?” On the same show, ABC’s Sam Donaldson authoritatively declared, “If he’s not telling the truth, I think his presidency is numbered in days. This isn’t going to drag out.”³⁹ In a similar fashion, with the scandal only a few *days* old, CNN interrupted their regular programming and aired a “breaking news” bulletin anchored by White House correspondent Wolf Blitzer. Blitzer stated that “... several of his [Clinton’s] closest friends and advisers ... now tell CNN that they believe he almost certainly did have a sexual relation[ship] with ... Lewinsky, and they’re talking among themselves about the possibility of a resignation ...”⁴⁰ Of course, even though Clinton didn’t tell the truth, he didn’t resign as the story dragged on for over a year.

Even as the press was continuing its tabloid approach to the story, a large segment of the public suspected that the press was jettisoning its standards. A poll conducted between January 30 and February 4, 1998, found that:

- Only 34 percent believed that “the Clinton-Lewinsky scandal is important enough to deserve the level of coverage it has received.”
- Sixty-three percent disagreed that “it’s part of a journalist’s job to speculate about what might happen next in developing a story like this one.”

³⁷ Ibid, p. 9.

³⁸ Kovach and Rosenstiel, p. 17.

³⁹ Gitlin, “The Clinton-Lewinsky Obsession,” p. 13.

⁴⁰ Kalb, p. 17.

- Only 30 percent believed that “the news media are taking care to make sure their facts are correct before reporting news on this story.”⁴¹

The *proliferation* of polls has also contributed to the media’s overemphasis of the Lewinsky scandal. A 1998 Media Studies Center survey found that there were significantly more poll questions asked about the Lewinsky scandal in 1998 than there were during the whole Watergate scandal. Specifically, 1,150 poll questions were asked about the Lewinsky scandal in the first 10 months of 1998 while there were only 555 poll questions asked about Watergate during the period between June 1972 and August 1974.⁴² TV news organizations obviously reported the results of these polls as the story progressed.

In the summer of 1999, the rumored past drug use of Texas governor (and Republican presidential candidate) George W. Bush dominated the national press for a while. Similar to the Clinton-Lewinsky scandal, rumor and innuendo drove the coverage as the press rushed for the story. The trouble began for Bush when he refused to answer a *New York Daily News* survey given to all the Republican presidential candidates which asked about any previous cocaine use. Since all the other candidates answered in the negative, an immediate suspicion about Bush arose. The non-answer, combined with Bush’s public admission of a wild past and past alcohol abuse, reinforced an unverified supposition that he must have tried cocaine.

But the problem is that no one has publicly claimed that Bush used cocaine. The whole story is pure speculation. In fact, *The Washington Post* and *The Wall Street Journal* did a lot of investigative reporting about Bush and found no evidence of past cocaine use.⁴³ Under later questioning, Bush implied that he has been drug-free since at least the age of 28. However that doesn’t stop some of the national press from hounding Bush and recycling the rumors. Norman C. Miller, the former national editor of the *Los Angeles Times*, describes how some of the press is handling this situation:

Somewhere deep in the stories or as an aside on broadcasts, reporters note that there is no evidence that Bush actually used cocaine ... Then they blithely continue discussing the unsupported question, almost gleefully noting that under pressure Bush has angrily said he could pass a government security check because he didn’t use cocaine during the past 25 years. Not good enough, the reporters immediately add, spinning and respinning the ... comments from rival politicians.⁴⁴

Another negative byproduct of journalists’ constant search for their next “big story” is a rise in attack, or “gotcha” journalism. The modern version of this type of journalism was born with the Watergate scandal, as reporters aimed to either trap a politician in a lie or/and get them to admit some unpleasant truth. *Washington Post* reporters Bob

⁴¹ The University of Connecticut for the Media Studies Center, as reported in *The Polling Report*: Vol. 14, No. 4, February 23, 1998.

⁴² Polls and Scandals, From Nixon to Clinton,” Media Studies Center, December 1998. <www.freedomforum.org/newstand/1998/1998/12/3polling.asp>

⁴³ Howard Kurtz, *Crossfire*, August 20, 1999 <<http://cnn.com/TRANSCRIPTS/9908/20/cf.00.html>>

⁴⁴ Norman C Miller, “Whatever Happened to Checking Out the Facts?” *Los Angeles Times*, August 25, 1999. <<http://www.latimes.com/HOME/NEWS/COMMENT/t000075808.html>>

Woodward and Carl Bernstein's persistence and determination to reveal the truth, as well as their celebrity status conveyed by their portrayal by Robert Redford and Dustin Hoffman in *All The President's Men*, were powerful factors in attracting young people to journalism.

Many reporters now, however, are more interested in satisfying their own egos than in investigating the specific details of complicated, yet important, *public* policies. Their careers could be improved by *indiscriminately* investigating public figures. As George Bachrach, former Massachusetts state senator, observes, "... some young journalists ... determined that their path to glory ... came from bringing back a scalp. A new breed of 'attack dog' journalists were born questioning every politician on every indiscretion, major or minor, public or private, without distinction." This damaged journalism's integrity because "a whole new cottage industry of print and television tabloids arose increasing pressure on mainstream journalists to blur the critical line between information and titillation, relevancy and privacy."⁴⁵

Unfortunately, much of the press interpreted the lessons of Watergate simply in power terms (*The Washington Post* brought down a president) rather than in institutional terms (*The Washington Post* exposed serious government corruption and helped restore balance between the separate branches of government). It is evident that Bush, like Bill Clinton and Gary Hart before him (among countless others), was caught in the middle of this journalistic practice.

The Sharp Decline in International Coverage

As the commercial press has increased their coverage of personal scandals in recent years, there has also been a noticeable decline in international coverage. According to a report by Harvard University's Shorestein Center, there has been a decline in international news on evening news programs of almost 33 percent between the 1970s and 1995: only 13.5 percent of the programs were devoted to international affairs in 1995 while 45 percent of them had foreign stories in the 1970s. This diminution of coverage can be attributed to many factors, including the closing of many international bureaus by the major networks in the mid-1980s in order to save money,⁴⁶ and the widespread belief among network news divisions that foreign stories do not attract viewers.⁴⁷

This lack of global coverage cannot be attributed to a scarcity of significant stories. During 1998, for example, while much of TV news was covering the Clinton-Lewinsky scandal, the worldwide economic contagion that was triggered by Asia and then spread to Russia and parts of Latin America received very little serious analysis. There were no cable shows on MSNBC and CNBC that explored how the economic crisis could affect

⁴⁵ George Bachrach, "What Bob Woodward wrote — and the 'gotcha' journalism he wrought," *Boston Globe*, July 22, 1999. <http://www.boston.com/dailyglobe2/...otcha_journalism_he_wrought+.shtml>

⁴⁶ Hickey.

⁴⁷ Steven Brill, "Q & A : Dan Rather On Fear, Money And The News," *Brill's Content*, October 1998 <<http://www.brillscontent.com/partner/rather2.html>> and Pogrebin, p. 94.

U.S. defense strategy, world economic growth and trade, regional balances of power or important geo-political cultural and ethnic tensions.

At least for a while, international coverage in 1999 increased because of the NATO and American military action in Kosovo. However, most of the coverage was crisis-oriented and devoted to analyzing the strategy and tactics of the military conflict or the plight of the refugees. Like the coverage of the Clinton-Lewinsky scandal, there were dueling experts on the political talk shows. Instead of lawyers and political operatives, there were retired generals and foreign policy analysts.

The significant questions of context and history, however, were not the subjects of most of the daily newscasts or talk shows.⁴⁸ Wasn't there a responsibility for the networks to broadcast politically mature analyses of how this conflict fits in with the U.S. role in the world? Instead of analyzing the Kosovo crisis in terms of how it would impact President Clinton's reputation in history, or how it might detract attention from his impeachment, the networks could have used this episode to engage the American public in a broad debate on American foreign policy.

Even though a wide debate over the future of foreign policy could have enlightened the political discourse, there was no incentive for TV news to begin one. Because foreign policy is complicated, distant and full of nuances and ambiguities, TV news shies away from reporting it in much depth. Instead, the "new realities" of today's media are biased towards meeting short-term financial objectives, which favor human-interest stories and the "dueling experts" mode of political talk shows.⁴⁹

Because much of political decision-making is *driven* by television coverage, a bias colors foreign policy making when television overemphasizes the visually compelling, human-interest angle of international stories. According to Fareed Zakaria of *Foreign Affairs* magazine:

Increasingly the coverage of foreign news ... tends to focus on a human-interest, personal, emotional filter ... It is difficult to cover an issue in its complexity when you are dealing with that kind of human-interest story ... To what extent ... [are vivid television images] distorting our understanding of what we are doing now? We need a much more nuanced picture of what is going on.⁵⁰

Understanding the significance of international events is almost impossible when they are presented only at crisis points, and without historical context. But what else can one expect when there are less network bureaus overseas and, consequently, less network reporters on the ground that can put the news in context? As author Leslie Cockburn says, "The bad part of closing bureaus is that everyone becomes a fireman. Rather than having

⁴⁸ However a number of the networks had websites that allowed the viewer to receive information about the history and context of the conflict. See Carol Guensberg, "Online Access To The War Zone," *American Journalism Review*, May 1999. <<http://ajr.newslink.org/ajrcarolmay99.html>>

⁴⁹ Steven Brill, "War Gets the Monica Treatment," *Brill's Content*, July/August 1999, pp. 106-7.

⁵⁰ Ruth O'Brien, "Reporters: We may never get a full picture of Kosovo," Media Studies Center, *Freedom Forum Online*, June 25, 1999. <www.freedomforum.org/international/1999/6/25kosovo.asp>

these great [journalists] out there who know the story well, it just means [journalists are] parachuted in.”⁵¹

Important stories that are *ongoing*, such as the international community efforts to keep the peace in Bosnia, rebuild Kosovo, monitor the transition to democracy in East Timor or economically stabilize Russia don’t merit as much attention as when violence erupts as part of these stories. In 1996, author James Fallows said, “The world events that appear on American TV mainly involve famine, warfare, shellings, communal violence, and other spasmodic episodes that evoke an all-or-nothing response from the United States — short-term humanitarian or even military intervention, or simply forgetting about it.”⁵² Unfortunately, the recent trends in TV news towards tabloidization have only served to verify his observation.

Financial Incentives: Appealing to the Lowest Common Denominator

What incentives did TV news have in restraining their coverage of the Clinton-Lewinsky scandal? Absolutely no monetary ones. The only restraint would have been self-imposed and difficult to justify financially. In reality, there were incentives operating in the opposite direction. Ratings for news shows that devoted hours and hours to the scandal were higher in 1998 than non-scandal coverage in 1999.⁵³ The Lewinsky scandal has brought in a tremendous amount of money for CNN, Fox News, CNBC and MSNBC. The advertising company Eisner Associates estimated that \$80 million was earned by all the networks due to Monicagate.⁵⁴

TV news shows justified their saturation coverage by pointing out their increased ratings. More people are watching, they said, so the public must be interested in the story. This “we are only giving the people what they want” argument allows TV news to rationalize their caving into crass consumer interest and increase their profits without necessarily adhering to their professional responsibilities. Many, such as former NBC News President Reuven Frank, believe that news organizations should take a more discriminating attitude in defining news: “This business of giving people what they want is a dope pusher’s argument. News is something people don’t know they’re interested in until they hear about it. The job of a journalist is to take what’s important and make it interesting.”⁵⁵

⁵¹ Ruth O’Brien, “Offer more foreign news, author advises editors, producers,” Media Studies Center, *Freedom Forum Online*, June 12, 1998. <www.freedomforum.org/prfessional/1998/6/12cockburn.asp>

⁵² Fallows, p. 199.

⁵³ Prime-time ratings for August 1999 showed that CNBC, MSNBC and CNN were down 53%, 14% and 47% respectively from August 1998. An exception is the Fox News Channel, which showed a 9% increase. See Peter Johnson, “Inside TV,” *USA Today*, September 1, 1999, p. 3D.

⁵⁴ “Monica Means Business,” *CNNfn*, March 4, 1999
<http://cnnfn.com/hotstories/bizbuzz/9903/04/monica_pkg/>

⁵⁵ Hickey.

Financial Incentives: Less Restraint, Less Editing

Increasingly, TV news exercises less restraint. There have always been news organizations that didn't hesitate to use rumors, anonymous sources, predictions and speculation as part of the information that they communicated to the public. However, in recent years, there has been more news organizations that have given in to these impulses and refused to use proper restraint. Journalistic restraint is closely related to editing; strong editing can make the final news product balanced and significant by eliminating excessive or unimportant aspects. Editing forces the news organization to prioritize and choose what is most significant. By doing so, the editing process restrains the tendency to go with the most simplistic aspect of the story, whether or not it is the most significant. One of the main characteristics of tabloid news is its appeal to simplistic themes.

While talk is cheap, good editing is not. And it is editing where the networks have cut many positions in the last 15 years. The decisions to de-emphasize editing, while helping the financial bottom line, have also devalued the product they present to the viewer. This depreciation has eroded the integrity of TV news. As Dan Rather observes, "[Editing] ... is the bedrock of integrity-filled television, to have an editing system in place that is not perfunctory ... [and] is editing in fact ... is increasingly difficult ... [because of] cost ... the pressure is on for cost everywhere, and one of the easiest places to cut is in the editing..."⁵⁶

Conclusion

The same forces that make campaign finance reform and reform of entertainment shows difficult is at work with television news. The pressures of economic competition, effectively unrestrained by societal mores or government regulations, are working to push down the quality of TV news. Specifically, the three main concepts central to the debate on tabloidization are competition, speed and fear.

COMPETITION: With the competition of cable and the Internet, network news shows have lost a large portion of their audience in recent years.⁵⁷ As the battle for ratings among TV news programs intensified, traditional journalistic standards have become more difficult to uphold. Too often, decisions on what to present are made based on the expected Nielson ratings. This has led to a "marketplace cynicism," where TV news concentrates on the "big story" to the detriment of other news. Consider this comment former CBS executive Van Gordon Sauter made over dinner a few years back: if he owned a television station, he would inform his staff that everyone must be developing an O.J. story 24 hours a day if they wanted to keep their jobs.⁵⁸ It is not inconceivable that

⁵⁶ Brill, "Q & A : Dan Rather On Fear, Money And The News."

⁵⁷ A 2000 survey done by the Pew Research Center reveals some of the specifics of this trend. For example the percentage of people who regularly watch a nightly news broadcast declined 30 percent from 1994 to 2000 (from 60 to 30 percent.) See Mark Jurkowitz, "Broadcast TV New Losing Viewers To Internet, Study Says," *The Boston Globe*, June 12, 2000.

<http://www.boston.com/dailyglobe2/...wers_to_Internet_study_saysP.shtml>

⁵⁸ Phillip J Trownstine, "Cynicism and Skepticism" a speech delivered at the National Press Club to the *Committee of Concerned Journalists*, March 27, 1998. <www.journalism.org/cynicism1.htm>

similar conversations had occurred in recent years with regard to Princess Diana's death, the yearlong ordeal of Monicagate and the Elian Gonzalez saga.

The great unarticulated assumption is that most forms of competition are, at least in the long run, good for American society. Freedom and competition are thought of as twin pillars, supporting the same democratic house. But what price is American society paying for this? Could it not be argued that the mindless competition in TV news, which has led to an acceleration of tabloidization, has contributed to the debasement of American public life? If TV news (which is the way most Americans receive their news on current events and politics) will not treat public affairs seriously, then why should its viewers?

SPEED: Because of technology, there is now a 24-hour news cycle. In the past, stories that would have been checked with multiple sources for accuracy, or even "slept on" to determine their significance, are now routinely put on the air instantaneously. Now it is up to the viewer to sort through all the information on the air and decide which are facts, speculation, and exaggeration. Too often, all of these are combined into one broadcast (or one sentence), making it difficult for the viewer to get a reasonably true picture of the event. When combined together, speed and competition produce TV news that is frenzied, often distorted and sometimes misleading.

Speed is assumed to be a positive force in American society because it produces efficiency. At its best, technological progress is used by humans to further goals that we choose for our society. But what positive goal is American society heading towards when speed is mixed with television news? On the contrary, the presence of technological speed in a political environment of media deregulation is moving TV news faster towards greater triviality. If the current trend continues, there will be more and more political talk shows devoted to analyzing increasingly unimportant events. By 2005, will there be 20 political talk shows analyzing the political significance of which private school an aspiring politician is considering sending his eight-year-old child to?

FEAR: One of the most basic fears, whether of individuals or organizations, concerns self-preservation. Because of the need to show profits, TV news organizations are now subject to the same market pressures that other television programs face. This reality helps create an atmosphere of fear in TV newsrooms: if ratings don't improve, people might get fired. It is assumed that putting out a more tabloid version of the news is the avenue towards higher ratings. CBS news anchor Dan Rather observes:

Fear runs strong in every newsroom in the country now ... one fear is common, and that is the fear that if we don't do it, somebody else will, and when they do it, they will get ... a few more viewers than we do. The Hollywoodization of the news is deep and abiding ... it has become persuasive, the belief, that to be competitive, you must run a certain amount of celebrity news.⁵⁹

One can view fear as simply the loss of nerve or plain cowardice. Fear, however, can also be looked at as being derived from respect. The fear that your program will lose viewers is based on a well-grounded *respect* of the power of the marketplace. The power of

⁵⁹ Brill, "Q & A: Dan Rather on Fear, Money and the News."

market capitalism, unconcerned with democracy's requirement of an educated public, creates this fear of quality.

Reform Proposal

- Recognize a direct relationship between the business values of TV news and the content of the product produced. News programs on public broadcasting would be expanded in order to counteract the creeping tabloidization of private, profit-driven TV news programs.

The news programs on American public broadcasting are usually thorough, fair and well respected by a majority of the public. Even though many critics charge that PBS is an elitist institution, surveys have shown that their audience is very similar to the commercial television audience.⁶⁰ Unfortunately, as the airwaves get more crowded with commercial fare, public television news programs are becoming one of the few places where basic journalistic standards have been maintained. Congress should consider expanding public broadcasting and create a PBS 2, similar to the way Britain has a BBC 1 (British Broadcasting Company) and a BBC 2. New programs could include a weekend version of the nightly *NewsHour With Jim Lehrer*, a morning news program, afternoon public affairs show devoted to political and economic analysis and a program that focuses exclusively on the political developments at the state level. In 1999, *The New York Times*, WNET, WETA and MacNeil-Lehrer Productions announced plans to develop a national late-night news program (11 p.m.) for public stations starting in 2000. Titled *National Edition*, this program would devote half of its broadcast to hard news and the other half to business, technology, culture and arts.⁶¹

Another proposal would be to create a federal trust fund devoted exclusively to public broadcasting. The purpose of this fund would be to accelerate the movement of public broadcasting towards genuine independence. This fund would need a substantial federal investment up front (\$4 billion) in order for it to begin to produce enough interest to make the fund proposal effective.⁶² The reason why independence is so critical for the future of public broadcasting is because two powerful forces, commercialization and government, are undermining its purpose of providing quality programming that doesn't necessarily appeal to the lowest common denominator.

The biggest threat to PBS is from commercialization. Increasingly, news programs on public television feel pressure to give in to the advertising mentality of most of commercial television. A recent example is *Washington Week in Review*. Started in 1967, it is one of the most well respected political talk shows in Washington. The show is known for top journalists actually *reporting* on current events, rather than the usual cable fare of shouting, speculation and hype. However, in early 1999, the contract of Ken Bode

⁶⁰ William F. Baker and George Dessart, *Down the Tube: An Inside Account of the Failure of American Television* (New York: BasicBooks, 1997), p. 235.

⁶¹ "Bylines: New Nightly News," *American Journalism Review*, August 24-30, 1999.
<<http://ajr.newslink.org/ajrby132.html>>

⁶² Baker and Dessart, p. 260.

(the show's moderator) was not renewed. Bode had wanted to remain but did not because of proposed changes that were being developed for the show. What were those changes? A new producer wanted the opening views to be shot by handheld cameras, creating an MTV look. Bode also thought that the new producer wanted to have two regular panelists on, one liberal and the other conservative.⁶³ It is obvious that the changes proposed were meant to make the show more like commercial political talk shows.

There was a swift, and negative, reaction to Bode's departure. Thousands of e-mails were sent to Bode and WETA (the public station that produces *Washington Week in Review*). According to Bode, the e-mails said, "If what WETA is trying to do is give us more shouting on television, we don't want it. We've got plenty on cable. We don't need edge, attitude and opinion."⁶⁴ In August 1999, NBC News correspondent Gwen Ifill was expected to be named the new permanent host of *Washington Week in Review*. She was also offered the position as the chief national correspondent of the *NewsHour With Jim Lehrer*. It is expected that, as part of her contract, she will continue to work for NBC throughout 2000. Even though NBC executives did not wish to see her leave, they were reportedly happy that she could continue to do analysis on MSNBC and *Meet the Press* while working for PBS.⁶⁵ But one critical question is left unasked and unanswered: Will she use the same journalistic standards of MSNBC (gossip, speculation, etc.) when she hosts *Washington Week in Review* and reports on the *NewsHour With Jim Lehrer*?

There are other dangers of commercialization for public broadcasting. In 1999, it was publicized that many PBS stations had sold lists of its donors to political organizations in order to raise money. This sparked criticism from members of Congress, negative editorials and a strong rebuke from the PBS to its member stations. Many Republicans used this episode to call for an end to federal support of PBS. But U.S. Rep. Edward Markey (D-Massachusetts) suggested that would be unwise. If Congress reduced or eliminated federal funding, more commercial support would be needed and that would ruin what he calls "an electronic oasis in the vast wasteland of commercial broadcasting."⁶⁶

Others accuse PBS of corporate biases. For example, according to a 1998 study, public broadcasting coverage of the economy is viewed disproportionately through the lens of business. Of the economic stories analyzed, 75 percent of the sources were from the investment or corporate perspective, 1.8 percent came from the point of view of the general public, 1.5 percent from labor unions, 1.1 percent from non-professionals and 0.4 percent from consumer advocates.⁶⁷ A specific example is the Archer Daniels Midland

⁶³ Shepard, Alicia, "Unplugged," *American Journalism Review*, June 1999
<<http://ajr.newslink.org/ajrlisajune99.html>>

⁶⁴ Shepard.

⁶⁵ Howard Kurtz, "Ifill Poised to Host 'Washington Week,'" *The Washington Post*, August 18, 1999, p. C01. <<http://www.washingtonpost.com/w...te/1999-08/18/1181-081899-idx.html>>

⁶⁶ Katherine Q. Seelye, "At Least 28 PBS Stations Shared Donor Lists With Political Organizations," *The New York Times*, July 21, 1999. <<http://www.nytimes.com/library/politics/camp/072199pbs-donors.html>>

⁶⁷ William Haynes, "The Cost of Survival: Political Discourse and the 'New PBS,'" as reported in New Study: Public TV More Corporate, Less Public Than Ever, *Fairness & Accuracy in Reporting (FAIR)*, June 28, 1999. <www.fair.org/press-releases/pbs-release.html>

(ADM) company. This huge agribusiness was the target of a large federal antitrust lawsuit in the 1990s and is cited as a prime example of corporate welfare. The price-fixing scandal of ADM was almost completely ignored by the *NewsHour* in 1995 even though it was big news elsewhere in the media. ADM gives over \$6 million annually to the *NewsHour*.⁶⁸ This bias should not come as a surprise. PBS has made great strides in recent years in reducing their dependence on federal funding. However, part of that lost revenue has been replaced with increased corporate underwriting.

At its best, public broadcasting offers a vision of how the electronic media can strengthen American democracy. Former presidential aide Bill Moyers, who was actively involved in creating the Public Broadcasting Act of 1967, observes:

Back in the 1960s we could see that commercial broadcasting was already so firmly fixed within the rules of the economic game, that it could not rise more than occasionally above the lowest common denominator. So we resolved that there should be at least one band of the spectrum, not only free of commercials, but free of commercial values. One band where ... America was seen to be more than an economic machine, where people would be treated as citizens instead of consumers, and where the success of the operation would be measured not in the numbers of people who listen [or watch] but by the impact on those who do.⁶⁹

Expanding public broadcasting news programs could make that ideal more of a reality.

⁶⁸ Jeff Cohen, "The Problem isn't Brinkley, it's Corporate Sponsorship," *Fairness & Accuracy in Reporting (FAIR)*, January 25, 1998. <www.fair.org/wahts-new/brinkley.html>

⁶⁹ Bill Moyers, "Can New Yorkers Survive Without WNYC?" (advertisement), *The New York Times*, December 4, 1998, p. A29.

Chapter 4

Free Trade

The same driving forces that corrupt campaign finance, entertainment and TV news also contribute to the accelerated pace of trade liberalization in the 1990s. As symbolized by the World Trade Organization (WTO), “market fundamentalism” is the dominant American economic discourse of today. Trade liberalization has coincided with the continued movement towards increasing inequality of wealth distribution in the United States. Trade liberalization, or “free trade,” has unleashed corporate greed that was formerly restrained by governments. This greed, coupled with technology, is quickening the wealth gap with increasing speed, little shame, and (at least theoretically) no limits. There are many that view this trend as potentially destabilizing for American democracy.

The Present: Anger over the Movement towards “Market Fundamentalism”

There are many people who see the movement towards free trade as dangerous towards political stability, democracy, the environment, and basic human rights. Consider the following observations:

- UN Secretary General Kofi Annan: “The spread of markets far outpaces the ability of societies and their political systems to adjust to them, let alone to guide the course they take ... History teaches us that such an imbalance between economic, social and political realms can never be sustained for very long.”¹
- Economist and writer Robert Kuttner: “As society becomes more marketized, it is producing stagnation of living standards for most people, and a fraying of the social fabric that society’s best-off are all too able to evade ... Taken to an extreme, markets devalue and diminish extra-market values and norms — on which viable capitalism depends.”²
- Michael Posner of the Lawyers’ Committee for Human Rights: “In the cold war, the main issue was how do you hold governments accountable when they violate laws and norms. Today the emerging issue is how do you hold private companies accountable for the treatment of their workers at a time when government control is ebbing all over the world, or governments themselves are going into business and can’t be expected to play the watchdog or protection role.”³

¹ Anne Swardson, “Annan Urges Conduct Code for Business,” *The Washington Post*, February 1, 1999, p. A15.

² Robert Kuttner, *Everything For Sale: The Virtues and Limits of Markets* (New York: Knopf, 1996), p.4.

³ Thomas L. Friedman, “The New Human Rights,” *The New York Times*, July 30, 1999.

<www.nytimes.com/library/opinion/friedman/070399frie.html>

Many Americans are ambivalent about free trade and are concerned about how increased international trade and globalization will affect their future. For example, a November 1999 Gallup/CNN/*USA Today* poll found that 59 percent of those surveyed believe that increased foreign trade mostly hurts American workers while 56 percent believe that increased foreign trade mostly helps American companies. An October 1999 poll conducted by the Program on International Policy Attitudes found support for lowering trade barriers weak. For example, only 24 percent surveyed agreed with "... removing trade barriers now because this allows Americans to sell in other countries what they do the best job of producing, and to buy products that other countries do the best job of producing, saving everybody money." Moreover, almost one-third (31 percent) agreed with maintaining "... barriers against international trade because importing cheap products from other countries threatens American jobs." Forty-three percent surveyed agreed with "lower[ing] trade barriers but only gradually, so American workers can have time to adjust to the changes that come with international trade."⁴

There is a substantial wealth gap regarding support for globalization. A poll conducted by the Pew Research Center in the spring of 1999 found that "among Americans in families earning \$75,000 or more, 63 percent see globalization as positive ... [yet] among the half of American adults in families earning less than \$50,000, the positive view of globalism is held by just 37 percent."⁵

The fall 1999 meeting of the WTO in Seattle, Washington brought together many groups that oppose the WTO. The power of the WTO and how it could diminish sovereignty, weaken democracy and democratic institutions, threaten the environment, erode labor power and accelerate greater wealth inequality, symbolizes the anxiety felt by many Americans over the movement towards trade liberalization.

The Context and Discourse of the WTO

The world multilateral trading system rests upon the institutional and legal foundation of the WTO. Created on January 1, 1995, the WTO is the culmination of more than 40 years of international trade negotiations that took place under the General Agreement on Tariffs and Trade (GATT). Since the end of World War II, GATT had been the main vehicle for liberalizing international trade. GATT was designed towards increasing trade liberalization on a voluntary, global scale. One of the major purposes was to reduce and eventually harmonize tariffs between the participating countries. GATT was successful in shrinking manufacturing tariffs and creating legal arrangements for subsidies, anti-dumping and countervailing measures for member states.⁶

As the successor to GATT, the WTO includes a large number of legal texts explaining regulations and rules concerning trade in many different areas, including clothing, rules

⁴ *Polling Report.com*, October 21-29, 1999. <www.pollingreport.com/trade.htm>

⁵ Norman Solomon, "Media Wallowing in Grief for WTO Failure," *The Progressive Populist*, January 1-15, 2000, p. 10.

⁶ "Roots From Havana to Marakesh," World Trade Organization. <www.wto.org/wto/about/facts4.htm>

of origin, agriculture, telecommunications and intellectual property. It also includes over 25 decisions, understandings and Ministerial declarations that cover commitments and obligations for members. Headquartered in Geneva, Switzerland, its prime functions are attempting to solve trade disputes, keeping an eye on national trade policies, using itself as a multinational trade negotiating forum, implementing and administering the various specific agreements which the WTO is composed of and working together with other international institutions (such as the International Monetary Fund and the World Bank) as part of economic policymaking for the world.⁷

The main text that the WTO derives its legal authority on is the Marrakesh Agreement, which established the WTO. There are also annexes to the main text which include the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Intellectual Property Rights, the Trade Policy Review Mechanism, the Understanding on Rules and Procedures Governing the Settlement of Disputes and the Multilateral Agreement on Trade in Goods.⁸

While worldwide trade liberalization has expanded since the late 1940s when the GATT was established, the WTO is substantially different than GATT. Two of the most important differences are the scope of what is considered trade and the enforcement provisions. GATT primarily limited itself to quotas and tariffs concerning merchandise goods. The WTO has an expanded definition of trade (“non-tariff barriers”) which includes intellectual property, government procurement and services among other things. These “non-tariff barriers” can include the domestic laws and regulations of member states, which make their inclusion controversial to some. The WTO enforcement procedure differs from GATT in a very substantial way: while consensus of member states was necessary to enforce rules in GATT, the WTO allows member states to challenge the regulations and laws of other member states as violations of free trade. This is controversial mainly because of the lack of accountability in which the challenge is handled: the cases go before a non-appealable secret tribunal of three bureaucrats in which briefs and hearings are confidential.⁹

The dominant discourse of the WTO is composed of economic terms such as goods, services, intellectual property, economic growth, jobs, efficiency and costs of living. The benefits of the WTO are primarily economic:

- “Disputes are handled constructively.”
- “Rules make life easier for all.”
- “Freer trade cuts the cost of living.”
- “[Trade]... provides more choice of products and qualities.”

⁷ “What Is the World Trade Organization?” World Trade Organization. <www.wto.org/wto/about/facts1.htm>

⁸ “Frequently Asked Questions,” The World Trade Organization. <www.wto.org/wto/faqs/faq.htm>

⁹ “Welcome to the World Trade Organization,” The World Trade Organization. <www.wto.org/> and *A Citizen’s Guide To The World Trade Organization*, Working Group on the WTO/MAI, Apex: New York, 1999. Available in PDF format at <<http://www.citizen.org/pctrade/gattwto/Reports%20&%20Publications/wto-book>>

- “Trade raises incomes.”
- “Trade stimulates economic growth.”¹⁰

The ideological assumption behind the use of economic language is that liberalized international trade makes the world more peaceful and furthers good government. For example: “Peace is partly an outcome of two of the most fundamental principles of the trading system: **helping trade to flow smoothly**, and providing countries with a constructive and fair outlet for **dealing with disputes over trade issues**.” The dynamic operates in the following manner:

Crudely put, sales people are usually reluctant to fight their customers — usually. In other words, if trade flows smoothly and both sides enjoy a healthy commercial relationship, political conflict is less likely. What’s more, smoothly flowing trade also helps people all over the world become better off. People who are more prosperous and contented are also less likely to fight.¹¹

Good government is encouraged because governments live under trading rules that limit their ability to become corrupt. In particular:

One kind of trade barrier that the WTO’s rules try to tackle is the quota; for example, restricting imports or exports to no more than a specific amount each year. Because quotas limit supply, they artificially raise prices, creating abnormally large profits ... That profit can be used to influence policies because more money is available for lobbying.¹²

Lobbying is assumed to increase the potential for unwise public policies, i.e., “protecting” inefficient national industries at the expense of less expensive, and more efficiently produced, foreign goods and services.

The WTO and How It Could Diminish Sovereignty

The biggest threat to sovereignty that the WTO poses is related to the expanded definition of international trade. It is quite significant that the WTO now has the authority (or it is on their future agenda to attain the authority) to rule on many areas of economic activity that have not traditionally been seen as international trade, i.e., government procurement, intellectual property and services. The agreement on services, known as the General Agreement on Trade and Services (GATs) is a good illustration of the WTO threat to sovereignty.

GATs, at least in theory, covers **all** internationally traded services. Included are firms or consumers using a service in another country (“consumption abroad”), the subsidiaries or branches of a foreign company in another country (“commercial presence”), individuals

¹⁰ “10 Benefits of the WTO Trading System,” *The World Trade Organization*
<www.wto.org/wto/10ben/10ben00.htm>

¹¹ Ibid, Emphasis in original.

¹² Ibid.

that travel to foreign countries to supply services (“presence of natural persons”) and services provided from one nation to another (“cross-border supply”).¹³

There are many exceptions and qualifications contained within the GATs agreement. For example, countries may temporarily honor existing agreements with other nations that contain preferential treatment, and they are generally only bound to “national treatment” provisions (domestic and foreign goods must be treated equally) in cases where specific commitments are agreed to.¹⁴

Even though these provisions allow governments to retain control of how services are regulated, the potential for services to be subject to the free trade rules of the WTO is substantial. How? Because these services can potentially be used in foreign countries, the services will (if the country agrees) fit the definition of “international trade,” and thus be generally liable to the evolving regulations and laws of the WTO. There are scores of services worth literally *thousands of billions of dollars* that could be defined as “international trade.” These include construction, information technologies, telecommunications, mechanical, civil and other types of engineering, water delivery, urban planning, libraries, advertising, banking, insurance, hotels and restaurants, transportation, education and animal and human health.¹⁵ In essence, this approach enables any type of service to be subject to the worldwide economic marketplace.

National sovereignty is threatened because this type of economic ideology implicitly favors one type of public policy decision (radical free markets) over others (state-owned services, nationally regulated services, etc.). Political and policy choices that are the legal right of the government only instead become disproportionately influenced, and severely constrained, by the government’s membership in the WTO. Just belonging to an organization that is publicly committed to opening up all services to the rules of international trade denigrates political sovereignty and represents a radical shift of power from the state-based system of political sovereignty to a corporate-based system of economic rule. According to writer Ian Robinson, a free trade regime like the WTO “... can be understood as [an] instrument(s) that, in the name of reducing barriers to trade, alter or negate national laws, policies and customs that stand in the way of the global market economy.”¹⁶

In particular, the WTO contains the seeds that could enervate the public sector of any nation in which the government treats a foreign company differently than a domestic service. For example, U.S. Trade Representative Charlene Barshevky has encouraged U.S. service firms to communicate to her what objectives she should push for a future round of liberalization. Although a new round could not be agreed to in the 1999 Seattle meetings, her objectives include:

¹³ “Services-Rules for Growth and Investment,” *The World Trade Organization* <<http://www.wto.org/about/agmnts5.htm>>

¹⁴ Ibid.

¹⁵ Susan George, “Globalising Designs of the WTO,” *Le Monde diplomatique*, July 1999. <www.monde-diplomatique.fr/en/1999/07/?c=05george>

¹⁶ Ian Robinson, “Globalization and Democracy,” *Dissent*, summer 1995.

‘Promoting pro-competitive regulative reform’ and ‘encouraging more privatization.’ The coalition of U.S. service firms that she is working with want to ‘allow majority foreign ownership of health care facilities’ as well as secure ‘market access and national treatment allowing provisions of **all** health care service cross-border.’¹⁷

Thus if an agreement is reached on health services, public health systems in Western Europe could be open to competition from private American Health Maintenance Organizations (HMOs). It is unlikely that the socialized European health systems, if they want to remain free and universal, could compete with profit-driven, private American firms. Moreover, American federal government programs like Medicare could (at least theoretically) be threatened with foreign competition. To become competitive, Medicare might have to cut costs and services.

It could be argued that because countries *voluntarily* agree to participate in these negotiations (and abide by their decisions), sovereignty is not threatened. It is the details of the internal procedures, however, and the potential political effect of their consequences, which threaten sovereignty. The Dispute Settlement Body (DSB) of the WTO is a good illustration of this scenario.

The DSB directs the procedures for dispute settlement. Members of the DSB are recommended by the secretariat of the WTO, who also has the power to appoint them if necessary. The DSB has a lot of power as it “... has the sole authority to establish panels, adopt panel and appellate reports, maintain surveillance of implementation of rulings and recommendations, and authorize retaliatory measures in cases of non-implementation of recommendations.” A DSB decision can be appealed by either party. It can also establish an appellate body to hear the body. The body has to be “broadly representative of WTO membership.”¹⁸

However, if a DSB finds that a nation’s policies or laws are found to be in violation of the WTO, the offending nation has to do one of three alternatives: “... comply with the ruling ... negotiate compensation in the form of trade advantages for the injured nation ... [or] accept ... retaliation such as higher tariffs or other trade barriers directed at U.S. exports.”¹⁹

A dispute between the U.S. and Venezuela over gasoline shows how U.S. sovereignty can be diminished. In 1995, the U.S. found itself as the target of a Venezuelan complaint over federal regulations on clean air. In particular, Venezuela complained that gasoline imports were being discriminated against because of Environmental Protection Agency (EPA) regulations made in pursuance of the 1990 U.S. Clean Air Act amendments. The case arose because:

The United States applied stricter rules on the chemical characteristics of imported gasoline than it did for domestically refined gasoline. Venezuela (and later Brazil) said this was unfair because U.S. gasoline did not have to meet the same standards —it

¹⁷ George, My emphasis.

¹⁸ “How the WTO Resolves Trade Disputes,” The World Trade Organization.
<www.wto.org/wto/webds_wpf.html>

¹⁹ William T. Waren, “Free Trade and Federalism,” in Trautman, p. 7.

violated the 'national treatment' principle and could not be justified under exceptions to normal WTO rules for health and environmental conservation measures.²⁰

The WTO ruled against the U.S. and the U.S. changed its regulations on August 19, 1997.²¹ One of the reasons for this regulation was to prevent low-quality gasoline from being imported into the U.S. According to the EPA, a consequence of this ruling is that "it creates the potential for adverse environmental impact."²²

The most significant threat to sovereignty, however, is the "chilling effect" that the WTO rules have on governments. For example, what if, during the course of an election campaign, a party or politician comes out against a WTO decision and promises to ignore it if elected? It is not inconceivable for an opposing politician (or the media) to portray that position as either unrealistic or irresponsible. While the government is not forced to accept any WTO position, the practical consequences (economic penalties) of ignoring one could be substantial. In other words, economic coercion could be used to structure policy choices. That would signal the political triumph of free market economic theories. Did the majority of Americans know this could happen when Congress approved the WTO in 1994?

This relationship is similar to the public policies of individual U.S. states' legal drinking ages: while the states are free to choose their own ages, if it is below 21, they will lose a substantial portion of their federal highway money. Hardly anyone pretends that states have a genuine choice.

States, of course, are not sovereign entities. But all *nations* are sovereign entities. That is why the threat to sovereignty is real, according to Bruce Fein, a former Reagan administration official:

Sovereignty is not maintained simply because a nation retains a choice between specific compliance with an international demand or economic deterrent ... Although sovereignty does not lend itself to a definition as exact as Euclidean geometry, any earthbound concept would find it impaired if a nation's complete independence in the enactment and administration of its laws is achievable only by paying handsome tribute to the international community.²³

The erosion of national sovereignty has not, of course, been caused exclusively by the WTO. The general movement towards global trade and financial liberalization in the last 20 years, however, has created a world where the price to maintain sovereignty is often too high to pay. A good illustration is the policy decisions that some of the major global financial players made in response to the 1997 Asian currency crises. Influential institutions like the World Bank wielded influence that ultimately made Asian nations involuntarily depreciate their currency and open their markets in order to get out of their economic predicaments. Writer Thomas Friedman imagines a conversation where then

²⁰ "Settling Disputes," The World Trade Organization. <www.wto.org/wto/about/dispute3.htm>

²¹ Ibid.

²² Peter Montague, "Making the World Safe for Corporations," *The Progressive Populist*, December 1, 1999, p.12.

²³ Bruce Fein, "Putting U.S. Sovereignty at Risk," *The Washington Times*, 16 June 1994.

U.S. Treasury Secretary lectures to a indignant Malaysian prime minister about the fundamentals of the modern political-economic international environment:

‘Globalization isn’t a choice, it’s a reality ... and the only way you can grow at the speed that your people want to grow is by tapping into the global stock and bond markets, by seeking out multinationals to invest in your country, and by selling into the global trading system what your factories produce. And the most basic truth about globalization is this: *No one is in charge.*’²⁴

The WTO is seeking to become the primary multilateral institution that is in charge of economic globalization for the 21st century. But have the *people* of the world been consulted?

The WTO and How It Could Weaken Democracy and Democratic Institutions

Many critics of the WTO suggest that the organization is weakening democracy because of its ability to overturn national laws and policies. More precisely, regulations and laws made in *democratic* nations have the potential of becoming increasingly irrelevant because of the legal superiority of the WTO. Just because a nation has a formally democratic government (with elections, representative political institutions, a free press and an independent judiciary) doesn’t necessarily mean that the democracy is a strong one. For example, the representative institutions in a strong democracy (the legislature and executive branch) will have the power to enact laws that are not easily overturned by an international institution like the WTO. National laws and regulations, because they have been arrived at with procedures legally designed to ensure accountability and openness, are a critical part of a functioning strong democracy. It can take years for many laws and regulations to come into existence because of the nature of the problem and the interest group activity surrounding the policy area. This is particularly true with regard to controversial laws and regulations that have the potential of costing private industries millions (if not billions) of dollars.

Again, the Dispute Settlement Body (DSB) of the WTO is a good illustration of how some of the organization’s procedures are irreverent towards valued political principles. For example, the DSB can establish expert panels for each case which have enormous power with very little practical oversight. Specifically:

It [is] impossible for the country losing a case to block the adoption of the [DSB panel] ruling. Under the previous GATT procedure, rulings could only be adopted by consensus, meaning that a single objection could block the ruling. Now the rulings are *automatically adopted* unless there is a consensus to reject a ruling — any country wanting to clock a ruling has to persuade all other WTO members (including the adversary in the case) to share its view.²⁵

²⁴ Thomas Freidman, *The Lexus and the Olive Tree* (New York: Farrar, Straus, Giroux, 1999). p. 93 as cited by Kenneth N. Waltz, “Globalization and Governance,” *PSOnline*, December 1999.

<www.apasanet.org/PS/dec99/waltz.cfm>

²⁵ “Settling Disputes,” The World Trade Organization. <www.wto.org/wto/about/dispute1.htm> My emphasis.

This arrangement obviously makes it very difficult for rulings to be overturned.

In addition, the DSB panel meets in secret, its procedures are closed to the public, its member names are not publicly released, and no outside witnesses are heard regarding the dispute. The members are usually international trade lawyers and are not bound by any “conflict of interest” rules.²⁶ The WTO is very proud of their dispute settlement system. In 1997, former WTO Director Renato Ruggiero said that the system is “... in many ways the central pillar of the multilateral trading system and the WTO’s most individual contribution to the stability of the global economy.”²⁷

While the DSB procedures are designed to maximize the global economy’s stability, they also dilute national democracies. Openness is a fundamental tenet for democratic institutions. Public accountability for decisions made by actors in the name of governments is very difficult to achieve when the institutions operate in secrecy. As Congressman David Bonior (D-Michigan) states: “As long as we can’t hold anyone accountable, then trying to understand the decisions that are shaping the global economy will be like trying to put our arms around the fog.”²⁸

The WTO threat to democracy is also evident in how states and local governments are affected. Even though they are not sovereign political units, states and local governments play a critical role in nourishing democracy at the local level. Many American political reforms have begun at the state and local level, including child labor, civil rights and food safety laws. National governments have responsibility under the WTO to ensure that state and local governments are in compliance with its regulations. Even though U.S. states are partially shielded from the WTO (because of a series of compromises agreed to by the U.S. Trade Representative and the states),²⁹ their laws and regulations are still vulnerable to challenges from foreign countries. A good illustration is the case of Massachusetts and a law they enacted involving Burma.

In 1996, Massachusetts passed a law that effectively prohibits any state procurement from companies doing business with Burma. Specifically, the law saddles a 10 percent penalty on businesses that do business with Burma, effectively pricing the companies out of consideration. Burma has been cited by international organizations for its lack of democracy and severe human rights abuses, including officially tolerated rape, brutality and forced labor.³⁰

²⁶ Susan George, “Trade Before Freedom,” *Le Monde Diplomatique*, November 1999 <www.monde-diplomatique.fr/en/1999/11/02george> and Montague, p. 12.

²⁷ “Settling Disputes.” The World Trade Organization. <www.wto.org/wto/about/dispute1.htm>

²⁸ David E Bonior, “Defending Democracy in the New Global Economy” December 1, 1999, Seattle, Washington, *Campaign for America’s Future*. <www.ourfuture.org/readarticle.asp?ID548>

²⁹ There are three “protections” for states: The federal government consults with states when their laws have been challenged, federal law does not bind state laws to WTO panel rulings and states are granted exceptions to “national treatment reservations” or provisions dealing with services in order to safeguard state tax law. Warren, p. 9.

³⁰ William Stumberg, and William Warren, “The Boston Tea Party Revisited: Massachusetts Boycotts Burma,” *State Legislatures*, May 1999, p. 26.

The European Union and Japan challenged the Massachusetts law as a violation of the WTO principle of universal rules for commerce. The general argument follows this logic: If Massachusetts is allowed to get away with passing laws that explicitly link political factors (such as the lack of democracy) with economic decisions (state procurement policies), then the expansion of “free trade” could be threatened. However, before the WTO could rule on the case, the law was challenged in the American courts. The National Foreign Trade Council (a coalition of 580 corporations) took the state government to court and won. In November 1998, a federal judge ruled that the law illegally encroached upon the federal government’s responsibility to “regulate foreign affairs.”³¹ The decision was appealed by Massachusetts and the case ended up before the U.S. Supreme Court. In June 2000, the Court ruled the Massachusetts statute illegal because of federalism: the law interfered with the U.S. government’s own sanctions against Burma. The ruling explicitly did not rule on the legality of Massachusetts sanctions, per say.³²

Even though the U.S. Supreme Court ruling does not explicitly stop state and local governments from enacting sanctions on foreign governments, its practical effect could stop future local actions. The fact that 22 state attorney generals supported Massachusetts and the rationale of the unanimous decision supports this conclusion. In particular, Justice David Souter worries that the president’s capacity for effective diplomacy would be compromised if all the states passed economic sanctions. He states that “as trade becomes more important, it becomes more important for Congress to speak with one voice.” However this voice is increasingly narrow and tied to economic interests, as Mark Weisbrot of the Center for Economic and Policy Research says: “[It]...is the voice of big business, with the federal government increasingly acting as a mere echo chamber.”³³ As long as big business has an ideological and financial “hold” on a majority of the U.S. government, the WTO will continue to serve as a functional tool for transnational corporations to increase their profits.

Moreover, democracy is weakened when *elected* representatives in states and localities are effectively denied their right to use economic power to try and influence the policies of foreign nations. Many local governments (as well as colleges and pension funds) in the 1970s and 1980s used similar economic boycotts to weaken the apartheid government of South Africa. The economic sanctions eventually worked, and the South African government ended apartheid and became a democracy. The economic sanctions contributed to this result. This is a powerful lesson for democracy, as Massachusetts State Representative Byron Rushing (the author of the law) declares: “What we learned then

³¹ Stumberg and Waren, p. 27-28 and Fred Hyatt, “Boston’s Stand on Human Rights,” *The Washington Post*, August 25, 1997, p. A19 <<http://www.washingtonpost.com/wp-srv/Wplate/1997-08/25/0341-082597-idx.html>>

³² Robert Collier and Glen Martin, “U.S. Laws Diluted by Trade Pacts Rulings Stir Criticism Across Political Spectrum” *San Francisco Chronicle*, July 24, 1999 <<http://www.sfgate.com/cgi-bin/arti...9/07/24/MN30628.DTL&type=printable>> and Laurie Asseo, “States Lose Trade Discretion Case,” *The Associated Press*, June 19, 2000. <http://dailynews.yahoo.com/hxx/ap/0000619/pl/scotus_myanmar_3.html>

³³ Mark Weisbrot, “In Burma Ruling, Top Court Put Trade Before Rights,” *The Boston Globe*, June 22, 2000, p. A25.

was that citizens, through their local institutions and local governments, simply by setting a moral example, can effectively change American foreign policy.”³⁴

The rules of the WTO can have a chilling effect on democratic deliberation as well. Similar to the explicit threat to sovereignty, many public policy choices are never fully debated (much less acknowledged) because of WTO regulations. For example, decisions to license generic drugs or label genetically modified food have not been part of the mainstream American political discourse because of potential challenges before the WTO.³⁵ Moreover, a future public policy debate on electronics and pollution, currently under way in Europe, may never fully surface in the United States because of the WTO. The background of the issue illustrates why this debate may never materialize.

The European Union has announced sweeping proposals that could dramatically impact the electronics industry. Specifically, the European Union has declared that it will eventually require manufacturers of electronics to become legally responsible for their products throughout the full life of their product, including ultimate disposal. Additionally, the recycled content of the plastics portion of electronic components must be at least five percent. In addition, all electronic components that contain halogenated flame retardants, cadmium, mercury and lead will be banned by 2004.

The Clinton Administration, working with the American Electronics Association, has filed a challenge to the proposals. If these proposals are ever enacted — and then challenged and taken up by a WTO Dispute Settlement Body panel of experts — they would almost undoubtedly be found illegal. As described by writer Peter Montague, the following scenario is thus possible:

If the U.S. wins the electronics dispute ... **Congress will not have to raise these issues** because the EU's attempt to impose pollution prevention on the electronics industry will have been declared illegal by bureaucrats in Geneva, Switzerland [home of the WTO] ... The electronic giants don't even have to fight this battle themselves — the free trade enthusiasts within the U.S. government ... are fighting it for them.³⁶

This comment illustrates how the WTO functions as an institutional and ideological “gatekeeper” for private, transnational corporations. Public policy choices that potentially limit profits for transnational corporations (*or corporations that seek to become transnational*) are not considered legitimate political issues, and are thus not generally discussed. Thus how the WTO affects democratic development and democratic institutions is not part of its mission. This arrangement (at least at this point in history) is a victory for the advocates of free trade because the “scope of conflict” has been successfully limited. The WTO takes trade-related economic, political and cultural conflicts and redefines them as exclusively economic, and thus private. The consequence of this interpretation is to try to change the power dimensions of these conflicts in favor

³⁴ John Maggs, “Local Stands Against Faraway Despots,” *National Journal*, May 1, 1999, p. 1191.

³⁵ Sally Soriano, “WTO Is Dismantling Democracy,” *The Seattle Times*, November 12, 1999.

<www.seattletimes.com/news/editorial/htm/198/fair_19991112.html>

³⁶ Peter Montague, “WTO Birthday Party,” November 5, 1999, *TomPaine.commonsense*.

<www.tompaine.com/opinion/1999/11/05/> My emphasis.

of private businesses. This is not a new development, as political scientist E.E. Schattschneider observed in 1960: “A look at political literature shows that there has indeed been a *long-standing struggle between the conflicting tendencies toward the privatization and socialization of conflict*... A tremendous amount of conflict has been controlled by keeping it so private that it is almost completely invisible.”³⁷

Controlling economic conflict is a worthy goal for the international community in the twenty-first century. The twentieth century is full of examples where economic conflict, left uncontrolled, transformed into political aggression and war. Controlling economic conflict, however, should not counteract the spread and deepening of democracy and democratic institutions throughout the world.

The principles of the WTO are based on conservative economic theories. However, democracy is a minimalist concept to economists such as Milton Friedman, James M. Buchanan and Friedrich A. Hayek. As political scientist Conrad Waligorski observes:

Their theory provides a minor role for the public, which should be passive, quiet, obedient to leaders. Moreover, the power of leaders need not be limited by the selfish public, because there are more efficient restraints in market ... prohibitions. Participation has no intrinsic value; it is instrumental and confined to voting with little government responsiveness. There is no notion that democratic participation educates citizens.

The result is that “... the public may choose from what is offered **within the limits of the fiscal constitution** but cannot attempt to change opportunities or have an active voice in formulating possibilities.”³⁸

The WTO and the Threat to the Environment and Health

One of the major criticisms of the WTO is that the organization has consistently issued rulings against national environmental laws and regulations, some of which are meant to protect human health. In addition to the case of reformulated gasoline, U.S. law and regulations were changed to comply with a WTO ruling on dolphin-safe tuna. The case illustrates the threat the WTO poses to environmental protection.

In 1991, Mexico asked the GATT (the principles on which the WTO was founded) to rule on the U.S. Marine Mammal Protection Act. Mexico contended that portions of the U.S. law that protected dolphins violated free trade principles. The GATT ruled for Mexico and against U.S. law. The offending provisions of the act were amendments that were adopted in the 1980s and 1990s that encouraged methods of tuna fishing that didn't harm dolphins. The amendments were designed to protect dolphins from being killed from the drift-net method of catching tuna, which incidentally snares dolphins as part of the catch. This method is practiced in the eastern tropical Pacific Ocean (ETP). Over seven million dolphins have been killed since the 1950s through this fishing method. According to the

³⁷ E.E. Schattschneider, *The Semisovereign People* (Hinsdale, Illinois: Dryden, 1960), p. 7. Emphasis in original.

³⁸ Conrad Waligorski, *The Political Theory of Conservative Economists* (Lawrence: University Press of Kansas, 1990), p. 123. My emphasis.

environmental group Defenders of Wildlife, the most significant amendments were adopted in 1992. Specifically, they:

Required all nations exporting tuna to the U.S. to adopt dolphin protection programs ‘comparable’ to the U.S., sought an end to the setting of nets on dolphins in the ETP by tuna fishermen, and specified requirements for ‘dolphin-safe’ labels on tuna cans. These regulations, with enforceable trade triggers, resulted in dramatic reductions in dolphin mortalities.³⁹

The reasoning behind the GATT ruling is significant because it illustrates the distinctions that a number of free trade principles are based on. The ruling found that “... the U.S. could not embargo imports of tuna products from Mexico simply because Mexican regulations on *the way tuna was produced* did not satisfy U.S. regulations.” The broader principle must be maintained, as the WTO explicitly states:

If the U.S. arguments were accepted, then any country could ban imports of a product from another country merely because the exporting country has different environmental, health and social policies of its own. This would create a virtually open-ended route for any country to apply trade restrictions unilaterally — and to do so not just to enforce its own laws domestically, but to impose its own standards on other countries.⁴⁰

Because of the ruling, the Clinton administration was under pressure to try and change U.S. law so that it would be in compliance with free trade principles. In 1995, the Clinton administration signed the “Panama declaration.” This document, signed with Mexico (as well as other Latin America countries that had joined the challenge to the U.S. law) changed the definition of “dolphin-safe.” The new definition would have allowed the intentional encirclement of dolphins by tuna fishermen and established a “minimum dolphin kill.” A bill was introduced in Congress to implement the Panama declaration but was never passed.⁴¹ In 1999, compromise legislation was enacted into law. The law keeps the current strong standards of “dolphin-safe” tuna. However, it also allows the U.S. Commerce Secretary to lift the ban on countries that allow drift-net tuna to be caught or sold. The law also mandates an 18-month study to determine whether there is a significant adverse impact from tuna fishing on the three most depleted dolphin populations in the eastern tropical Pacific region. If there is no significant impact found, tuna could be labeled “dolphin-safe.” This potentially redefined “dolphin-safe” tuna would allow tuna to be sold that was caught by chasing and capturing dolphins as long as observers did not witness the killing of dolphins in the drift nets.⁴²

The legal and political maneuvering in the 1990s associated with “dolphin-safe” tuna legislation was caused by the interference of free trade principles with environmental protection law. The WTO claims, “[e]nvironmental problems are best addressed at [the] source ... [and] targeting indirect linkages, such as exports or imports of goods, can only

³⁹ *Defenders of Wildlife*, 2000. “Keeping America’s Tuna Dolphin-Safe”
<<http://www.defenders.org/defenders/tunafact.html>>

⁴⁰ *World Trade Organization*, 2000, “Beyond the Agreements the Tuna-Dolphin Dispute”
<www.wto.org/wto/about/beyond5.htm>. Emphasis in original.

⁴¹ *Defenders of Wildlife*.

⁴² Mark J. Palmer, 2000, “Dolphin Compromise a Partial Victory,” Earth Island Institute,
<www.earthisland.org/mmp/archive_dolphin5.htm>

partially correct market and policy failures ...”⁴³ While this may be true in theory, the Mexican government (and other Latin American countries that allowed this practice to happen) chose not to ban the practice. An indirect method (the embargo) is the most realistic method of discouraging this practice, short of binding international environmental law. Moreover, the U.S. has tremendous power to influence environmental protection with its enormous and lucrative consumer market. Why shouldn’t the U.S. use this power to try and protect dolphins?

In addition, the explicit refusal to consider *how* a product is produced reveals the disingenuous agenda of the WTO and free trade. On one hand, the WTO states that (referring to the GATT panel): “The panel’s task was restricted to examining how GATT rules applied to the issue. It was not asked whether the policy was environmentally correct or not.”⁴⁴ On the other hand, this *narrow* interpretation of GATT/WTO’s agenda is contradicted when the WTO issues a lengthy report that defends the role of trade liberalization in promoting environmental cooperation.⁴⁵ Why should the WTO analyze the environmental consequences of free trade if it does not have the expertise or the mandate?

A similar situation is occurring with endangered turtles. The U.S. Endangered Species Act contains provisions that forbid shrimp to be sold in the U.S. that are caught with methods that endanger sea turtles. The relevant portions of the Endangered Species Act were challenged by four Asian nations as a violation of free trade principles. In 1998, an appellate panel of the WTO ruled illegal the particular way the U.S. chose to protect turtles. Even though it is relatively inexpensive and efficient to fit shrimp nets with “turtle excluder devices,” the U.S. Endangered Species Act is now being revised in order to comply with the WTO ruling.⁴⁶

There are other examples where the WTO threatens environmental protection and health. For example:

- At present, there are negotiations by the U.S. and other member states on a future global free logging agreement. A potential agreement could prohibit tariffs on forest products. That step could increase consumption of wood products but would also threaten the survival of native forests. Non-tariff barriers such as the environmental certification or eco-labeling policies of some U.S. states could be challenged as barriers to free trade. In addition, a foreign country could also challenge the U.S. government’s export ban on raw logs in many public lands.⁴⁷

⁴³ World Trade Organization, Trade Liberalization Reinforces the Need for Environmental Protection,” October 8, 1999 press release. <www.wto.org/wto/environ/press140.htm>

⁴⁴ “Beyond the Agreements the Tuna-Dolphin Dispute”.

⁴⁵ World Trade Organization, “Trade Liberalization Reinforces the Need for Environmental Protection.” October 8, 1999, press release. <www.wto.org/wto/environ/press140.htm> The full report can be accessed in a PDF format from this site.

⁴⁶ Collier and Martin and *A Citizen’s Guide To The World Trade Organization*.

⁴⁷ *A Citizen’s Guide to The World Trade Organization*, Working Group on the WTO/MAI, 1999: Apex: New York. It should be noted that the WTO does not, per se, consider eco-labeling inconsistent with free trade. However, the key aspect is non-discrimination. Specifically, “...that environmental measures that

- The WTO has ruled *illegal* “the precautionary principle” that some governments (and many in the scientific community) use for environmental protection. For example, the European Union (EU) ban on hormone-treated meat was considered a violation of free trade by a WTO panel. The panel reasoned that the case supporting the ban was not scientifically valid enough to ban U.S. beef imports even though an independent report found some added hormones that are “complete carcinogens.”⁴⁸
- The WTO has ruled that product bans, such as the U.S. government’s ban on DDT for farming and lead in gasoline, are illegal. Toxic substances are now to be regulated by the WTO using “risk assessment.” Risk assessment invariably involves a costly and lengthy process that favors the financial resources of large corporations (to pay for lawyers and experts) over legally binding regulatory actions by governments.⁴⁹

The official WTO position on the environment is that “trade liberalization reinforces the need for environmental cooperation.” One conclusion of a WTO report released in October 1999 is that:

Gains from trade are sufficient to pay for additional abatement costs. The income gain associated with trade could *in principle* pay for the necessary abatement costs and still leave an economic surplus. This has been shown in various economic simulations. In other words, by combining trade and environmental reforms one can find ways to raise income and consumption without compromising the natural environment the conflict arises as a result of the failure of political institutions to address environmental problems, especially those of a global nature which require a concerted effort to solve.⁵⁰

This argument is predicated on a view of the world where national political/economic decisions are made towards maximizing free trade, environmentalism and multilateral cooperation — and businesses that don’t financially exploit each other’s commitment to environmentally sound practices. Although idealistic, that doesn’t mirror the complicated reality of many independent countries and transnational corporations, and how they interact with each other. Countries are in various stages of economic development, and (most important) have different levels of business and corporate influence on their political system.

incorporate trade provisions or that affect trade significantly do not discriminate between home-produced goods and imports, nor between imports from or exports to different trading partners.” “Eco-labeling,” The *World Trade Organization*, 2000 <<http://wto.org/wto/envIRON/eco.htm>> Legally binding standards of non-discrimination often require a political harmonization that is beyond the expertise and resources of most U.S. states. Thus the only way that eco-standards might survive WTO challenges is if national governments draft their language. If that is true, effective environmental protection laws become very difficult for sub-national governments to pass, thus moving the political dynamics almost exclusively towards the national level.

⁴⁸ Montague, “Making the World Safe for Corporations”, p.12. In May 2000, the European Union reiterated its ban on hormone-treated beef and continued to reject WTO and U.S. government objections to their decision. See Edmund L. Andrews, “Europe Refuses To Drop Ban On Hormone-Fed U.S. Beef,” *The New York Times*, May 25, 2000, p. C4.

⁴⁹ Montague, “WTO Birthday Party”.

⁵⁰ *World Trade Organization*, “Trade Liberalization Reinforces the Need for Environmental Protection.” Emphasis in original.

The WTO and the Threat to Labor Power

Fundamentally, the purpose of the WTO is to open up markets to equal competition between businesses and private capital. Although the WTO does not explicitly aim to weaken the power of labor, some believe that the organization's narrow focus on lifting restrictions to capital flow implicitly weakens labor. The recent attempt by the U.S. administration to include labor rights in future WTO agendas and the potential entry of China into the WTO illustrate the threats to labor power that free trade can bring.

Putting Labor on the Agenda

Many groups believe that free trade helps create an atmosphere where businesses profit by competing with each other to minimize their labor costs. This is a "race to the bottom" where businesses survey the globe to find nations and industries where low wages and weak (or non-existent) unions predominate. Alternatively, nations and industries that have high wages and established unions have an economic disadvantage. Although companies consider many other factors (education and productivity, for example) when they make business decisions, the cost of labor is a critical factor.

For many years, labor groups have attempted to force the WTO to consider worker rights as part of formal negotiations on expanding trade. The WTO, however, has been resistant to expand their agenda to include labor for three major reasons:

- The view that labor is either unrelated (or only indirectly related) to trade.
- The fear that including labor will slow down the pace of economic globalization (because agreements will be more difficult to reach due to differences between developed and developing nations).
- The concern that including labor rights might reduce corporate profits.

The contention that trade and labor are not directly related to each other is made by corporations and academics alike. In October 1999, the Mobil Corporation ran an advertisement on the op-ed page of the *New York Times* explaining their reasoning: "Trade per se doesn't ... create sweatshop working conditions. It shouldn't be used as a weapon to punish another country's production methods, nor to impose one country's values on another country."⁵¹ The Progressive Policy Institute, a centrist think tank associated with the Democratic Party, published an article in their magazine which said, "... Most labor standards ... [are purely local]. The rules established by Singapore or Thailand with respect to minimum wage, child labor, and the right to join a union, for

⁵¹ Mobil Corporation, "Why Pick On Trade?" (advertisement), *The New York Times*, October 20, 1999, p. A25.

example, directly affect employers and workers in those countries only. Any effects these rules might have on other countries are indirect.”⁵²

These arguments miss the context and dynamics of international trade. It is the acceleration of free trade that has helped create the conditions in which sweatshops are viewed as potentially more valuable than they had been before free trade. Profits that were once made exclusively in national markets can now be increased with an international market. Additionally, because of free trade, more and more nations have opened up their workers to employment by transnational corporations. And if the primary factor in the profit margin for many companies is holding down labor costs, then an expanded pool of low-wage labor can be exploited in what is arguably a global sweatshop environment.

Moreover, minimum wage and union rights in one country affect the labor conditions of other countries in a global free trade environment. Transnational corporations don't have to directly use the threat of free trade to lower costs. Instead, the overall political atmosphere of global free trade allows companies to plan their operations and expansion in a very favorable environment, vis-à-vis labor. While workers and labor unions have restrictions on their international mobility, corporations have gotten governments to negotiate treaties that have increased their mobility.

Including labor rights in future WTO negotiations *will* slow down the process of globalization. The talks at the 1999 Seattle meeting failed partially because the U.S. attempted to pressure other member states to consider including binding labor protections in future agreements. The developing nations have a genuine fear that any binding minimum labor standards will hurt their economies because the only economic advantage many of them have is cheap labor.⁵³ In 2000, this issue remains a key obstacle blocking the WTO from expanding its agenda.

It is precisely this obstacle, however, that reveals the complicated reality of free trade in the twenty-first century. The standard discourse is free trade against protectionism, or modernity versus the Luddites. Instead, the essence of most of the conflict is over *how* international trade will expand, not if it will. Economist Jeff Faux of the progressive Economic Policy Institute says, “We don't doubt that ... trade will continue to expand. What we want is to rewrite the rules.”⁵⁴ The current rules for international trade give capital tremendous economic mobility and legal favoritism, vis-à-vis labor. Governments and corporate capital have created a trading regime (as represented by the WTO), where nations are effectively tied to following its provisions. Alternatively, there aren't any *binding* international rules for labor in the era of free trade.⁵⁵

⁵² Gary Burtless, Robert Z Lawrence, Robert E Litan and Robert J. Shapiro, “These Ties Will Bind,” *The New Democrat*, May/June, 1998, p. 24.

⁵³ William Schneider, “Trade: A Sleeper Issue No More,” *National Journal*, December 11, 1999, p. 3566.

⁵⁴ Steven Pearlstein, “Analysis: For Free Trade, a Redefining Moment,” *The Washington Post*, December 3, 1999, p. A1.

⁵⁵ Arguments made that would exclude labor rights from future WTO agreements cite the International Labor Organization (ILO) as the best multilateral institution to protect the rights of workers. However, there is no enforcement mechanism for the ILO. Moreover, the United States has not ratified most of the

Instead, many of the developed nations have had serious negotiations on a proposed multilateral agreement on investments, or MAI. The MAI was secretly negotiated by members of the Organization for Economic Cooperation and Development (OECD) between 1995 and 1998. The OECD is a quasi-private group of 29 nations, most of them rich. The agreement fell apart in December 1998 because of internal disagreements. However, if the MAI had ever been completed and enacted into law, it would have protected the rights of international investors by *enabling corporations to directly sue governments for trade discrimination*. It would also have banned government investments that are designed to promote human rights.⁵⁶

After the MAI fell apart, an attempt was made to revive the essence of the agreement. The former vice-president of the European Commission Sir Leon Brittan negotiated with leaders of developing nations and business interests in an attempt to add specific provisions to the 1999 Seattle meeting. In particular, investment, product controls, competition and public contracts were to be added to previous accords on industrial property, services and agriculture. If successful, most of the original MAI proposal for investment would have been revived. In addition, all national, regional and local public contracts of member states would be forced to go to the most efficient company, regardless of nationality with a revived MAI.⁵⁷ Because the Seattle meeting did not produce any agreements, the revived MAI was not agreed to.

As shown by the failed MAI negotiations, the most powerful economic nations have chosen to try to expand the rights of international capital, instead of entering into serious negotiations to institute binding rules for labor rights.

China and the WTO

In November 1999, China and the U.S. signed an agreement that opens the way for China to join the WTO. The agreement mandates increased access for U.S. telecommunication companies, banks, insurers and exporters into China's market and compels China to substantially cut tariffs. This accord is expected to make it easier for China to negotiate separate agreements with other trading partners as well as get the needed approval of all 135 WTO nations in order for it to join the WTO.⁵⁸

The significance of China entering the WTO cannot be understated. China has made tremendous strides in international trade in recent years. Over the last 20 years, the value

conventions within the ILO itself, which contributes to the ineffectiveness of the organization. See David Bacon, "Can Workers Beat Globalization?" *The Progressive Populist*, February 15, 2000, p. 12.

⁵⁶ Ronnie Dugger, "The New Cold War," A speech made before the Texas AFL-CIO, December 3, 1997 <www.eden.com/~reporter/dugger.mai.html>, Paul Rauber, "All Hail the Multinationals!" *Sierra*, July/August 1998, p. 16-17 and Martin Wolf, "Uncivil Society," *Financial Times*, September 1, 1999. <<http://www.ft.com/hippocampus/q1499e2.htm>>

⁵⁷ Christian De Brie, "Watch Out for MAI Mark Two" *Le Monde diplomatique*, May 1999. <www.monde-diplomatique.fr/en/1999/05/?c=13mai>

⁵⁸ "China and U.S. Sign Landmark W.T.O. Deal," The Associated Press, in *The New York Times*, November 15, 1999. <www.nytimes.com/yr/mo/day/late/15wto.html>

of its exports has increased 15 percent a year (on average) while the value of its imports has increased 13 percent (on average). In 1998, China exported \$184 billion in goods, while importing \$140 billion. In 1999, China exported \$70 billions in goods to the U.S.⁵⁹

The biggest obstacle for China's entry into the WTO is approval by the U.S. Congress. The U.S. Congress must pass legislation that gives China permanent "most-favored nation" trading status in order for the U.S. agreement with China to become activated.⁶⁰ After a contentious debate, the House of Representatives voted in May 2000 to grant China this status.⁶¹ One important condition that the House put on the bill was to attach an amendment that would create a commission that will monitor human rights in China. Supporters of the amendment hope that outside judgment will ultimately move China towards political reform.⁶² The Senate was expected to approve this measure later in 2000.

Many groups and individuals are concerned that China's eventual entry into the WTO will further weaken the position of labor in international trade. One of the major concerns is that the current environment for Chinese workers will not allow for fair competition between China and other nations. In particular, the lack of independent unions coupled with a politically repressive government will continue to allow China to produce many goods and services at a price that other nations cannot compete with. According to the United Auto Workers (UAW) union:

The main function of union officials in Chinese workplaces is to control the workforce, ensuring that workers comply with employer-imposed rules and production standards.... Many factories are owned and run by the People's Liberation Army, where military discipline is imposed, and prison labor is used for industrial production.... Workers who try to upset this system of repression by creating or supporting independent unions are arrested and given lengthy jail terms ...⁶³

If China is enters the WTO without making any political or labor reforms, they will be allowed to extend this advantage to many other countries as they enter the world trading system.

Extending this advantage to more countries would weaken the bargaining position of unions, as well as make it more difficult for workers to form new unions. In this environment, both employers and politicians could use the threat of Chinese competition as a rationale for discouraging the formation of new unions and holding down reasonable wage increases.

⁵⁹ *The Economist*, "The Real Leap Forward," editorial, November 20, 1999.
<www.economist.com/editorial/freeforall/20-11-99/sa9108.html>

⁶⁰ Fred Bergsten, "Rejection At What Cost?" *The New Democrat*, January/February 2000, p. 12.

⁶¹ Schmitt and Kahn.

⁶² "Bright Light On China," editorial, *The Boston Globe*, May 26, 2000, p. A24.
<http://www.boston.com/dailyglobe2/...rials/Bright_light_on_ChinaP.shtml>

⁶³ "Why U.S.-China Trade Matters," *United Auto Workers*, June-July 1999
<http://uaw.org/publications/jobs_pay/0699/jpe_01.html>

President Clinton has sought to address labor's concerns by pointing out that the deal that secured China's entry into the WTO was made with sufficient consideration for American workers. In particular, provisions include measures designed to counteract potential Chinese violations of free trade principles. Specifically, actions can be taken against China for 12 years (after their entry into the WTO) if import surges threaten a specific industry, and the U.S. is allowed to take special action against China (for 15 years after their entry into the WTO) to fight against dumping. In addition, current unfair trade practices that China uses (or may use in the future), such as local content requirements, forced technology transfers and mandated offsets will be open to potential WTO adjudication. Because of this potential adjudication, China will have a powerful incentive not to use these economic practices.⁶⁴

Critics, however, point out that China has no incentive to change its repressive governmental practices that deny millions of Chinese basic democratic rights, such as the right to emigrate, speak freely without fear of official punishment and the right to form an independent labor union. Moreover, trade with China has become increasingly unbalanced. The U.S. trade deficit for goods and services reached a record high of \$271 million in 1999. In particular, the Chinese trade deficit for goods reached a record high of \$69 million, an increase of 20.6 percent over 1998.⁶⁵ If China enters the WTO without enacting genuine political reform, then the potential for China to increase its trade through the use of repression increases.

Some proponents of allowing China into the WTO maintain that U.S. labor unions will not be hurt. The losers may well be other developing nations in which the U.S. trades. As C. Fred Bergsten, director of the Institute for International Economics, said:

Unionists presumably fear that the deal will eliminate U.S. jobs by increasing imports. But objective research shows that the great bulk of our purchases from China displace purchases from other developing countries rather than domestic production here This will be also be true for clothing imports when WTO entry enables China to benefit from the elimination of our current quotas; the losers will be exporters in countries such as Bangladesh, Korea and Thailand.⁶⁶

U.S. labor unions may not be substantially hurt, *at first*. But as trade with China becomes increasingly "free," there follows growing incentives for more U.S. businesses to use Chinese labor to displace more expensive American labor. Telecommunications and automotive companies will become increasingly more significant than businesses that produce clothes and plastic toys with Chinese labor. These incentives, moreover, are not just for U.S. businesses, but for any transnational corporation that seeks to lower its labor costs. The power of example is the critical point. If Korean and Thai exporters are economically penalized because of their nations' belief in democracy, then a repressive signal could be sent to other developing nations: economic efficiency must come before democracy.

⁶⁴ Bill Clinton, "Expanding Trade, Protecting Values," *The New Democrat*, January/February 2000, p. 9.

⁶⁵ Robert E. Scott, "Trade Picture," *Economic Policy Institute*, February 18, 2000.

<<http://www.epinet.org/webfeatures/econindicators/tradepict.html>>

⁶⁶ Bergsten, p.13.

The WTO and the Wealth Gap

A number of studies suggest that the gap between the rich and the poor in the U.S. remains a stubborn dilemma for American society. For example:

- According to the Center on Budget and Policy Priorities, between 1979 and 1999 the *top* 20 percent of U.S. households are expected to see an average after-tax income increase of 43 percent while the 20 percent of U.S. households in the *middle* income bracket will see only an 8 percent average after-tax income increase.⁶⁷
- According to the Institute for Policy Studies and United for a Fair Economy, the ratio of top executive to factory worker pay has risen from 42 to 1 in 1980 to 419 to 1 in 1998. In 1998, the average blue-collar employee saw their pay rise 2.7 percent while chief executives of large companies saw their pay rise 36 percent.⁶⁸
- Even though the great economic boom of the 1990s produced substantial wealth for many Americans, the resulting prosperity did *not* shrink the wealth gap.⁶⁹

The WTO is too new of an organization to determine whether it has contributed to the persistence of the wealth gap in the U.S. However, the same economic forces that created the WTO (deregulation, privatization and a commitment to free markets) have helped create a political environment in which the wealth gap has persisted.

Thus the WTO has become a symbol to many of the 20-year build-up of corporate greed and the political accommodation which made it possible. Robert L. Borosage, the co-director of the Campaign for America's Future, explains why the WTO has become just such a symbol:

Over the past quarter-century, transnational corporations and banks forged a new global economy, with the flow of goods, services and particularly money across national lines expanding exponentially. Apologists paint this as an act of nature, driven by revolutions in technology, communications and transportation. But markets are made, not born. This global market was constructed by and for global corporations, aided by a forceful assertion of state power. When conservatives seized the commanding heights of the industrial world starting in the seventies — Thatcher in Britain, Reagan in the United States, Kohl in Germany — a new consensus formed on privatization, deregulation, fiscal austerity and 'free trade.' Indebted developing countries were force-fed what became known as the 'Washington consensus' by their creditors, with the International Monetary Fund acting as Big Nurse. *The WTO is the culmination of this process.*⁷⁰

⁶⁷ Larry Williams and Mary Otto, "Discontent Exists in Booming U.S." *The Detroit Free Press*, September 4, 1999, p. 9B. My emphasis.

⁶⁸ Tim Smart, "Pay Gap Widens Between Worker, Boss," *The Washington Post*, August 30, 1999, p. A06. <<http://www.washingtonpost.com/wp-s...te/1999-08/30/0901-083099-idx.html>>

⁶⁹ Charles Babington, "Household Incomes Are At A High," *The Washington Post*, October 1, 1999, p. A03. <<http://www.washingtonpost.com/wp-s...te/1999-10/01/1401-100199-idx.html>>

⁷⁰ Robert L. Borosage, "The Battle in Seattle" *The Nation*: December 6, 1999. <www.thenation.com/issue/991206/1206borosage.shtml> My emphasis.

The massive protests of the 1999 Seattle meeting brought together many groups that linked the WTO with growing corporate power and the widening and persistence of economic inequality. The estimated 50,000 protesters who demonstrated during the conference represented many different groups that oppose the way economic globalization is proceeding. Examples included environmental groups, labor unions, human rights groups, public health groups and advocates of fair trade. The Seattle meeting ended in failure, as the WTO was not able to agree to a new round of trade negotiations.⁷¹ Writing in *Business Week*, economist Robert Kuttner summarized the effect of the demonstrations: “Global trade politics will never be the same after Seattle. For the first time, the issue is squarely joined: Shall human rights take their place alongside property rights in the global economic system?”⁷²

If the WTO is a symbol of the twenty-first century political economy of the world, then the institution should be reformed to reflect the legitimate concerns that are primarily non-economic in nature (the environment, a diminished sense of sovereignty, the weakened power of national democracies) as well as the concerns which are primarily economic (labor power and wealth inequality).

Conclusion

Similar to the challenges of campaign finance reform, reform of the entertainment industry and reform of television news programs, there are three main concepts essential to the debate on free trade:

COMPETITION: Competition is the primary force that drives the movement towards free trade. It is assumed that global economic competition by transnational corporations will bring prosperity and security for nations and citizens alike. From the vantage point of wealth creation, free trade is arguably the best-known economic system in modern history. There are also good arguments that suggest that nations that are trading with each other are less likely to go to war than nations that are economically isolated.

Oftentimes the concept of competition is ideologically used to hide selfish intentions. For example, *The Economist* magazine states in an editorial that “trade is about greater competition, which weakens the power of vested interests. It is about greater opportunity for millions rather than privileges for the few.”⁷³ From a pure free market perspective, those statements are accurate. But what they ignore is the influence that money has on the political decisions of nations. In many cases, the powers of vested interests are strengthened by liberalized trade, not weakened. As Robert L. Borosage points out, the

⁷¹ For an excellent summary and analysis of what occurred, see the January 1-15, 2000, issue of *The Progressive Populist*.

⁷² Robert Kuttner, “The Seattle Protesters Got It Right” *Business Week*, December 20, 1999, p. 25.

⁷³ “The Real Losers,” *The Economist*, editorial, December 11, 1999.
<www.economist.com/editorial/freeforall/19991211/Id2868.html>

“various agreements that the WTO enforces were initialed by the member countries, but they were largely drafted by and for corporations.”⁷⁴

In this way, the political and economic elite introduced competition into new areas with very little input from the general public. This creates the suspicion that the concept of competition was used (by both governments and businesses) in order to mask what is essentially a self-serving arrangement.

Moreover, when competition is cited for its positive dynamics, its negative by-products are often ignored. For example, free trade can set nations against each other in an effort to create a political and legal environment that is hospitable to transnational corporations. Unless restrained by strong domestic political actors, this can lead to a downward spiral of declining (or stagnant) wages or/and environmental protection standards for the nation. For the most part, governments don’t deliberately negotiate agreements that cause these dynamics to occur. However, the atmosphere in which they operate (where free trade is accepted as the only acceptable economic system) structurally restrains the ability of governments to stop these dynamics from occurring.

Political scientist Charles E. Lindblom has written that economic markets can become prisons for institutions seeking policy changes. Specifically, that the popular control of democratic institutions can be crippled by the power of business. In essence, he states that effective government reform of private business behavior is incompatible with economic growth and prosperity.⁷⁵ With global free trade increasing, any threat of effective governmental reforms allows businesses the options to move (or expand their operations) to more economically friendly nations. If businesses begin to leave one nation (or plan their future growth in others), then the economic growth and prosperity of the nation that enacted reforms is threatened. This creates a *negative political incentive* for nations to enact effective reforms of private business behavior.

SPEED: A large part of the economic growth of the late 1990s and early twenty-first century was powered by the application of computer technology to business products and services. The Internet in particular has fueled recent U.S. economic growth. This development has allowed business to operate faster and with greater efficiency. Business decisions are thus made quicker as companies try to exploit the fast-paced technological changes. Consumers win as choices are expanded and many products and services have become cheaper. Expanding free trade is a logical next step of these developments.

But there is a downside. While speed has fueled economic growth and consumer choice, the potential long-term societal consequences of embracing technology and free trade is unclear. There is simply no time to understand what the future might look like because governments, businesses and citizens are economically penalized for taking a “wait and see” approach. The WTO’s ruling that the “precautionary principle” is illegal is a good example of this trend. The business application of technology (whether it is for hormone-

⁷⁴ Borosage.

⁷⁵ Charles E Lindblom., “The Market as Prison,” *The Journal of Politics*, vol. 44, May 1982.

treated meat or other future products) is increasingly taking precedence over the time-consuming (and thus *expensive*) process of testing, analysis and reflection.

LIMITS: Pure free trade doesn't recognize the validity of non-economic limits. Instead, the WTO seeks to maximize the potential benefits of free trade by eventually eliminating the political and social limitations that governments put on international trade. But increasingly more people have begun to recognize that a global economic system (in which the WTO is the primary institutional symbol) *without national political limits* can be a corrupting and destabilizing influence. Writing in February 1999, *International Herald Tribune* columnist William Pfaff observed:

The crisis provoked by unregulated investment and speculative flows, the plight of Russia, victim of an unsuitable Western model for development, and the inadequacies of IMF [International Monetary Fund] remedies for both have decisively weakened the orthodoxy ... It was presented as a kind of panacea for the world economy. Now its **limitations**, and the destructive consequences it can have, are clear ...⁷⁶

After the failed WTO conference in Seattle, free trade can no longer be limited to a narrow economic discourse. Instead, the WTO is now seen as much more than an international trade organization. As *Washington Post* writer Steven Pearlstein observed in December 1999: "[it is]...a debate about globalization, a process that many now understand affects not only traditional economic factors such as jobs and income but also the food people eat, the air they breathe, the quality of medical care, and the social and cultural milieu in which they live."⁷⁷

Free trade without limits creates a powerful incentive for greed. Unlike the domestic laws of many nations that limit the harmful effects of markets (such as unemployment insurance, retirement accounts and antitrust regulations) there are no effective global economic organizations that can tame the excesses of unleashed global corporate greed. Markets without limits are inherently unsustainable, as economic anthropologist Karl Polanyi (*The Great Transformation*) observed in 1944.

"Polanyi's enduring insight is that markets are sustainable only insofar as they are embedded in social and political institutions. These institutions serve three functions without which markets cannot survive: they *regulate*, *stabilize* and *legitimate* market outcomes," says professor Dani Rodrik. The logical political counterpart to the WTO is a world government that would legitimate, stabilize and regulate global economic outcomes.⁷⁸ That is not a realistic, much less desirable, goal for the twenty-first century.

⁷⁶ William Pfaff, "The Deregulation Orthodoxy Has Faded, but What Comes Next?" *International Herald Tribune*, February 3, 1999. <www.iht.com/IHT/WP/99/wp020399.html>

⁷⁷ Pearlstein.

⁷⁸ Dani Rodrik, "The Global Fix," *The New Republic*, November 2, 1998, p. 17-18. Emphasis in original.

Reform Proposals

There is no shortage of proposals that are intended to reform the way the WTO operates. Some seek to broadly overhaul the internal procedures and rules of the organization while others seek to address specific deficiencies. For example:

The Environment

- Follow up on an idea that U.S. vice-president Al Gore wrote about in *Earth in the Balance*. In 1992 he stated that: “It will ... be increasingly important to incorporate standards of environmental responsibility in the laws and treaties dealing with international trade. Just as government subsidies of a particular industry are sometimes considered unfair under the trade laws, weak and ineffectual enforcement of pollution control measures should also be included in the definition of unfair trading practices.”⁷⁹
- The Environmental Defense Fund (EDF) proposes that the U.S. government should work towards creating a national definition of the *precautionary approach* towards resolving environmental and trade disputes. This “should recognize governments’ right to protect health and the environment even when, as is the case with many environmental pollutants, less than full information is available...” Additionally, the EDF urges the WTO to create multilaterally agreed upon product distinctions grounded on the environmental consequences of *production*. This reform would deepen the organization’s commitment to environmental protection by incorporating a more holistic approach to international trade.⁸⁰
- Raise the environmental standards in which international trade occurs but link this to a commitment by rich nations to transfer technology to developing nations.⁸¹ This could ease the fear of developing nations that any competitive advantage they enjoy (due to weak or unenforced environmental laws) would be lost if they made environmental protection a priority.

Link Labor and Social Standards with Debt Relief

- Work towards a “grand bargain” in which substantial debt relief is granted to poor nations in exchange for the guarantee of minimal, yet *enforceable*, labor and social standards for all member states of the WTO.⁸²

⁷⁹ Al Gore, *Earth in the Balance* (New York: Houghton Mifflin, 1992), p 343.

⁸⁰ *Environmental Defense Fund*, 1999. “A Positive Agenda for Protecting the Earth’s Environment and Expanding Global Trade.” <www.edf.org/html2/issues/wto.html>

⁸¹ Kuttner, “The Seattle Protesters Got It Right,” p. 25.

⁸² Kuttner, “The Seattle Protesters Got It Right,” p. 25. Additionally, the link could also include binding pledges of long-term development aid. See Jeff Faux, “What’s Next for the WTO?” *The American Prospect*, January 17, 2000. Accessed via the Economic Policy Institute website. <www.epinet.org/webfeatures/viewpoints/wtofauxap.html>

Allow Legislative Oversight over the WTO

- Originate a Standing Body of Parliamentarians composed of legislators from the member states to scrutinize WTO activities and negotiations. British European Parliament member James Elles and U.S. Senator William V. Roth (R-Delaware) endorse this idea. The proposal was supported by almost 100 legislators from 24 member states of the WTO at the 1999 Seattle conference.⁸³ Although this group would not have any substantive power over WTO decisions, they could use publicity to pressure the WTO to move towards reform.
- Protect U.S. sovereignty by creating a five federal judge U.S. commission that would review all WTO cases in which the United States lost. If they determined that the WTO abused its discretion or exceeded its authority, Congress would have the ability to issue joint resolutions that could ultimately lead to a U.S. withdrawal from the organization.⁸⁴

Use Publicity and Consumer Choice to Modify Corporate Behavior

- Create a WTO-sanctioned program that would publish, *and publicize*, lists of nations that violate minimum labor and environmental standards in the production, use, distribution and disposal of their products and services. Make sure that the WTO will allow member countries (without the threat of the law going to a dispute panel) to create laws that require companies to identify their products or services as “worker-friendly” or “environmentally safe” as well as accurately identify their country of origin.⁸⁵ A coalition made up of U.S. colleges, the Clinton Administration, apparel makers and the Lawyers Committee for Human Rights has recently been formed that is dedicated to stop the exploitation of low-paid apparel workers in developing nations. The coalition is the Fair Labor Association (FLA) and they are instituting a system that uses external monitors to keep an eye on the working conditions of many apparel factories in developing nations. The plan is to publish and publicize an FLA annual report that lists which companies adhered to their standards with the end result an FLA label on every sweatshirt, T-shirt and pair of sneakers sold at each college bookstore.⁸⁶
- Create a WTO-sanctioned “Code of Conduct” for transnational corporations. In 1999, UN Secretary General Kofi Annan proposed that corporations institute a code of conduct in order to uphold labor, environmental and human rights standards in developing nations. This code of conduct would be for operations and investments and would apply to both corporations and their subcontractors.⁸⁷

⁸³ Bruce Stokes, “New Players in the Trade Game,” *National Journal*, December 18, 1999, p. 3630.

⁸⁴ Bob Dole, “3-Strikes Test For The WTO,” *The Washington Post*, May 8, 2000, p. A23.
<<http://www.washingtonpost.com/cgi-.ni/print&article=A23831-2000May7>>

⁸⁵ These ideas are modifications of ideas found in Burtless, Lawrence, Litan, and Shapiro.

⁸⁶ Friedman, “The New Human Rights.”

⁸⁷ Swardson, p. A15.

Reverse the Burden of Proof from the Country to the Exporter

Revise the standards of the WTO so that "... if there is any doubt as to the harmlessness of a product, the burden of proof must ... lie with the exporter." For example, this reform could force companies to spend more money on food safety so that health risks to the public would be minimized. Health should not be sacrificed for profits and market share.⁸⁸

Recognize that the Drive for Economic Harmonization Can Have the Effect of Lowering Health and Environmental Standards

According to writer Susan George:

In practice 'harmonization' imposes ceilings that have the ultimate effect of reducing all national laws, especially the most effective ones, to the lowest common denominator ... Anyone who refuses to import a particular product on the grounds that it may be hazardous to health or destructive to the environment must provide scientific proof. **The producer has no need to demonstrate what he sells is harmless.**⁸⁹

Health and environmental standards should not be allowed to decline under the guise of economic globalization.

Change From Negative to Positive Incentives

- Move from penalizing countries that violate free trade principles to a system where nations are compensated and lauded for their efforts to institute environmental and labor standards.⁹⁰

Another important reform would be if politicians would change *how* they talked about trade. Commenting on the 1999 WTO Seattle meeting, the *Washington Post* editorialized:

Trade advocates, the Clinton administration foremost among them, have failed to convince voters of their case, largely because *they lack the courage to defend trade as opposed to exports*. At every opportunity, the administration boasts of how much America is selling abroad. But it neglects to add that imports are good too: They reduce prices, spur competition and prevent the dollar from growing so strong as to stifle exports. Because politicians defend only half of trade, voters believe that trade is only half good.⁹¹

If more politicians would acknowledge the importance of imports in trade, then there would be an opening for a public dialogue to begin on what factors contributed to the imported product or service that Americans are buying. In other words, the discourse on trade could include how that product or service was produced: Was it made with slave

⁸⁸ Susan George, "Fixing or Nixing the WTO," *Le Monde diplomatique*, January 2000 <www.monde-diplomatique.fr/en/2000/01/07george>

⁸⁹ George, "Trade Before Freedom," My emphasis.

⁹⁰ George, "Fixing or Nixing the WTO."

⁹¹ "Lessons From Seattle," *The Washington Post*, editorial, December 1, 1999, p. A42. My emphasis. <<http://www.washingtonpost.com/wp-srv/Wpcap/1999-12/01/009r-120199-idx.html>>

labor? Child labor? Cheap labor? Was the environment hurt in the production of the product? Could the environment be harmed when the product is disposed of? A dialogue of this kind, led by politicians, could force consumers to weigh the importance of the non-economic portions of the product, instead of just the price or quality. In this way, economics could be re-linked with social and political factors. Most important, the trend towards a global apolitical consumerism could be modified so that citizens and governments could take into consideration the conditions of fellow humans around the globe, as well as the earth and its other living creatures, when they make a purchase decision.

Chapter 5

Pro Sports

The lack of limits that plague campaign finance, entertainment programs, TV news and international trade also contribute to the growing corporate welfare and greed in North American professional sports. This, in turn, has helped create a growing *disconnect* between professional sports and the average fan. The growing frequency of strikes, lockouts, astronomical player salaries and routine franchise blackmailing of cities fuels this chasm. Disgust with all the major actors involved is widespread. Some blame greedy owners. Others blame greedy players. Still others point to outrageously expensive TV contracts. However, the one thing that most critics agree on is that the greed and welfare in North American professional sports is getting worse.

The Present: Alienation, Cynicism and Anger

- Frank Stadulis, president of U.S. Fans, a public interest group: “Sports fans have always had to just sit back and take it. When ticket prices go up, we pay more. When new stadiums are built, our tax dollars often bankroll them. When Major League Baseball cancels the 1994 World Series, the league begs our forgiveness. But as the financial stakes get higher, as player egos grow bigger, and scandals become more shocking, fans are losing patience. They are increasingly less inclined to be passive spectators, manipulated by a system that rewards the leagues, players, owners and agents.”¹
- *Washington Post* writer Paul Farhi: “As business propositions go, it’s hard not to love pro sports. Limited competition. Guaranteed revenue. Taxpayer-subsidized workplaces. Restrictions on employee compensation. And all the glamour and attention you can stand.”²

¹ Frank Stadulis, “A Sports Fans’ Bill of Rights,” *msnbc.com*, September 9, 1999.
<<http://www.msnbc.com/news/306606.asp>>

² Paul Farhi, “A Team Is a Sound Investment,” *The Washington Post*, January 12, 1999, p. A1
<<http://www.washingtonpost.com/wp-...ns/daily/jan99/12/franchise12.htm>>

- Author and sportswriter Mike Lupica: “People say all the time that it is the money that has done the most to change sports and ruin sports ... The owners are the ones who say that the most. And they are the biggest problem. It’s not the money, it’s the moneymen.”³

The growing frustration with North American pro sports is characterized by four main developments: the growing tendency for cities and regions to subsidize pro sports franchises, the greed of *both* owners and players, the metamorphose of sports into entertainment and the growing alienation of the average fan. The growing influence of television contributes to these developments.

The Context and Discourse of Contemporary North American Professional Sports

On one level, pro sports in North America are very popular and profitable. Fueled by intense competition, talented players and teams excite fans from coast to coast throughout the baseball, basketball, football and hockey seasons. Playoffs are even more exciting as the very best in each league compete to win their championship. There is no shortage of heroic individual and team stories: from the improbable quarterback Kurt Warner winning the Super Bowl for the St. Louis Rams in January 2000 to the incredible 1998 and 1999 seasons of home run hitters Mark McGwire of the St. Louis Cardinals and Sammy Sosa of the Chicago Cubs. Professional sports are given regular front-page treatment in newspapers like *USA Today*, are often on the banner headlines of Internet news pages such as *Yahoo* and have several cable television stations (such as ESPN) that are devoted to reporting and interpreting the minutiae of their leagues, teams and players.

The language of professional sports is full of words that most people admire: competition, talent, excellence, hard work and teamwork. Indeed, these words are taught to children as values to strive for. In an environment of fair competition, talent and hard work can be rewarded with excellence. In particular, successful teamwork is created when individuals learn to unite their individual talents into a whole that is more than the sum of the parts. Sports fans admire the result when everything “clicks” for a team and they win their championship.

But fans also admire the spirit of competition itself. When a team or individual does it’s best (but still falls short), fans admire the effort. Great stories are created when an athlete plays through a painful injury, a team does better than anyone had expected or an exciting game ends in a fantastic finish. Fans are created when people allow their emotions to become attached to a player or team. This is acutely so with children and teenagers as they experience the formative years of their emotional identity. Fans are maintained into adulthood when mature grown-ups, even though they know that it is “just a game,” continue to follow and root for their favorite teams.

³ Mike Lupica, *Mad As Hell: How Sports Got Away From the Fans — And How We Get It Back* (Chicago, Contemporary Books, 1998), p. 27.

The public image of cities and regions can be intimately tied to the success or failure of their pro sports teams. The public image can also be tied to the newness of the stadium (or arena) that the teams play in. For example, many people proclaimed that the economic revitalization of Detroit was helped when the Detroit Red Wings won back-to-back Stanley Cups in the late 1990s and the football Lions and baseball Tigers committed themselves to building new stadiums in the city.

But many people have begun to realize that something is wrong with pro sports at the core. Fans realize that concepts like competition are applied unevenly: *ignored* in one context (leagues are run like economic cartels) and ferociously *defended* in another (the competition to win allows owners and players to justify their astronomical wealth). Increasingly, fans are also realizing that many teams will never have a fair chance to win a championship because of the growing gap between rich and poor franchises in many leagues. The problems are with how pro sports are organized and presented, not with the sports themselves. It is a complicated systemic problem created by powerful economic and political factors that are not easily thwarted.

The Growing Tendency for Cities and Regions to Subsidize Pro Sports Franchises

One of the most significant incentives that encourage greed in professional sports is competition between cities and regions for pro sports franchises. This competition is an incentive for state and local governments to create legislation (which usually includes special tax breaks) to attract or retain team franchises. The focus of the special legislative or tax breaks are usually to help the team build a new stadium (or arena) or help refurbish an existing one. Fearful that an existing team will leave, or desperate to attract a new one, local and state governments rationalize this corporate welfare as an indispensable tool in order to keep their city “major league.” The rhetoric usually is: if we don’t subsidize the team, another state or city will and we won’t have professional football, baseball, basketball or hockey any more. Team owners understand the environment and many of them coolly use these civic fears in order to get as many public dollars as they can. More often than not, the state or local governments give special favors and the owners accept them. To all concerned, this is the “price” that cities must pay for a professional sports franchise.⁴

In recent years, there are numerous examples of pro sports franchises that have used this environment to receive public funding. For example, in the National Football League (NFL), the owner of the old Cleveland Browns secretly negotiated with Maryland officials before he moved the team to Baltimore after the 1995 season. The team became known as the Baltimore Ravens when it began play in 1996. Even though the NFL awarded an expansion team to Cleveland in 1999 (which retained the name of the

⁴ For two insightful studies of this trend, see “The Patriot Games,” in *State Policy Reports* (Vol. 17, Issue 1, 1999), pp. 12-21 and Mandy Rafool, “Playing the Stadium Game: Financing Professional Sports Facilities in the ’90s,” *National Conference of State Legislators*, March 27, 1998.

<www.ncsl.org/programs/fiscal/lfp106.htm>

Cleveland Browns), this case is a good example of how cities and regions are held hostage to the demands of corporate welfare.

The pre-1999 Cleveland Browns were one of the oldest and most successful pro football franchises in the NFL. The Browns had been in existence since 1946 and had tremendous community support. The team consistently drew 70,000 fans to each home game, it ranked first in the NFL in television ratings in their market and taxpayers put money into Municipal Stadium (where they used to play) throughout the years.⁵ However, those factors were not enough for owner Art Modell to keep the team in Cleveland.

According to Modell, the Browns were consistently losing money and needed a new state-of-the art stadium to become profitable. He had been negotiating with Ohio politicians over the stadium situation since 1984. The problem was not specific to Cleveland but instead was tied to the economics of contemporary professional sports. As magazine writers Jim Duffy, Geoff Brown, Shari Sweeney and Jay Miller point out: "... in the new sports economy, big attendance numbers don't translate into profitability. Instead, the financial health of teams increasingly depends on amenities found only in new stadiums — skyboxes for corporate clients and plush club-level seating for well-heeled fans."⁶ In contrast, Municipal Stadium was old (it was built in 1931) and had no skyboxes. Modell also had another disadvantage because he was responsible for operating and maintaining Cleveland Stadium, having signed a 25-year lease in 1974. Additionally, Modell probably felt that he was the "odd man out" in town because the National Basketball Association (NBA) Cavaliers and baseball's Indians had recently built new buildings.⁷ In 1994, Jacobs Field was built for the Indians for \$178 million (of which 88% was publicly financed) while Gund Arena was built for the Cavaliers for \$159 million (of which 97% was publicly financed).⁸

In theory, Modell and other NFL teams with old stadiums should have been able to be economically competitive with teams with newer stadiums. The NFL has regulations on salaries and revenues that are supposed to create a rough parity between the teams. Specifically, there is a salary cap put in place each year (in 1998 it was \$52 million per team), revenue sharing (money from the league licensing agreement and the network television contracts are split equally among the teams) and a division of money from general seating revenues (66% for the home team and 34% for the visiting team).⁹ In broad terms, these arrangements are supposed to ensure equal opportunity for teams to compete with each other. There should be rough parity between teams so that no franchise achieves long-term dominance unless athletic, coaching, scouting, drafting and administrative excellence creates that dominance.

In reality, there are a number of loopholes in these regulations, which makes league-wide economic parity increasingly less attainable. For example, there is no cap put on signing

⁵ Mike DeWine, "Fans Rights Act of 1995" in *The New Populist Reader*, pp. 115-116.

⁶ Jim Duffy, Geoff Brown, Shari Sweeney, and Jay Miller, "How the Deal Went Down" *Baltimore* magazine, January 1996.

⁷ Duffy, Brown, Sweeney, and Miller.

⁸ Rafool .

⁹ Kurt Badenhausen, "Laws of Dis-Parity," *Forbes*, September 20, 1999, p. 172.

bonuses. A number of owners have given star players huge signing bonuses. In April 2000, the Cleveland Browns gave first-round draft pick Penn State defensive end Courtney Brown a \$10.8 million first-year bonus.¹⁰ In 1999, the Washington Redskins spent \$29 million in signing bonuses. In 1998, the Carolina Panthers spent \$41 million. The signing bonuses can be legally amortized over all the years of a contract. This effectively contravenes the salary cap.

Another loophole is the money that teams make from all other sources (besides general seating revenues) associated with the stadium where they play. These revenues don't have to be shared and include novelties, concessions, corporate sponsorships and luxury suites. In particular, teams can make a tremendous amount of money on luxury suites. These loopholes have created an incentive for owners to demand stadiums that will produce additional money for them, through the sale of luxury suites and corporate sponsorships. This additional money can be used to pay the signing bonuses (and salaries) of star players, and thus make the team more competitive.¹¹

Maryland officials knew how the system operated and effectively worked it to bring the pre-1999 Browns to town. Owner Art Modell negotiated with representatives of the governor's office eight months before he agreed to move the Browns to Baltimore. The end result was a sweet deal for Modell: his football franchise would play in a new stadium built by state bonds and his franchise would get to keep money from the sale of boxes and seats as well as concession income derived at the stadium.¹² The new Ravens stadium opened in 1998 and cost \$220 million, with Maryland taxpayers picking up \$200 million of the tab.¹³

It is easy to demonize Maryland public officials as unscrupulous thieves that offered a deal that Modell could not refuse. It is also easy to characterize Modell as a greedy owner who simply wanted to make as much money as possible. But those characterizations ignore the context of why Maryland officials acted the way they did and also why Modell thought he had to accept their offer.

Throughout most of NFL history, Baltimore had a successful professional football team. The Colts had many exciting stars in the fifties, sixties and seventies, including quarterback Johnny Unitas, offensive end Raymond Berry, halfback Lenny Moore and defensive end Bubba Smith. The Colts played in what was considered the greatest NFL game to that day in 1958 as they defeated the New York Giants 32-17 in overtime for the NFL championship. Baltimore also won a league championship in 1958 and the Super Bowl in 1971.¹⁴

¹⁰ Jarrett Bell, "Brown Quietly Accepts Status," *USA Today*, April 17, 2000, p. 19C.

¹¹ Badenhausen, p. 172.

¹² "The Stadium Game," *State Policy Reports*, Volume 14, issue 4, 1996, p. 2.

¹³ Raymond, J Keating,, "Sports Pork: The Costly Relationship between Major League Sports and Government," April 5, 1999. *Policy Analysis*, no. 339. Found on the Cato Institute website <<http://www.cato.org/pubs/pas/pa-339es.html>>

¹⁴ Jack Hand, *Heroes of The NFL*, (New York: Random House, 1965), chapters 4 and 10, Harold Rosenthal, *The Big Play*, (New York: Random House, 1965), chapter 10 and *Official National Football League Record Book*, (New York: National Football League, 1971), pp. 87, 110.

By the early 1980s, however, the situation had changed dramatically. The Colts had a new owner (Robert Irsay purchased the club in 1972), they were not winning as much as they had in the past, and they were playing in old Memorial Stadium. Irsay began to negotiate with several potential cities where he wanted to move the team. On March 29, 1984, he moved the Colts to Indianapolis.¹⁵ Irsay found a receptive city in Indianapolis: the Hoosier dome had already been built and it needed a major tenant. The Dome had been built in 1984 and cost \$78 million, of which taxpayers paid \$48 million.¹⁶ Irsay wanted the following concessions from Indianapolis before he would move his team there: a \$15 million low interest loan to pay off a previous debt he incurred in acquiring the Colts, a guaranteed minimum 40,000 tickets sold per game and new administrative offices, practice fields and a training facility.¹⁷

There are similarities between what Modell and Irsay did in moving their teams. They both wanted a new stadium and they both had several potential cities that were willing to subsidize (or had already subsidized) new stadiums. Irsay had been simultaneously negotiating with public officials over how to pay for improvements for an old stadium while he was negotiating with other cities where he might move the Colts. For many years, Modell unsuccessfully negotiated with public officials over how to pay for improvements for an old stadium until May 1995 when he cut off talks. Afterwards he started talks with Maryland officials about a possible move while never informing Ohio and Cleveland public officials of these negotiations.¹⁸

Fans in both cities were outraged that an established NFL team had moved because they could not get enough public subsidies to make them stay. In both cases, public officials were actively considering helping the team owners with either renovating an existing stadium or helping to build a new stadium. But Maryland officials in 1984 and Ohio officials in 1995 could not match decisions by other public officials that made attaining a professional sports franchise an economic development *priority*. In one sense, the Browns' move to Baltimore was created by the Colts' move to Indianapolis: Baltimore just wanted a team again so they did to Cleveland what Indianapolis did to them. As sportswriter Mike Lupica observes, "Baltimore had once been screwed out of the Colts ... [and t]hey screamed their moral outrage and righteous indignation about the injustice of it all to the high heavens. Then, the very first chance they got, they showed the world that they like this kind of screwing in sports much better when they get to be on top."¹⁹

In both of these cases, the owners did not consider the fans a priority. Instead, fans were used as pawns, and cities battled against each other as the owners negotiated for the most corporate welfare they could get. The Cleveland Browns fans in 1995 were put up against potential 1996 football fans in Baltimore. In 1984, the fans of the Baltimore Colts were pitted against potential professional football fans in Indianapolis.

¹⁵ Kenneth L. Shopshire, *The Sports Franchise Game*, (Philadelphia: University of Pennsylvania Press, 1995), pp. 46-48.

¹⁶ Keating.

¹⁷ Shopshire, pp. 46-48.

¹⁸ Duffy, Brown, Sweeney, and Miller.

¹⁹ Lupica, p. 8.

The cruel irony about professional sports teams threatening to move (if they don't receive the subsidy they want) is this: Most people want government to protect their tax dollars and spend, or commit, them only after careful deliberation and for projects that the majority wants to see publicly funded. However, if the voters or local or state government either negotiates to get as good as deal as it can for the taxpayers or simply refuses to provide subsidies, it stands the risk of losing the team. With many cities wanting pro teams, hesitation or straight-out rejection of public subsidies makes moving more appealing for owners.

With this environment, it is no wonder that so much public money has been spent (or committed) to building or refurbishing homes for professional sports teams. From 1989 through 1998, there have been at least \$5.2 billion in government subsidies for stadiums, arenas and ballparks for professional hockey, football, basketball and major league baseball teams. For example:

- In 1989, Canada's Sky Dome (home of baseball's Toronto Blue Jays) opened. It cost \$442 million, of which \$322 million were taxpayer dollars.
- In 1991, Chicago's New Comiskey Park (home of baseball's White Sox) opened costing \$150 million. All of the cost was paid for taxpayers.
- In 1992, Baltimore's Camden Yards (home of baseball's Orioles) opened costing \$210 million. All of the cost was paid for taxpayers.
- In 1995, St. Louis' Trans World Dome (home of the NFL Rams) opened costing \$290 million. All of the cost was paid for taxpayers.
- In 1995, Boston's Fleet Center (home of the basketball Celtics and hockey Bruins) opened costing \$275 million. \$115 million were taxpayer dollars.
- In 1995, Oakland-Alameda Coliseum (home of the NFL Raiders) was refurbished costing \$225 million. All of the cost was paid for taxpayers.
- In 1997, Qualcomm Stadium (formerly Jack Murphy Stadium) was refurbished (home of the NFL Chargers and baseball's Padres) for a cost of \$78 million. \$60 million was paid for by taxpayers.
- In 1998, Tampa's Raymond James Stadium (home to the NFL Buccaneers) opened at a cost of \$168 million. All of the cost was paid for taxpayers.²⁰

From 1999 through 2002, an additional \$9 billion in government subsidies is expected to be paid for potential and actual renovations for new homes for pro sports franchises. For example:

- In April 2000, baseball's Detroit Tigers moved into Comerica Park. Public financing paid for \$110 million of the \$300 million price tag.
- In April 2000, baseball's Houston Astros moved into Enron Field. Public financing paid for \$115 million of the \$300 million price tag.
- In 2001, the NFL Denver Broncos will move into a new stadium that is expected to cost \$360 million of which \$266 million will be public dollars.

²⁰ Keating, pp. 14-15.

- In 2001, baseball's Pittsburgh Pirates will have a new home costing \$228 million. The public will pay \$188 million of the cost.²¹

There are many other cities that are currently considering subsidizing their pro sports teams. Some are considering subsidies to build new stadiums/arenas for their teams. For example, in major league baseball, the Minnesota Twins want to move out of the Metrodome in Minneapolis and get the public to help pay for a new ballpark in St. Paul. Many influential economic and political voices spoke out for the proposal, including St. Paul mayor Norm Coleman, both major Twin-Cities newspapers and the cable sports network Midwest Sports Channel. However, the \$216 million proposal was defeated in November 1999 by St. Paul voters by a 58 to 42 percent margin.²²

John Henry, the owner of the Florida Marlins baseball team, does not like the stadium where his team plays. Currently, the Marlins play in Pro Player Stadium, built in 1987 for the NFL Miami Dolphins. Henry wants to build a 42,000-seat, retractable roof park in Miami that would be 75 percent paid for with public money. Henry favored public financing via a proposed tax on cruise-ship passengers. Florida Governor Jeb Bush has opposed this plan, however, and the team has given up on the idea.²³ Henry has said that he would build a 25,000-seat "minor-league" stadium if he didn't receive public money. That option "... would not allow us to be competitive,"²⁴ he said.

After new ballparks opened in the 1990s, the New York Yankees hinted that they would consider moving out of Yankee Stadium unless a new park was built for them with public financing. Owner George Steinbrenner has threatened to move his team to a location in Manhattan (Yankee Stadium is in the Bronx) or to New Jersey unless his demands are met. In 1998, Steinbrenner revealed his privileged position as a pro sports owner when he talked with Bronx Borough President Fernando Ferrer about where the Yankees would play in the future. He said, "If he [Ferrer] can guarantee we'll get three million [in 1998 attendance], then I'll sit down and talk about the Bronx."²⁵

Baseball's Boston Red Sox currently play in Fenway Park. Built in 1912 with \$364,000 of private money,²⁶ the park is one of baseball's oldest and quaintest places to see a baseball game. Because it is so small, however, the owners believe that the team cannot be competitive in the future unless a bigger stadium (with luxury boxes and more seats) is built. In May 1999, the Red Sox announced that they had developed a proposal to build a new Fenway Park. The new park would cost \$545 million and would include 95 luxury

²¹ Keating, pp. 14-15 and Thomas Heath, "Franchises, Neighborhoods Benefit From Ballparks." *The Washington Post*, April 6, 2000, p. D1. <<http://www.washington...11/daily/april00/06/ballparks6.htm>>

²² Field of Schemes website, 2000. "The Sports Swindle Ticker..."

<www.fieldofschemes.com/news/index.html>

²³ "Marlins Like Downtown Sites in Stadium Search," *USA Today*, September 8, 1999, p. 16C and David O'Brien, "Cruise-Ship Tax Scuttled; Ballpark Prospects 'Dark,'" April 6, 2000. *Fort Lauderdale Sun-Sentinel*. <<http://www.sun-sentinel..1/0,1136,30000000000110781,00.html>>

²⁴ "Marlins Like Downtown Sites in Stadium Search," p.16C.

²⁵ Mark S. Rosentraub, "Why Baseball Needs New York to Just Say No" *The Nation*, August 10, 1998<www.thenation.com/1998/issue/98810/0810ROSE.HTM>

²⁶ Keating, p. 11

boxes, 44,000 seats and more room for concessions.²⁷ By July 2000, the plan's cost had increased to \$627 million.²⁸

High profile local and regional leaders are helping the Red Sox. In March 2000, former Maine U.S. Senator George Mitchell wrote a column on the op-ed page of *The Boston Globe* supporting the proposal.²⁹ The Red Sox hired John Sasso (a former political operative to ex-Massachusetts Governor and U.S. presidential candidate Michael Dukakis) to lobby public official to support the plan.³⁰ The Greater Boston Chamber of Commerce and Greater Boston Convention and Visitors Bureau released a glowing report in the summer of 1999 on how a new stadium would increase spending.³¹ Some local labor leaders have publicly supported the plan and the Speaker of the Massachusetts House of Representatives has hinted that he will favor some sort of public financing for a new park.³² In April 2000, it was reported that the Red Sox would ask for up to \$250 million in public funds.³³

Some teams in smaller cities want direct financial aid from the government. For example, by mid-2000 most of the Canadian teams in the National Hockey League (NHL) were having financial difficulties. The Canadian franchises (Edmonton Oilers, Calgary Flames, Ottawa Senators, Vancouver Canucks, Toronto Maple Leafs and Montreal Canadians) have to compete with teams in major U.S. cities for international talent and often do not have the money to do so. Two franchises have already moved from Canada to the U.S. in the mid 1990s (the Quebec Nordiques became the Denver Avalanche, and the Winnipeg Jets became the Phoenix Coyotes) because of financial problems. The Canadian teams (with the exception of Toronto) have less money than most U.S. teams because they pay their players with U.S. dollars but collect their revenue in Canadian money. Because of the exchange rate, the teams lose \$12 million annually because of the difference in value between the currencies. The teams also have less money because while the owners of Canadian franchises finance new arenas, most of the new homes for U.S. NHL teams are helped financially by local U.S. governments.³⁴

In mid-January 2000, the Liberal party-ruled Canadian federal government proposed a plan to bail out the hockey teams. The proposal would have created federal tax subsidies

²⁷ Neil deMause, "Sox and Sausages," *Sportsjones* <www.sportsjones.com/fenway.htm> May 21, 1999.

²⁸ Meg Vaillancourt, "Menino is Said to Offer \$110m towards Fenway," *The Boston Globe*, July 6, 2000, p.A01.

²⁹ Joan Vennoch, "Hardball to Begin on New Sox Park?" *The Boston Globe*, March 17, 2000, p. A27 <http://www.boston.com/dailyglobe2/...1_to_begin_on_new_Sox_park_+.shtml>

³⁰ Derrick Z. Jackson, "Will Red Sox Rob us Blind?" *The Boston Globe*, March 31, 2000, p. A19 <http://www.boston.com/dailyglobe2/...Will_Red_Sox_rob_us_blind_P.shtml>

³¹ Derrick Z. Jackson, "Beware of Sox Proposal – Taxpayers Have Been Torched on Other Cities," *The Boston Globe*, July 7, 1999, p. A21 <http://www.boston.com/dailyglobe2/...een_torched_in_other_cities+.shtml>

³² Jackson, "Will Red Sox Rob us Blind?"

³³ *Associated Press*, April 5, 2000. "Red Sox Seeking More Private Funds to Build New Ballpark Complex." <www.boston.com/news/packages/fenway/>

³⁴ Mike Brehm, "Flames Need Fans' Help to Stay Put," *USA Today*, April 17, 2000, p. 8C and Kevin Allen, "Canadian Clubs: Help!" *USA Today*, April 9, 1999. <<http://search2.usatoday.com:80/pl...plateName=predoc.tmpl&setCookie=1>>

that the teams could become eligible for. The subsidies, estimated at \$18 million, would only come into effect if the teams could get aid from the league as well as provincial and municipal governments. Ottawa Senators owner Rod Bryden supported the proposal and threatened to sell the Senators unless his team received federal government subsidies. After the plan was criticized by the public, Liberal party MPs and provincial government leaders, the plan was quickly dropped from consideration.³⁵

Put very simply, these teams are attempting to extort money from the public to help pay for private businesses. They are only able to do so because they operate in leagues where the interests of the minority (the powerful insiders) are more important than the majority (the relatively powerless outsiders). In this case, it is the owners who are the elite minority while the fans are the ineffectual majority. Sports corporate welfare has increased in recent years because the owners have been very effective political operatives. Many owners have used public money to prosper because they use “divide and conquer” techniques, as they pit one city against another. However, this is only effective because there are more cities wishing to obtain pro sports franchises than there are available. But the key fact is that the owners and the leagues (and not a free market) are the ones making the determination about how many franchises are “available.” It could be argued that the financial worth of pro sports franchises are increasing *precisely because* the number of franchises are deliberately kept at a level below demand.

What incentives do the owners have in moderating their demands for newer stadiums? They have no financial incentives; they know that a franchise is a hot commodity. The only incentives they have are social and communal. Owners could view the team as a tradition tied to a particular geographical area and allow something other than the financial bottom-line to determine their decisions.

Owners have used public money to prosper by exploiting the natural romanticism that many people feel towards sports. This romanticism is created, at least in part, by the many years that teams are either located in one city, one stadium, or both. This longevity creates an opportunity for a link to develop between generations, as parents and children are given a chance to share mutual emotional attachments to their home team. Many owners *use* this bond, however, as a bargaining chip with government officials (or voters if there is a referendum) in order to get as much money as possible.

Thoughtful leaders such as former New York Governor Mario Cuomo realize that romanticism is a commodity with some pro sports owners. Sportswriter Mike Lupica asked him about the worth of the New York Yankees at a time when the team was considering moving out of Yankee Stadium. Cuomo said, “Is there a lot of romance involved here? You bet there is. Is some of the romance bullshit, too? Sure it is.” Even

³⁵ Shawn McCarthy, “Liberals Draw Public’s Anger for NHL Bailout Plan,” *The Globe and Mail* (Toronto), January 20, 2000.

<<http://archives.theglobeandmail.co...esultStart%3D1%26ResultCount%3D10&>> Shawn McCarthy, “Subsidies a Drop in Bucket Compared to Possible Bailout,” *The Globe and Mail* (Toronto), January 19, 2000 <<http://archives.theglobeandmail.co...sultStart%3D21%26ResultCount%3D10&>> and Field of Schemes.

though Cuomo realized that the romantic attachment was partially based on drivel, he still thought that Yankees owner George Steinbrenner deserved help coming up with money to keep the team in New York.³⁶

The fact that so much public funding has been transferred to private sports team owners confirms an old axiom in political science: a small yet well-organized interest group (the owners and the leagues) always prevails over large and disorganized interests of the majority (the fans). The transfer of public money to private interests has occurred in an environment in which greed is the driving force behind many of the decisions in contemporary pro sports.

The Greed of *Both* the Owners and Players

When professional sports leagues experienced labor disputes in the 1980s and 1990s, the public face of the controversies pitted owners against players. Fans were asked to choose between the interests of players' unions and the interests of the owners. In the baseball strikes of 1981, 1985, 1990 and 1994, the NFL strike of 1987, the NHL strike of 1994 and the NBA lockout of 1998-1999, each side used rhetoric to try and gain sympathy for their positions. Owners claimed that skyrocketing players' salaries were threatening the financial health of their league and that some form of compensation cap must be put in place. The players and their unions claimed that they just wanted to preserve (or gain) the same economic rights that any citizen possesses: the right to make as much money as they can on the market with their talent. This rhetoric was misleading, however, in that it hid the fact that the players and the owners actually have more in common with each other than the average fan. The most important commonality is their wealth.

The Players

For many years, pro sports players were economically treated like slaves, in that they were the property of the particular team that drafted them. They would have to stay with that team until they either retired or were traded. The first sports players that freed themselves from that system were major-league baseball players. In the 1970s, U.S. courts and independent labor arbitrators awarded them free agency status, meaning they were no longer legally bound to one team for their whole career. The owners have been fighting player free agency ever since. As of the 2000 season, players are eligible for arbitration in salary disputes (after three years) and can move from team to team in search of the best deal they could find (after six years).³⁷ Major league baseball currently imposes a luxury tax on owners that exceed a specific threshold on player compensation.³⁸ However, this has not been very successful in that the wealth of players continues to increase, as shown by their increase in salaries. For example, in 1990, the average salary for baseball players was \$578,930. In 1994, it was \$1,188,679 and in 1999, it was \$1,720,050. By 2000, it hit \$1,988,034. *From 1998 to 2000, salaries have*

³⁶ Lupica, 47.

³⁷ James, C. McKinley, Jr., "For Have-Nots of Baseball, Dream of Next Year Is Gone," *The New York Times*, April 7, 2000, p. C20.

³⁸ Michael Ozanian, "Selective Accounting," *Forbes*, December 14, 1998, p.125

increased 36.9%. Pitcher Kevin Brown of the Los Angeles Dodgers, currently earning \$15.7 million for the 2000 season, is in the middle of a \$105 million seven-year contract. Pitcher Randy Johnson of the Arizona Diamondbacks earns \$13.35 million for the 2000 season while outfielder Albert Belle of the Baltimore Orioles earns \$12.87 million for the 2000 season.³⁹

Players in the other major pro sports leagues aren't doing badly either. For example, the average NFL salary was \$1.043 million for the 1999 season, the average NHL salary for the 1998-1999 season was \$1.3 million, and the average NBA salary for the 1999-2000 season was \$3.5 million.⁴⁰

Do the players deserve to make this much money? The situation with baseball players is illustrative of pro sports athletes in general. With baseball labor peace currently in place for the 2000 season, most fans don't really care: they are focused on which teams are winning and what the prospects are for their favorite team. However, when there is another work stoppage, whether it comes in the form of a strike or a lockout, fans will be forced to look more closely at the economics of baseball. Player salaries will be a part of what is scrutinized by the fans. If the atmosphere is similar to what it was like in 1995, the players will not get a lot of sympathy from the fans.

In 1995, two fans commented on the then baseball strike. Michael McCarthy of Pittsfield, Massachusetts, said, "I just can't get my union-movement sympathies up for a group of employees that are 'tortured' by playing a wonderful game for over \$150,000 minimum. I just can't feel sorry for them." Gene Johnson of Fort Oglethorpe, Georgia, stated, "The players are greedy, doing something that everybody would give their right arm to do and then wanting more money than they are worth ... They just want to go for the highest bucks."⁴¹ These sentiments can also be applied to the "plight" of the owners.

The Owners

There has never been a better time to be an owner of a professional sports team than in 2000. The financial value of teams has risen to record levels as many owners see the worth of their franchises increase by double digits each year. For example:

- The value of the 29 NBA franchises increased an average of 11 percent from the 1997-1998 to the 1998-1999 season. This occurred even though most of the teams lost money in the 1998-1999 season because of the work stoppage. The work stoppage, caused by a dispute over player salaries, shortened the regular season from 82 games to 50 games. The labor dispute only ended when the players capitulated to the owners' demand for a salary cap and tough economic penalties on the players if the cap is breached. This agreement will allow owners to keep salaries unnaturally

³⁹ Associated Press, "Mo' Money," <www.cnn.com/baseball/mlb/news/2000/04/05/mlb_salaries_ap/> April 6, 2000, and George Will, "Field of Dreams," *The Washington Post*, February 28, 1999, p. B07 <<http://www.washingtonpost.com/wp-...e/1999-02/28/2741-022899-idx.html>>

⁴⁰ Associated Press, "Mo' Money."

⁴¹ *The Washington Post*, "The Fans Speak," February 5, 1995, p. D4.

low (below market price) and help to increase their value of their franchises. Thus, the value of the New York Knicks went up 13 percent to \$334 million, the Philadelphia 76ers' value went up 18 percent to \$231 million, the San Antonio Spurs increased their value by 39 percent to \$169 million while the Minnesota Timberwolves' value went up 23 percent to \$146 million.⁴²

- The value of the 30 NFL teams increased an average of 34 percent from the 1998 to the 1999 season. The Dallas Cowboys' value went up 61 percent to \$663 million, the value of the Washington Redskins went up 51 percent to \$607 million, the San Francisco 49ers increased their value 46 percent to \$371 million while the New Orleans Saints' value went up 30 percent to \$315 million.⁴³ Owners that have kept their teams for many years (even though they also may have moved them from one city to another) have realized substantial gains in the value of their franchise. For example, Art Modell bought the Cleveland Browns in 1961 for \$3.9 million, and it is currently worth \$408 million as the Baltimore Ravens.⁴⁴ Lamar Hunt bought the Dallas Texans in 1959 for \$25,000, and his team is currently worth \$353 million as the Kansas City Chiefs.⁴⁵
- The value of the 27 NHL teams increased an average of 8 percent from the 1997-1998 season to the 1998-1999 season. The New York Rangers' value went up 21 percent to \$236 million, the Florida Panthers' value went up 55 percent to \$163 million, the Toronto Maple Leafs increased their value 27 percent to \$151 million while the Dallas Stars' value went up 26 percent to \$149 million. Most NHL teams increased their value even though more than half of them were losing money as of December 1999. This is possible because money from television and merchandise is growing fast, making the prospects for future financial growth strong. For example, the latest NHL network television contract (which began in the 1999-2000 season) with ESPN and ABC is for five years at \$600 million, a 176 percent increase from their last five-year network contract. Additionally, NHL-licensed product sales were at \$1.2 billion from 1994-1998, a 20 percent increase.⁴⁶
- The value of the 30 major league baseball teams increased an average of 11 percent from the 1998 to the 1999 season. The New York Yankees' value increased 36 percent to \$491 million, the Houston Astros' value increased 26 percent to \$239 million, the Anaheim Angels increased their value 24 percent to \$195 million while the value of St. Louis Cardinals went up 18 percent to \$205 million.⁴⁷ Owners can make tremendous profits by simply holding onto their team for a number of years and selling it later. For example, Richard E. Jacobs and his brother bought the Cleveland

⁴² Kurt Badenhausen, "NBA Owners Score Big," *Forbes*, December 13, 1999, p. 94 and Kurt Badenhausen and William A. Sicheri, "National Basketball Association Statistics," *Forbes*, December 13, 1999, p. 96.

⁴³ Kurt Badenhausen and William A. Sicheri, "The NFL's Financial Standings," *Forbes*, September 20, 1999, p. 177.

⁴⁴ Farhi and Kurt Badenhausen and William, A Sicheri, "The NFL's Financial Standings" p. 177.

⁴⁵ Daniel Fisher and Michael K Ozanian, "Cowboy Capitalism," *Forbes*, September 20, 1999, p. 171.

⁴⁶ Kurt Badenhausen and William, A Sicheri, "National Hockey League" (statistics), *Forbes*, December 13, 1999, p. 96 and Michael Ozanian, "Mario Lemieux, Value Investor," *Forbes*, December 13, 1999, p. 92.

⁴⁷ Kurt Badenhausen and William, A Sicheri, "Baseball Games," *Forbes*, May 31, 1999, p. 114

Indians in 1986 for \$40 million. In 1999, Jacobs (his brother had died) sold the Indians to Lawrence J. Dolan for \$320 million. The Texas Rangers were bought for \$8 million in 1980 by H.E. Chiles, sold to a group headed by George W. Bush in 1989 for \$85 million and bought by Thomas O. Hicks in 1998 for \$250 million.⁴⁸ The Baltimore Orioles were bought for \$70 million in 1988 and sold to Peter G. Angelos for \$173 million in 1993. By 1999, they were valued at \$351 million.⁴⁹

Is the value of the franchises in any way justifiable? It is insofar that what the owners can get for their franchise (within the legally protected environment of being in a league or association) determines the value. By controlling the number of teams, pro leagues can control the value of their franchises. If more teams were allowed to enter, the value of the existing teams would diminish. These leagues operate in a monopoly-like fashion: the supply of teams is kept at a constant level and growth is carefully controlled so that the value of the existing franchises doesn't diminish. It is in this economic environment that the franchise values increase.

The same general principle applies to the players. With a limited number of teams, there come a limited number of players. Thus the salaries have skyrocketed because the players enjoy the benefits of free agency (with varying degrees in each pro sport) within a closed environment of a league. But the value of the players and the franchises could not have increased as much as they have without the help of television. And increasingly television has come to dictate the values of pro sports. Unfortunately, the demands of television have diminished the moral values of pro sports as much as they have increased the financial value of the franchises and the players.

Television Money: The Metamorphose of Sports into Entertainment

There is little argument that television has increased the popularity of pro sports by allowing more people to watch its games. With cable and satellite dishes, sports fans can watch their favorite teams from areas that are far away from the geographic location of their team. A Washington Redskins fan living in Savannah, Georgia, can watch every football game from his home if he has a satellite dish. A Chicago Cubs fan living in Louisville, Kentucky, can watch every baseball game from her home if her cable company has the "local" Chicago WGN television station on its system. The fan no longer has to either read the morning newspaper to learn how a team performed or watch the television sports news to see a few seconds of highlights. There aren't many limits to a fan's ability to closely follow a favorite team. Great as this may seem, there are also some major negative consequences with this development. The huge amount of money that leagues and teams receive from network and cable television has helped produce the inflated values of franchises and the high compensations of the players. Simply put, television has been a major factor in producing the greed that has come to dominate professional sports.

⁴⁸ Mark Hyman, "Pity the Poor Owners? That's Rich," *Business Week*, November 22, 1999, p. 91.

⁴⁹ Farhi and Badenhausen and Sicheri, "Baseball Games," p. 114.

For the most part, the relationship between pro sports and television money has been a one-way upward ride. The NFL has the most lucrative television deal of all the major sports leagues. In 1962, CBS paid \$4.7 million annually for the exclusive network rights to televise NFL games. In 1998, CBS signed a deal to pay the NFL \$4 billion a year for the right to show only a portion (the American Conference games and selected playoff games) of the contests.⁵⁰ In 1999, the NFL was being paid over \$17 billion by the CBS, ABC, and Fox broadcast networks as well as on the ESPN and TNT cable networks for the right to telecast their games.⁵¹ Additionally, the cost of televising the NFL title game has skyrocketed in the last 37 years: In 1963, \$926,000 was paid to the NFL for its title game, between 1970 and 1975, approximately \$2.5 million was paid to the NFL for the Super Bowl⁵² and by 2000, Super Bowl television rights were worth millions of dollars. This amount of money could be justified by the huge television ratings that Super Bowls receive: of the top 48 all-time highest rated television programs, 21 were Super Bowls.⁵³

Some of the other sports leagues also have lucrative contracts. For example in 2000, the NBA was in the middle of a \$1.75 billion, four-year contract with NBC and a \$890 million, four-year contract with Turner Sports (which owns the TNT and TBS cable stations).⁵⁴ Through the 2002-2-003 season, the NBA will receive \$660 million a year from U.S. telecast rights,⁵⁵ with each team receiving approximately \$22.8 million per year.⁵⁶

Major-league baseball receives a significant amount of money from television but it is very unevenly distributed. For the 1998 season, baseball received \$917 million in broadcasting revenue, which were 34.4 percent of its total revenues.⁵⁷ For the 1999 season, all the teams received a flat \$15 million in national broadcast rights. However, there is a tremendous economic disparity between large- and small-market teams. This gap is created because the amount of money those large-market teams receive from local (usually cable) broadcasts are significantly higher than the amount received by small-market teams. For example, in 1999 the big-market New York Yankees, Los Angeles Dodgers and Boston Red Sox garnered \$58 million, \$33 million and \$21 million respectively in local television revenue. In the same year, the Pittsburgh Pirates, Kansas City Royals and the Montreal Expos only received \$7 million, \$6 million and \$3 million respectively.⁵⁸

The disparities in television revenues are directly linked to the disparity between payroll salaries of major-league baseball teams. In 1999, the highest television revenue team was

⁵⁰ Farhi.

⁵¹ "Play to Win, NFL," editorial, *Los Angeles Times*, August 1, 1999.

<www.latimes.com/HOME/NEWS/OPINION/t000068347.html>

⁵² James A Michener, *Sports in America* (New York: Random House, 1976), p. 289.

⁵³ Jerry Brown and Michael Morrison, *2000 ESPN Information Please Sports Almanac* (New York: Hyperion ESPN Books, 1999), p. 587.

⁵⁴ Howard Fendrich, "NBA Playoff Sked Creates Big Gaps" *Associated Press*, April 25, 2000.

<http://library.northernlight.com/E...html?no_highlight=1&cbx=0%253B1006>

⁵⁵ Anthony Bianco, "Now It's NBA All-The-Time" *Business Week*, November 15, 1999, p. 241.

⁵⁶ William Sicheri, "Deal of the Century," *Forbes*, December 14, 1998, p. 130.

⁵⁷ Badenhause and Sicheri, "Baseball Games, p. 116.

⁵⁸ Bob Costas, *Fair Ball*, (New York: Broadway Books, 2000), p. 65.

also the highest payroll team: the New York Yankees.⁵⁹ The Yankees had a significantly higher payroll than the payrolls of the low television revenue teams, such as Kansas City, Montreal and Minnesota. Low and behold, every team that has played in the World Series since 1994 had a payroll in the top 10.⁶⁰

The situation now is that baseball teams with low television revenues and low payrolls can't compete with the major market teams, such as the Yankees, Braves and Dodgers. The small-market owners know this, some of the fans suspect this and their games are subsequently marketed as entertainment. As sportscaster and author Bob Costas says:

If you don't have a payroll of at least \$50 million (and likely more in the future), you don't have a chance to compete. As Sandy Alderson said before he left the A's to join Major League Baseball's central office, small-market teams are no longer in the business of competitive baseball, they're in the business of entertainment — because their knowledgeable fans *know* that these teams can't compete. So they have to get fans to the ballpark by some means other than the pursuit of a championship.⁶¹

This amount of television money has accelerated a trend in which sports are becoming morphed into entertainment as the highly dramatized visual and audio “experience” of the sporting event is increasingly becoming more important than allowing the natural drama of the contest to unfold. This trend manifests itself in two major ways: rules, schedules and broadcasts are changing to accommodate television, and media and entertainment companies own more and more teams.

Rules, Schedules and Broadcasts Changes to Accommodate Television

The NBA, for example, extended its playoff season in recent years in order to accommodate the additional teams added through expansion. However the additional playoff games also added television revenue. For example, the very first final series of the Basketball Association of America (the precursor to the NBA) was started on April 16, 1947, and ended April 22, 1947. There were two quarterfinals and semi-final series that preceded it. As the years went by, the final series ended later and more games were added. The 1973 final series began on May 1 and ended on May 10, the 1989 final series began on June 6 and ended on June 13, and the 1998 final series began on June 3 and ended on June 14 and had two conference finals, four conference semi-finals and eight first-round series.⁶² The series are dragged out for extra days (days in addition to traveling time) in order to get the best possible television day. In the mid-1980s, this situation led to some unusual circumstances when the Boston Celtics played in the NBA finals. The Celtics at that time played in the Boston Garden, which did not have air conditioning. Basketball is traditionally a winter sport with the college basketball finals played in late March. Unfortunately, many of the Celtics' home playoff games were played in extreme heat. If the playoffs were not extended to mid-June (through long

⁵⁹ Associated Press, “Mo’ Money.”

⁶⁰ Costas, pp. 56, 93.

⁶¹ Costas, pp. 57-58. Emphasis in original.

⁶² NBA website. <www.nba.com/history/index_sbys.html>

preliminary playoffs and unnecessary delays of days to accommodate television), this would not have happened.

In 2000, the NBA extended the first-round playoffs in order to maximize their potential for television revenue. Some series had a four-day gap between games (instead of the usual one- or two-day breaks) so that the weeknight games would not impinge with each other and there could be as many weekend games as possible.⁶³ The result is that the eventual winner might have to play for 60 days in the playoffs. If the ratings improve with this format, then the NBA can get more money with a new television contract beginning with the 2003-2004 season. NBA Commissioner David Stern was honest about the reason for the extended playoff schedule: "... [it was] done to get more of our games on NBC. It also was done so we could earn more money — in case there were any doubts about that."⁶⁴

The NFL has made numerous changes to accommodate television, including structuring several "TV time-outs" within games, increasing the number of playoff games in order to maximize revenue (the NFL has increased their playoffs from eight teams in 1969 to ten in 1978 to 12 since 1990⁶⁵) and usually waiting two weeks between the end of the conference championship series and the start of the Super Bowl. The "TV time-outs" lengthen the games but increase interest and drama, particularly at the end of a game.

One of the most significant relationships between television and money is Monday Night Football. Introduced in the early 1970s, the format has proven to be popular with the public and a moneymaker for both the ABC network and the NFL. In the 1970s, colorful commentators Howard Cosell, "Dandy" Don Meredith and Frank Gifford made the game interesting, and fans often tuned in solely to listen to their banter. Ratings and interest have continued to be high in the '80s and '90s. For example, Monday Night Football games were five of the top 25 rated television sports events for the 1998-1999 season.⁶⁶

Although high, television ratings have declined in recent years.⁶⁷ ABC and the NFL have tried to reverse the ratings decline by making a number of changes. In 1998, the telecast time was moved up from 9 p.m. Eastern Time to 8 p.m. in order to maximize the potential viewers in that time zone. Additionally, an elaborate pre-game show was added. This show, originating from a 35,000-square-foot dining and entertainment center in Baltimore called the ESPN Zone, is intended to hype the game by showing live fans eating, drinking and listening to the ABC commentators.⁶⁸ The change didn't work as well as ABC and the NFL hoped because in 1999 ABC moved the game back to its

⁶³ *USA Today*, "Stern: TV Ratings Will Show if Format Is Success," May 1, 2000, p. 11C

⁶⁴ Fendrich.

⁶⁵ Brown, and Morrison, p. 246.

⁶⁶ Brown and Morrison, p. 585.

⁶⁷ For example, ratings declined to 13.7 in 1999 from 13.9 in 1998. See Joe Frisaro, "Boomer Bounced From ABC Booth," *UsFANS.com* (website), March 9, 2000.

<www.usfans.com/today.cfm?id=430&keywords=Monday,Night,Football>

⁶⁸ Dusty Saunders, "ABC Pushes up Monday Night Football for Eastern Gain," *Nando Media*, August 19, 1998 <www.sportserver.com/newsroom/sports/fbo/1998/feat/archive/081898/nfl/67050.html>

previous 9 p.m. Eastern Time start. Additionally, commentator Boomer Esiason was fired in 2000 and controversial conservative radio broadcaster Rush Limbaugh was publicly considered as a potential replacement for him.⁶⁹ In June 2000, ABC announced that comedian Dennis Miller would become a “Monday Night Football” announcer.⁷⁰

The same trend has affected Baseball’s World Series. The first World Series game was played on October 1, 1903, and the final game of the series was completed on October 13. The first game of the 1999 World Series was played on October 23 and the final game was over on October 27.⁷¹ Moreover, most of the series games start past 8 p.m. Eastern Time and sometimes end after midnight. This fits in well with television networks because it is prime time. The schedule, however, is not very fan friendly, particularly for younger ones.

In 1976, author James Michener wrote, “If the individual’s participation in sports can be best understood as a form of dance, professional performance must be studied as a form of entertainment. Newspapers, radio and television, aware of this fact, have prudently presented sports as entertainment.”⁷² While this is undoubtedly true, it is difficult to deny that this has been accelerated over the last 25 years. The race for profits has accelerated this trend in such a way that some people wonder if “the tail is wagging the dog.” Does television call the shots and the pro sports leagues simply follow the dictates of television? The advent of Monday Night Football, the fact that World Series games regularly end past midnight in the eastern time zone and NBA playoffs that extend nearly till July lead one to suspect that the leagues are not really in charge of their destiny anymore. Describing the relationship between sports and television, the words of author Joseph Durso seem just as relevant today as they were when he wrote them in 1971:

What was happening was natural enough — television, having risked all that money on sports events, could not risk artistic disaster by letting the chips fall where they may during the ball games. To protect their investment, in a business wracked with recrimination, the TV people not only had to cover an event but also to *stage* it. Natural enough, but dangerous enough, because the same ‘natural’ impulse had devastated the old quiz shows. It was zeal, it was competition, it was prestige, it was money — it was greed.⁷³

The Growing Ownership of Teams by Media and Entertainment Companies

In recent years, media and entertainment companies have bought many professional sports franchises. For example:

- The Walt Disney company owns the Anaheim Angels baseball team and the Mighty Ducks of Anaheim NHL franchise.

⁶⁹ *TCPalm.com*, “Briefs: Rush Limbaugh Wants ‘MNF’ Job,” April 13, 2000<www.tcpalm.com/Sports/v13sptbr.shtml>

⁷⁰ Rudy Martzke, “No Joke: Ranting Miller Joins ‘MNF’ Cast,” *USA Today*, June 23, 2000, p. 1A.

⁷¹ Baseball almanac website <<http://baseball-almanac.com/WS/wsmenu.shtml>>

⁷² Michener, p. 285.

⁷³ Joseph Durso, *The All-American Dollar*, (Boston: Houghton-Mifflin, 1971). pp. 261-262.

- Time-Warner owns the Atlanta Braves baseball club, the Atlanta Hawks NBA team and the Atlanta Thrashers NHL team.
- Cablevision Systems owns the New York Knicks NBA team and the New York Rangers NHL team.
- Comcast owns the Philadelphia 76ers NBA team and the Philadelphia Flyers NHL team.
- Fox's News Corporation owns the Los Angeles Dodgers baseball team.⁷⁴

If a media/entertainment company owns a sports team, it is inevitable that the business practices of the owner will influence the decisions made for the team. Because these companies make their profits from entertaining, it is tempting that their sports teams will try to do the same. For example, game schedules will be used in order to fill television programming and maximize revenue. As writer George Will states, "New corporate owners have new motives for ownership: Media giants ... are buying the programming when they buy a team."⁷⁵

And it's not just programming that impacts pro sports teams. Perhaps more important, the ownership of pro sports teams affects how they are covered by the electronic media because of the various interconnecting economic relationships between media and pro sports. For example, there is very little objective investigative journalism done by the television networks on the most pressing problems of pro sports, such as stadium financing and the general economics of the sports leagues. As writer John Soloman observes:

Pro sports' failings don't get the coverage they deserve in the press. The national sports media are frequently 'league partners' or even franchise owners [Fox and TimeWarner are good examples], rendering their journalism on the subject less than objective.... It's possible that the relationship the sports industry is just symbiotic. Typical is ESPN's current advertising campaign for *SportsCenter* [its nightly *news* program], which features pro athletes singing the praises of the show and its announcers.⁷⁶

It is difficult to imagine an ESPN reporter asking a tough question about league salary caps to an NHL or baseball star. Instead, the television atmosphere is mostly jovial and light, with the only serious questions asked about a team or player's athletic performance. Even though there are many broadcasters at ESPN who are quite capable of asking substantive questions on the economic structure of the major professional sports leagues, it is hardly ever done. The economic relationships between large media conglomerates and pro sports teams are simply too cozy and comfortable for much "hard news" to ever appear on the air.

ESPN, for example, is partially owned by Walt Disney, which not only owns sports teams but also owns ABC television, 10 local ABC television stations, 44 ABC radio

⁷⁴ Badenhausen, and Sicheri, "National Basketball Association Statistics, p. 96 and Badenhausen and Sicheri, "Baseball Games," p.116 and Badenhausen and Sicheri, "National Hockey League" (statistics), p. 96 and Matthew Reed Baker, Leslie Falk and Jane Manners, "The Big Media RoadMap" *Brill's Content*, December/January 1999/2000, p. 99-102.

⁷⁵ Will.

⁷⁶ John Soloman, "Whose Game Is It, Anyway?" *The Washington Monthly*, December 31, 1999, pp. 32, 34. Emphasis in original.

stations, ABC.com, the GO network and Infoseek. Additionally, Rupert Murdoch's News Corporation not only owns pro sports teams but also the Fox Broadcasting Company, Fox television stations and the *New York Post*. Much of major league baseball's local television contracts are with Fox Sports Net. Finally, Paul Allen (of Microsoft fame) and Vulcan Ventures own the NBA Seattle Supersonics and the Portland Trail Blazers as well as Charter Communications (which includes cable television).⁷⁷

There are no economic incentives for a television network to air an independent and objective regularly scheduled program that critically analyzes the economic structures and relationships involved with pro sports. There is little evidence to suggest that there is a conspiracy going on by the major media to deliberately "black out" any serious discussion of sports and systemic economic pressures and relationships. Instead, sports is reported as entertainment and compelling individual and team stories dominate the coverage. Systemic factors are too complicated, take up airtime and (probably) chase away viewers, at least in short-term ratings.

The combination of television and pro sports produces an overemphasis on the highlights of games, concentrating on the incredible moment when a great play is made. For example, watching only ESPN's SportsCenter or CNN's Sports Tonight, gives an impression that this is *all* that pro sports is about. As writer Frank Deford observes:

If, for example, you watch sports highlights regularly, you would believe that all athletes ever do is ... hit home runs and swish 50-foot baskets with a second left in the quarter.... sports highlights are ... a world where only wonderful spectacular stuff happens — and now these days, there are so many sports championships being played, so many potential highlights, so little time, that only the highlights of the highlights can make the news. It's not the games that matter ... The sport with the most highlights gets the most attention.⁷⁸

If large media companies purchase more pro sports teams, then the pro sports could become, at its essence, pure entertainment.

The greed that has distorted professional sports in North America has also produced another unfortunate byproduct: the growing alienation of the average fan.

The Growing Alienation of the Average Fan

One reason why the average fan has become alienated from professional sports is the rising cost of going to a game. For example, the Fan Cost Index (which is defined as two average priced adult tickets, two average priced child tickets, four sodas, two beers, four hot dogs, two game programs, two souvenir caps and parking) is very high for all the major professional sports leagues. The Fan Cost Index for going to an NBA game in the 1999-2000 season was \$267, it was \$254 for an NHL game in the 1999-2000 season,

⁷⁷ Baker, Falk and Manners, pp. 99-102.

⁷⁸ Frank Deford, "Sports: Economized for Your Viewing Pleasure," June 17, 1998, *cnn.com* <<http://cnn.com/features/1998/deford/0617>> Originally heard on National Public Radio's Morning Edition.

\$258 for an NFL game in 1999 and \$132 for a baseball game in the 2000 season. *Average* ticket prices alone have gone up much faster than the inflation rate: a baseball ticket has gone up 93% from 1991 until 2000, a football ticket went up 81% from 1991 until 2000, and a basketball ticket went up 108% from the 1991-1992 season until the 1999-2000 season.⁷⁹

It is very difficult for the average fan to attend many games with these kinds of prices. Instead, an increasing number of people who go to games are the wealthy or the upper middle-class, which can afford these types of prices. What are the reasons for these price increases? One has been to help pay for the new stadiums and arenas that have been built over the years. Another reason has been to simply increase profit. For example, owner Jerry Jones of the NFL's Dallas Cowboys has added 100 luxury suites to Texas Stadium while eliminating 2,500 general admission seats since he bought the team. He also forced 8,000 fans to pay an extra fee (some as much as \$15,000) for the privilege of keeping their season tickets. The average ticket price for a Cowboys game is \$49.50, while the Cowboys had a 1999 value estimated at \$663 million.⁸⁰

Another example of this trend is the Detroit Tigers baseball team. In 2000, the Tigers started to play at Comerica Park. The stadium is a classically "retro" ballpark every bit as beautiful and appropriate for baseball as Cleveland's Jacobs Field and Baltimore's Camden Yards. However, to help pay for it, the Tigers went down the same path as other clubs and built luxury suites and increased ticket prices. For the 2000 season, average Tiger ticket prices increased 103 percent to \$24.83 while the Fan Cost Index increased from \$108.41 in 1999 to \$165.31 in 2000.⁸¹

Moreover, Comerica Park was built with 102 luxury suites, costing \$90,000 to \$125,000 a season. These suites can hold 12 to 14 people, come with a television, bathroom, bar seats, wet bar and a glass window with a drink rail and have been purchased by such business giants as General Motors, Ford, Miller Brewing Company, Anheuser Busch and Daimler-Chrysler. These suites are a marked improvement from earlier times, as *Detroit Free Press* columnist Doron Levin observes: "In the old days corporations bought a couple of box seats near the dugout or behind home plate. Besides uncertain weather and awkward food and beverage service, sitting outside in a crowd of people posed other barriers to a pleasant experience." Instead, today's luxury suites bring the rich (and their friends) this experience: "Ordering food and drink ... is just a phone call away. When the weather's favorable, guests will emerge into fresh air and sit in each suite's outdoor seats. No one need suffer during a freezing day in early April or a sweltering August evening."⁸²

The park has 40,000 seats but the luxury suites can only hold from 1,224 to 1,428 people. What about the fans who cannot afford or don't have the access to a luxury suite?

⁷⁹ *Team Marketing Report, Inc.*, 2000, "Fan Cost Index" <<http://www.teammarketing.com/fci.htm>>

⁸⁰ Fisher and Ozanian, "Cowboy Capitalism," p. 175 and Badenhause and Sicheri, "The NFL's Financial Standings, p. 177.

⁸¹ David A Markiewicz, "Tigers Tickets: 103-Percent Jump," *Detroit Free Press*, April 5, 2000, p. 40.

⁸² Doron Levin, "Luxury Suites Will Level the Tigers' Playing Field," *Detroit Free Press*, April 5, 2000, p. 1A.

Doesn't the comfort and ease of the majority count? Even though *Lansing* (Michigan) *State Journal* columnist John Schneider likes Comerica Park, he speculates how the experience might have been at Tiger Stadium, where the team used to play: "... the high rollers ... ate the same hot dogs, drank the same watered-down beer, held the same pennants, lifted their arms to the same wave and used the same bathrooms, where they might have traded jokes and opinions with folks from the cheap seats." The difference with today is quite distinct. Schneider wryly writes about how he would write a press release for the luxury suites: "In the splendid exclusivity of your tastefully appointed luxury suite, you'll feel distinct from — and, yes, superior to — the Tiger fans who, perhaps through no fault of their own, find themselves sitting with the rest of the crowd."⁸³

The rising ticket prices and the increasing use of luxury suites are justified as necessary steps in order to gain revenue. And without more money, professional sports teams cannot afford to pay the high salaries that the star players demand. Without stars, teams won't win, fans won't come to the game and the team loses money. So goes the vicious cycle.

But the situation in professional sports doesn't have to continue to follow this destructive cycle. Instead, reform is possible if certain key concepts are honestly debated and their consequences openly acknowledged.

Conclusion

Similar to the challenges of campaign finance reform, reform of the entertainment industry, reform of television news programs and changing the terms of free trade, there are three main concepts essential to the debate on professional sports.

COMPETITION: In professional sports leagues, the competition between cities for franchises has helped produce a type of geographical extortion where public funds are often taken and transferred to the private sector, either to the owners, the superstars or both. Teams and superstars threaten to leave unless their financial demands are met. While this competition produces wealth for many of the owners and a great number of players, it also weakens the sense of association, or community, that all leagues are supposed to share. All it takes is one owner, or one superstar, to demand an outrageous sum of money for the dynamic of senseless competition to begin. For example, if an owner gets a city to help pay for a new stadium, then another owner can use that fact as a tool to get his city to help pay for a new stadium for his team. Additionally, if a baseball superstar successfully demands a huge, new contract, then the next superstar can use that fact to get a huge new contract for himself.

This competition accelerates the wealth gap in professional sports and weakens the ability of less wealthy franchises to compete. This is particularly true in baseball. It is senseless because the league becomes weaker as more and more franchises are "priced out" of being able to attract (and retain) the high-quality players necessary to win games. Thus in 1999 and 2000, there was talk of eliminating several franchises that have not built new

⁸³ John Schneider, "Keep Out," *Lansing State Journal*, April 16, 2000, p. 3B.

stadiums, have had low team salaries and have (curiously) not made the playoffs in recent years. But that move would not solve the fundamental underlying problem of baseball: the huge gap between teams as to the local revenues that they collect and the need for more revenue sharing. Instead, it could actually weaken competition and reward the wealthy franchises that are already dominating the league. According to writer Mark Hyman:

Having fewer teams means larger slices of revenues for the 28 franchises that would remain. Owners of large-market teams also see relief from a dreaded obligation: revenue-sharing. Baseball's richest franchises now subsidize the poorest. Zapping small-market also-rans rubs out 'the neediest and most demanding of the revenue-sharing payees,' notes [San Diego Padres owner Larry] Lucchino.⁸⁴

FEAR: The decision of teams to pay millions for average players and for cities and states to pay millions for new stadiums is often based on fear. The “if we don’t, someone else will” mindset places owners (when they negotiate with players or players unions) and cities (when they negotiate with owners who threaten to move) in a position where they feel they are forced to capitulate to demands in order for the chance to compete. This mindset is now accepted as a reality that must be obeyed.

- *Detroit Free Press* columnist Doron Levin observes the baseball situation: “Without a new stadium and its luxury suites, no money for hot-shot players. Without a winning team, lousy ticket sales. [Detroit Tiger owner Mike] Ilitch ... eventually could have been forced to sell the Tigers to some up-and-coming Sunbelt city like Irvine, California, or Austin, Texas.”⁸⁵
- Canadian-based writer Petti Fong observes the situation in hockey: “If Canada really wants to prevent more clubs from migrating to receptive cities in the U.S., it needs to acknowledge that it is part of a system —however flawed— in which municipalities go to extraordinary lengths to lure and keep major-league franchises.... The awful truth these days is that the taxpayers can holler and pundits can carp about the lunacy of giving away the public store to bag a team, but at the end of the day ... you gotta pay if you want to play.”⁸⁶

Fear also contributes to the acceleration of sports into pure entertainment. Because the wealth of the owners and players is so tied to television ratings and exposure, there is a great fear to make sure that the ratings remain high — or at least don’t decline. For example, it was reported in 1999 that the NFL offered \$100 million to the World Wrestling Federation if they would move their *Monday Night Raw* to another day. The NFL was reportedly concerned that Monday Night Football’s declining ratings were partially caused by people tuning into wrestling.⁸⁷ NBC, once the proud network of AFC football, has succumbed to this trend by joining forces with the World Wrestling

⁸⁴ Mark Hyman, “And Then There Were 28...” *Business Week*, October 11, 1999, p. 98.

⁸⁵ Levin, p. 1A.

⁸⁶ Petti Fong, “Canada: Penny-Wise, Franchise-Foolish,” *Business Week*, March 27, 2000, p. 70.

⁸⁷ Jim Varsallone, “NFL Offers McMahon Millions to Move Monday Night Raw?” *Miami Herald*, August 17, 1999 <<http://www.ultimowrestling.com/rwin/articles/reports/11340.htm>>

Federation to create a new football league called the XFL. The XFL is an “extreme” type of football where there are no fair catches on punts, “trash talk” will not only be permitted but also encouraged, and microphones will be on referee’s caps, helmets and coaches. The league will begin play in February 2001.⁸⁸

LIMITS: There do not seem to be many limits to the increasing wealth that pro owners and players are accumulating. By not accepting limits, players and owners allow their selfish instincts to dominate their actions and further alienate the average fan. For example, if the baseball players’ union fights to protect the right of players to make as much money as they can and a strike occurs in the future, how many fans will support the players’ side? Probably not as many as in the past, given the economic condition of baseball today. As Bob Costas says (in the context of a comprehensive reform proposal for baseball), “... what the Players Association still thinks of as principle —no upward limitation on salaries — has become, in truth, a myopic and outdated view of the way the game should operate, a view that clearly is no longer in the best interests of the institution or, ironically, a majority of the players themselves.”⁸⁹

Owners also need to realize that the accumulation of wealth without apparent limits could carry a price for them in the future. Because their teams operate in leagues, owners should realize that they have a common destiny with the players. A league where a few powerful franchises are dominant for years on end (principally because they can afford to attract and retain superstar players) is a league where the fans in the other cities might not come to games very often.

Reform Proposals

There are many sound proposals designed to reform the way professional sports leagues operate. For example:

The Commissioners

- Create a system where the commissioner is hired by *both* the owners and the players’ union and have each of them pay half of the commissioner’s salary.⁹⁰ In this way, the commissioner will be equally beholden to the owners’ and players’ interests and hopefully will act for the fan in the best interests of the game.

Television

- Discipline the power of television by purposefully refusing to change schedules and rules solely to maximize ratings. In baseball, for example, play two World Series games in the daytime in order to preserve the continuity between generations, when

⁸⁸ Leonard Shapiro, “Pro Wrestling, NBC Hope to Produce Gripping Product,” May 2, 2000, *The Washington Post*, p. A01 <<http://www.washingtonpost.com/cgi-...ni/print&articleid=A51277-2000May1>>

⁸⁹ Costas, p. 87.

⁹⁰ Lupica, p. 54

most of them were played in the daytime. Even though this would cost money, it is well worth it, as Bob Costas says, "... it would add texture to the Series, since these games would look and feel different, and be recalled with a different visual shorthand. And it would generate, among the community of baseball fans, the goodwill that comes with something that feels right for all the right reasons."⁹¹

- Abolish the wildcard for baseball. This would mean less total playoff games, and thus potentially less television revenue, but would bring clarity to the games being played. This action could also help restore meaning to the baseball pennant races.⁹²

Antitrust Law and Policy

- Even though baseball and football have been exempted from certain (although not all) federal antitrust laws, Congress should convene public hearings on the topic. While this was done in 1995 when the old Cleveland Browns moved to Baltimore, the systemic problems (particularly in regard to franchise relocation) have not been solved. In addition, as more and more entertainment companies become owners, Congress and the executive branch should be wary of possible illegal "vertical integration." An example is a cable station that owned several pro sports teams and a television network in one metropolitan area.⁹³

Community Ownership/Public Offering

- Allow fans and communities to buy sports teams when they are for sale. U.S. Rep. Earl Blumenauer has sponsored a bill that makes community ownership an option that all leagues would have to offer. This is important because community ownership is either discouraged or forbidden by the leagues.⁹⁴ If nothing else, force the owner of any team that is up for sale to make a public offering as the *first* thing they must do.⁹⁵ The NFL's Green Bay Packers are an example of a community-owned team that is successful.⁹⁶ Other cities should have the same option.

Make Games Kid-Friendly and Require Teams to Help Youths

- For the NBA, prohibit all weekday games from starting past 6:30 p.m. If the games start earlier, more kids will be able to see them (if they can afford a ticket). In

⁹¹ Costas, p. 171-172.

⁹² Ibid, p. 153.

⁹³ Solomon, p. 34.

⁹⁴ Ibid.

⁹⁵ Lupica, p. 58.

⁹⁶ Although relatively successful on the field in the late 1990s, the Packers are not immune to the financial pressures that effect all NFL teams. In 2000, the Packers announced a plan to expand and refurbish Lambeau Stadium. A key component of the plan includes using revenue from sales taxes to borrow money for the project. In order to go forward, the plan needs to be approved through a public referendum. The vote is planned for September 2000. See *Associated Press*, "Green Bay and the Packers reach Naming-Rights Agreement," July 10, 2000. <<http://sports.yahoo.com/nfl/news/ap/20000710/ap-lambeau.html>>

addition, every one under 14 gets a soda and a sandwich for half of what it costs an adult.⁹⁷ A soda should not have to cost a kid \$4.50 in Indianapolis and a hot dog shouldn't have to cost a kid \$4.00 in Portland.⁹⁸

- Reserve a portion of new revenues that clubs earn for youth programs.⁹⁹

Eliminate or Reduce Sport Corporate Welfare

- Get rid of the tax write-offs that sports tickets garner for corporations. In addition, remove a financial incentive to build new sports stadiums by eliminating the federal tax exemption that applies to financing the construction of such endeavors.¹⁰⁰ A more modest proposal would be to require that owners themselves finance a certain portion of a new ballpark they want to build, dependent upon their willingness to keep the team in town and make it viable.¹⁰¹

Require Pro Sports Teams to Open Up Their Business Records in Order to Receive Public Financing

- If a team wants the help of the taxpayers, they should be forced to open up their internal financial accounts to public scrutiny. Minnesota Governor Jesse Ventura has proposed this for the NFL's Minnesota Vikings, whose owner is requesting public funding for a new stadium.¹⁰²

Comprehensively Reform Baseball's Economic Structure

- Consider implementing a thoughtful proposal by Bob Costas. His proposal includes the following: a substantial structural increase in revenue sharing by giving half of each team's local television revenue to their opponent (or divided up among all teams), force clubs to share their ticket revenue with a 70 percent (home team) and 30 percent (visiting team) split, agree to an upward limitation on player salaries, institute a payroll maximum *and* minimum for each team, agree to a superstar salary cap and move up player free agency by two years.¹⁰³ In July 2000, an economic study committee of major league baseball released a report that recommended reforms similar to Costas'. However the panel did not recommend a salary cap.¹⁰⁴ These proposals address the problem of restoring balance and sanity to baseball's economic structure. If implemented, they also could give hope back to many baseball cities in North America.

⁹⁷ These are suggestions made by former NBA player Glenn (Doc) Rivers in Lupica, p. 61.

⁹⁸ *Team Marketing Report, Inc.*, 2000, "Fan Cost Index" <<http://www.teammarketing.com>>

⁹⁹ Jay Weiner, "Thinking Out Of The Batters Box," *Business Week*, April 24, 2000, p. 178.

¹⁰⁰ Soloman, p. 33.

¹⁰¹ Lupica, p. 49.

¹⁰² William Wilcoxon, "Vikings Blitz for New Stadium," September 1, 1999, *Minnesota Public Radio*. <http://news.mpr.org/features/199909/01_wilcoxenw_mccombs/index.shtml>

¹⁰³ Costas, pp. 66-67, 71-72, 87, 93, 95, 98.

¹⁰⁴ *Associated Press*, "Baseball Study Back Revenue Sharing," July 14, 2000. <<http://www.nytimes.com/aponline/s/AP-BBO-Owners-Meetings.html>>

Although it seems paradoxical, pro sports at its best is made up of institutions that require *cooperation* between the players, the owners, different cities and the fans. To be sure, there is fierce competition between teams and players. But what has been downplayed recently is the necessity for cooperation, or association, so that an environment is created in which athletic excellence can be rewarded. Regarding baseball, Frank Deford observed in 1999: “Sport is a dream before it is a game. The owners *and* the union must appreciate: Deny the dream; soon enough, destroy the game.”¹⁰⁵

But more than cooperation is needed. Restraint is also a major part of how pro sports can reform itself. *All* the major actors in pro sports should restrain themselves from *always* making decisions that are predicated on maximizing revenue. Instead, the *interests* of the players, owners, fans and cities should be served while the *demands* of them ignored. Pro sports should be treated with respect by all involved. The fierce competition of sports should be left to the athletes, the coaches and the scouts and not be practiced by the owners, cities, agents, unions and television networks.

¹⁰⁵ Frank, Deford, “Small Minds Destroy Small Markets,” June 9, 1999, *cnnsi.com*
<http://cnnsi.com/inside_game/deford/990609/> Originally heard on National Public Radio’s Morning Edition. My emphasis.

Conclusion: The Challenge of Institutional Reform

One of the greatest challenges of the twenty-first century will be incorporating genuine reform into American political, social and economic institutions. In order for reform to succeed in the long-term, there must be four dynamics successfully activated relatively simultaneously.

First, there has to be at least a minimal level of public consensus on accepting limits on individual, corporate and political behavior. Within any democracy, reform is impossible without public consensus. The consensus doesn't have to necessarily be majoritarian. As long as there is a significant number of Americans who support reform (and there are not more people who actively oppose it), the possibility of change exists.

Secondly, there must be political leadership that is willing, and able, to articulate the need for reform. Expressing the need for genuine change could help produce the consensus needed for reform. Politicians must be willing to risk offending powerful economic and political actors by pointing out that some of these actors *are* the main obstacles to reform.

Thirdly, another challenge that a successful political reformer must meet is to articulate how average citizens contribute to the current weakness of U.S. institutions. For example, as long as there is a market for cheap foreign goods that are produced at the expense of basic human rights and environmental standards, "free trade" will continue to divorce itself from political rights. This market is sustained because it produces financial benefits for corporate stockholders, many of whom are "average" Americans who have pension funds. One can imagine a reformer who unequivocally tells the electorate: "You're to blame for this. Your pension fund drives corporate behavior. Corporations seek to break the caprice of domestic regulation and so earn greater returns for you by opening plants in union-free, low-wage, hard-governed developing world."¹ Moreover, the markets for entertainment programs that feature excessive violence and irresponsible sex will shrink as an increasing amount of people refuse to watch them.

Lastly, the acceptance of limits and restraint must be within the legal boundaries of the U.S. constitution. Limitations and restraints must be able to withstand constitutional scrutiny. It is this last challenge which will be particularly difficult. Some will view the types of reform outlined in this book as an attack on freedom, and thus dangerous to any free society. Critics could point out that:

- Campaign finance reform violates freedom of speech. Since political speech is a necessary part of democracy, any restraints would diminish the practice of democracy.

¹ Jack Beatty, "Who Owns Capitalism?" *Atlantic Unbound*, June 15, 2000
<www.theatlantic.com/unbound/polipro/pp2000-06-15.htm>

- Entertainment companies cannot be ordered by government to restrict, in any way, the content of what they produce and market to the public. Any type of content restrictions violates the First Amendment.
- The federal government cannot force the television networks to limit sensationalizing. Even though TV news may not be educating the public on politics and current events, any type of content requirements violate the First Amendment.
- The spread of “free trade” actually strengthens economic freedom and should be encouraged, not discouraged. Cheaper goods and services are the products of economic liberty and encourage innovation.
- Pro sports teams and players have the right to set their own terms for ticket prices and salaries. Any government action that restricts that ability is an unreasonable interference in market transactions and thus illegal.

With the exception of obscenity and child pornography, I believe that any governmental restrictions on the content of political speech, television, film, print and computer-transmitted entertainment and news products is constitutionally invalid. Because content-based limitations cannot (and should not) be allowed, the only other reasonable alternative for reform is to enact incentive-based proposals designed to change political, individual, or corporate behavior. A healthy dose of civic and cultural shame is needed to reign in the irresponsible display of excessive political, artistic and journalistic freedom.

Even with reforms, political advertisements can (and probably will still) be misleading, deceptive and excessively image-oriented. However, with experiments like a federal law that couples public financing to the necessity of increased voter turnout (for the law to remain in effect), public attitudes may change which could move reform further down the line. Perhaps the political efficacy of character assassination and mudslinging would decrease when the public realized that they were paying for it.

Even though there will always be excessive and irresponsible sex and violence displayed by the electronic media, if some political leaders acted on their views, the sex and violence might be toned down. For example, if influential politicians of *both* major parties (that routinely criticize the excesses of Hollywood) would pledge to not accept any political money from entertainment companies that produce the sleaze, maybe the “bottom line” mentality of some of the entertainment companies could be changed.

As the television news shows continue to succumb to sensationalism, perhaps some network executives will realize that a declining market share may at least be partially explained by the “dumbing down” of their content. While it is true that the major TV networks will never garner the same ratings as they did when NBC, CBS and ABC enjoyed a monopoly up until the 1980s, they could gain back some of their lost ratings by returning to their journalistic base. With the proliferation of alternative sources of news through the Internet, the networks could attempt to re-establish their news divisions as serious organizations that are structured towards bringing content and perspective to their audiences.

If a political majority decides to, I believe that the economic freedom unleashed by global free trade can be curtailed and limited. The best method to curtail the greed that free trade invariably unleashes, however, is through the use of incentives: laws that seek to change corporate and political behavior by denying corporations the financial fruit of complete economic access to world-wide cheap labor and weak governments. Human and labor rights, political sovereignty and environmental protection should be legitimate principles involved when organizations like the W.T.O. consider further trade liberalization. Additionally, politicians should responsibly articulate the sentiment that many citizens feel about economic globalization; namely, that cheap products and services is not the only political goal of liberal democracies in the twenty-first century. Other political aspirations, less easily quantifiable, should be respected as well.

Because professional sports associations enjoy many legal protections (exemptions from some antitrust laws) and many of their franchises are indirectly subsidized by taxpayers (through stadium deals), I believe that governmental action to restrain their excesses can be upheld legally. Because selected governmental action has shielded much of pro sports from the workings of the marketplace, government can demand that franchises behave within reasonable guidelines, when it comes to relocation, stadiums and salaries.

Unfortunately, the major obstacle to governmental activism is federalism: there are 50 state governments, 10 provincial governments and thousands of local governments that can be lobbied to provide “special” inducements for pro sports teams in North America. Any effective federal action would have to override the local nature, and support, of the teams.

The key to bridging these incentive gaps is a public acceptance of restraint. It is the inability of our contemporary institutions to value any type of restraint that has led us to where we are today. The underlying impediment is the near total embrace of freedom, in particular the freedom to do what you want with money.

Getting Institutions to Incorporate Reforms

The incentive gaps which make meaningful political reform, such as restraint in the entertainment industry, distinctive TV journalism, international trade which is fair to the working class, and pro sports which truly value the fans, difficult to achieve is rooted in the decline of the public sphere in American society. Since no price tag can be put on public values and civil restraint, they are not worth much today. The almost total embrace of privatization has produced precious few areas where there are some limits set. Privatization without any limits has led our nation’s institutions to unconsciously allow cynicism to be insidiously woven into their structures and processes: the price of everything is known but the value is not. Indeed, it is more crude than that: the value is the price.

In a liberal democracy with a market-oriented economic system, institutions are *supposed* to reflect the wishes of the majority. In a very crude way, American political, economic and social institutions *do* reflect the wishes of the majority. Our political leaders are the ones elected with the most votes, consumer demand fuels what we see on television, the

movies and through our computer, we buy enough of the least expensive products (as a benefit of “free trade”) so that trade liberalization continues to accelerate, and we continue to watch professional sports (even if we can’t afford to actually attend a game in person).

But if one analyzes the wishes of the majority with any sort of depth, many problems come to the surface. Most people want to reform our institutions but change is difficult because:

- The societal problems and reform proposals are difficult to communicate *simply* and *quickly*. In *The Sound Bite Society*, author Jeffrey Scheur contends that television’s escalating cultural and political dominance accounts for the conservative reign of the last twenty years. He believes that conservative ideology is essentially simpler than liberal ideas and that power shifted to conservatives when political discourse moved to television.² While that may or may not be true, reform proposals *are* often complicated to communicate through the mass media. And as the pace of media has become quicker (and its segments increasingly fragmented), the difficulty of communicating proposals for change often produces a stalemate: the status quo prevails and reform is thwarted.
- Special interest groups have a tremendous amount of power to control the discourse of “the problems” and manipulate how the media represents “the problems.” One method that interest groups use is to portray the battle between reform and the status quo as simply a conflict *between competing groups*. Politicians and political parties often act in concert with interest groups to create this discourse. Since “most Americans will sacrifice for a larger public good, but few will sacrifice for a competing group,”³ substantive change is difficult to achieve.
- There are many power structures that have a vested interest in blocking reform. These power structures are temporary, have varying degrees of power and are not politically or socially monolithic. However they do exert influence. Increasingly these power structures contain media corporations. These corporations disdain limits and have interests in entertainment programs, TV news, free trade and pro sports. They also contribute to political campaigns. The discourse that representatives of corporations use doesn’t contain explicit mentions of blocking reform. Instead, the language communicates reasonableness. For example, Viacom Chairman Sumner Redstone’s remarks in China in October 1999: ““Journalistic integrity must prevail in the final analysis, [b]ut that doesn’t mean that journalistic integrity should be exercised in a way that is unnecessarily offensive to the countries in which you operate.”” These remarks were made after Viacom acquired CBS News.⁴

² His book was reviewed by James Fallows in “Free Love vs. Just Say No,” *The Washington Monthly*, November 1999, p. 46.

³ Jonathan Rauch, *Government’s End: Why Washington Stopped Working* (New York: Public Affairs, 1999), excerpted in *National Journal*, January 8, 2000, p. 84.

⁴ Norman Solomon, “The Last P.U.Litzer Prizes Of The 20th Century,” syndicated column, accessed via *Fairness & Accuracy In Reporting* (FAIR), 1999 <<http://www.fair.org>>

The problems that I have outlined in this book should not be interpreted as an attack on freedom. Instead, they can be viewed as describing the problems of *extremism*. Any ideal that is continuously defended as only being genuine if there are no restrictions on its practice is bound to eventually become destructive. Such is the case with cultural, economic and political freedom. German philosopher Friedrich Nietzsche wrote, “extreme positions are not succeeded by moderate ones, but by *contrary* extreme positions.”⁵

Individualism and freedom are deeply entrenched within the political, cultural, economic and constitutional mores and structure of the United States. Paradoxically, I believe that the primary danger to constitutionally protected freedom is unchecked economic freedom. If American society refuses to institute some forms of restraint on the expression, and exploitation, of economic freedom, then there might come a time when the majority will demand more sweeping, and dangerous, restrictions than any of the reforms mentioned in this book. If that scenario doesn’t occur, then the federal government might attempt to institute restrictions. For example, Federal Communications Commissioner (FCC) Gloria Tristani said in June 2000 “I am now convinced that as strong a case can be made for violence as obscenity, as [can be made] for sex as obscenity.”⁶

Although extreme restrictions on freedom would *probably* never come to pass, the conflict that could accompany such demands might produce a political and social discourse that swings from calls for reactionary restrictions on freedom to pleas for moderation and balance. If genuine reform is embraced now, the discourse for the next generation could instead be one that debates how and why society changes and what specific reforms are needed to balance innovation, stability, freedom and equality.

The ideal of freedom should be embraced and championed as a fundamental prerequisite that individuals need in order to grow, mature and create. However, freedoms should also be analyzed in the context of how the practice of them affect institutional strength and national stability. The current technological revolution, led by the Internet, should also be factored in when analyzing the consequences of unrestrained freedoms.

Aristotle wrote more than 2,300 years ago that moderation was the key to political stability. Interpreting Aristotle, twentieth-century political philosopher William Ebenstein wrote, “Because he [Aristotle] realized that political stability depends on an equitable social and economic order, he was opposed to selfish class rule by either an excessively wealthy plutocracy ... or by a propertyless proletariat ...”⁷ Aristotle’s own words describe the best environment for political stability: “Thus it is manifest that the best political community is formed by citizens of the middle class, and that those states are

⁵ Friedrich Nietzsche, “The Will to Power,” *Microsoft Bookshelf 98* (CD-ROM), 1998. Emphasis in original.

⁶ Elizabeth Jensen, “FCC Commissioner Broaches expansion of Obscenity Code,” *Lansing State Journal*, June 28, 2000, p. 7D.

⁷ William Ebenstein, *Great Political Thinkers*, Fourth Edition (New York: Holt, Rinehart and Winston, 1969), p. 72.

likely to be well-administered, in which the middle class is large, and stronger if possible than both the other classes, or at any rate than either singly.”⁸

Unrestrained competition, greed, a lack of shame, no effective limits and a fear of change all operate against moderation, and thus long-term political stability. Increasingly, middle-class citizens are opting out of the political process with the result being only the wealthy, or well-connected get represented in public policies. The middle class does not generally support the excessive sex and violence that is found in entertainment products. Nor do they applaud the tabloidization of television news. Instead, it’s the corporate owners who chiefly benefit. Poll after poll shows that “free trade” is repeatedly questioned by a majority of Americans. While the middle class benefits from trade liberalization (eventually, with enough education and thus social mobility), the wealthy benefit disproportionately. Attending a professional sports game in North America is increasingly a non-attainable goal for middle-class people because of the high-ticket prices and the growth of luxury seats.

Author Kevin Phillips’ suggestions for reform in 1994 are still valid today. His ideas include: reducing the influence of Washington lobbyists, interest groups and influence peddlers, decreasing the political influence of Wall Street and controlling speculative finance, reversing the trend towards wealth inequity and confronting the influence of transnational corporations.⁹ In 1995, historian Christopher Lasch wrote, “the mass media do not hesitate to parade the most outlandish perversions ... [and] the most degraded appetites ... the only thing forbidden in our culture of exposure is the inclination to forbid — to set limits on disclosure.”¹⁰ The mass media does not seem to have changed much since then.

Change is possible, but not inevitable. Ultimately, I believe that the American democracy will be reformed. It is my hope that the ideas expressed in this book will foster positive change in the twenty-first century. Mark Twain once answered a letter by saying, “I am a moralist in disguise; it gets me into heaps of trouble when I go thrashing around in political questions.”¹¹ In my view, reform is always worth the trouble.

⁸ Aristotle, *Politics*, Oxford University Press, cited by Ebenstein, p. 72.

⁹ Kevin Phillips, *Arrogant Capital* (Boston: Little, Brown, 1994), pp. 185-186.

¹⁰ Christopher Lasch, *The Revolt of the Elites* (New York: W.W. Norton, 1995), p. 198.

¹¹ Mark Twain, as quoted in “Mark Twain’s Capital Eye,” Associated Press, June 26, 2000
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Fierce economic competition, driven by technology and fear, undeterred by reasonable limits and shame, are weakening important American institutions. Narrow financial interests hijack key centers of political, economic and cultural power. Honest public debate on these trends is the only way possible for significant reform to occur.

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