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Mission Statement

*The Orator* at the University of Washington provides a forum for insightful undergraduate discourse and research. The goal of *The Orator* is to empower students to analyze ideas within the political spectrum and to critically reflect on their own arguments while raising universal political awareness. *The Orator* supports a broad array of political topics and represents no one specific political ideology. As contemporary collegians, aspiring scholars, and future leaders, it is a duty of ours to demonstrate the breadth of undergraduate knowledge by sharing our thoughts through *The Orator*. 
A Letter from the Editing Board -

We, the Editors, are pleased to present Volume 2, Issue 1 of The Orator. After lying dormant for nearly two decades, Pi Sigma Alpha is happy to breathe such a worthy project back to life. The idea to revive The Orator was born autumn of 2006 in the basement of Smith Hall, a humble beginning to say the least. Over the past few months, members of Pi Sigma Alpha have spent countless hours to ensure the reawakening of our beloved journal.

Submissions for the journal were tendered from a vast median of studies. Papers were selected on the bases of argumentative power, thorough research, contemporary relevance, and the ability to challenge the reader’s own personal belief. Ultimately, papers which best reflected undergraduate political thought and research were selected for publication.

Unfortunately, not all papers submitted could be published. However, we are grateful for each student who presented a work for review. The Orator is a journal organized by students and supported by students. Without the intense interest shown by student submissions, The Orator would cease to exist.

Moreover, we would like to thank the members of Pi Sigma Alpha who offered input, ideas, and considerations. Gratitude toward the advisor of Pi Sigma Alpha, Christina Kerr, is also felt by all of us. Thank you as well to Zachary Krane, a UW student of Industrial and Interaction Design who designed the cover. The Department of Political Science and the UW Copy Center also contributed towards producing The Orator. Lastly, the national Pi Sigma Alpha organization supported our efforts through awarding a generous grant. Thank you to all.

Although this issue of The Orator is the first that has been seen in over 22 years, we hope it will not be the last. A project like The Orator transcends academic thought and blurs the boundary between that which is a norm undergraduate behavior, and that, which is extraordinary. Through the support shown by students, faculty, and department alike, we hope to see The Orator continue to grow.

Let our voices be heard.

- The Editors
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Hezbollah: A Rising Threat in the Middle East

Rachel M. Gillum

The paper explores Hezbollah’s thriving popularity in the Middle East, specifically Lebanon, and its increasing threat to the United State’s foreign policy interests. It begins with the history and background of the Islamic group and provides information of its functions within Lebanon and the dynamics of its relationships with the United States, Iran and Syria. The paper concludes with three suggestions of how the United States should respond to Hezbollah’s potential threat to the U.S. and world order.

Hezbollah’s July 12th, 2006 attack in northern Israel, in which two Israeli soldiers were kidnapped, elicited an Israeli military response that entangled the region in a multi-dimensional conflict. The month-long war touched upon an array of critical U.S. foreign policy issues in the Middle East, including the continued instability in the Arab-Israeli peace process, the war on terror, controlling the use of weapons of mass destruction, the promotion of democracy, and the preservation of Lebanon’s sovereignty which remains hampered by the inability to disarm Hezbollah. The 34-day military confrontation between Hezbollah and the Israeli Defense Force greatly enhanced the prestige of Hezbollah at the expense of the Lebanese government. Hezbollah’s leader, Sheikh Hassan Nasrallah, and his organization have been widely hailed both for military aptitude and for the perceived ability to initiate disaster relief projects far more quickly and efficiently than the regular governmental organizations. With Hezbollah deeply ingrained in Lebanese Shiite society, the movement
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has become a fixture in the political system. The street demonstrations that began on December 1st, 2006 to overthrow the Lebanese government seriously affect U.S. goals of anti-terrorism and the promotion of democracy. Such conditions would likely foster increased terrorism, unrest on Israel’s border, and other forms of regional instability.

The 2006 war in Lebanon is the latest manifestation of conflict along the Israeli-Lebanese-Syrian border. Historically, on the Lebanese side of the border, weak, usually Christian/Sunni led governments paid little attention to the southern, predominately Shiite, portion of the country (Ranstorp 1997). Throughout the years of Lebanon’s existence, the Shiites, although comprising the largest sect in Lebanon, suffered from under representation in the governmental political institutions. Without much of an economy or government military presence in the south, the region was prone to penetration by outside groups opposed to Israel until the Shiites residing there formed their own militias (Sharp 2006). Before Hezbollah, a Lebanese Shiite militia, came on the scene, the Palestinian Liberation Organization (PLO) used Lebanon as a base to wage guerrilla war against Israel. Repeated PLO-Israeli clashes in Lebanon helped ignite the 15-year long Lebanese civil war (Ranstorp 1997). To eliminate the PLO threat from its border, Israel occupied a buffer zone in southern Lebanon for 18 years, a policy which many observers believe accelerated the politicization of Lebanese Shiites there and, with significant assistance from Iran, led to the creation of the Shiite militia, Hezbollah (Sharp 2006). In 1985, Hezbollah declared an armed struggle to end the Israeli occupation of Lebanese territory. When the Lebanese civil war ended, and other warring factions agreed to disarm, Hezbollah and the Israeli-sponsored South Lebanon Army (SLA) refused. Today with the PLO and the Syrian armed forces expelled
from Lebanon, Hezbollah has stepped in to fill the power vacuum in southern Lebanon and continue to threaten Israel with the full support of its foreign patrons- Syria and Iran (Sharp 2006).

From the end of the Lebanese civil war in 1990 until the disengagement of Syria from Lebanon in April 2005, Hezbollah operated in Lebanon under Syrian protection. Syria remains a vital cohesive connecting Hezbollah to Iran and serves as a channel for the transfer of arms from Iran to Hezbollah. Syria’s utility to Iran and Hezbollah is likely to remain strong despite increased international pressure on Damascus to seal its border with Lebanon and halt the transfer of weapons to Hezbollah, a breach of UN Security Council Resolution 17011 (Executive Summary, Lebanon 2006).

Since the withdrawal of the Syrian military from Lebanon in 2005, Hezbollah has come under increasing domestic and international pressure to disarm its armed wing (Hizbullah 2006). While Hezbollah’s Islamic Resistance (IR) military wing should be disarmed in accordance with UN resolutions, Hezbollah argues that the force is needed to defend Lebanon against future Israeli attacks. With the Lebanese military too weak to tackle the IR, disarmament can only be brought about with Hezbollah’s approval, which currently seems unlikely (Executive Summary, Lebanon 2006). According to U.S. Secretary of State Condoleezza Rice,

I don’t think there is an expectation that this UN force is going to physically disarm

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1 Called for a full cessation of hostilities in the month-long war between Israel and Hezbollah, mapping out a formula for the phased withdrawal of the Israel Defense Forces from southern Lebanon, while up to 15,000 United Nations peacekeepers help Lebanese troops take control of the area.
Hezbollah….I think it’s a little bit of a misreading about how you disarm a militia. You have to have a plan, first of all, for the disarmament of the militia, and then the hope is that some people lay down their arms voluntarily (Sharp 2006).

Most analysts believe that the Lebanese army can do little to prevent the smuggling of arms to Hezbollah.

Estimates of the IR’s strength have varied widely. The IR centers on a core of full-time guerrilla fighters numbering around 600-800. These fighters are typically aged in their late 20s to early 30s, many of them combat veterans of the IR resistance campaign against the Israel Defense Forces (IDF) in the 1990s. There are perhaps 5,000 to 7,000 part-time fighters, acting essentially as a reserve force of village guards. The part-time cadre comprised the bulk of IR’s fighting force in the summer 2006 war between Israel and Hezbollah. In an event of a national emergency, Hezbollah can theoretically draw upon its entire membership which could be as many as 25,000. Every Hezbollah member is required to undergo a basic military training course, conducted on an ad hoc basis in the eastern Bekaa with IR instructors, although specialist training is carried out in Iran (Hizbullah 2006).

Already considered the most capable non-state armed group in the Middle East, Hezbollah’s IR wing was rearmed by Iran and Syria with a large number of unguided rockets after the withdrawal. These rockets, which threatened much of northern Israel, were intended as a deterrent against further Israeli operations in Lebanon, or U.S. action against Iran’s suspicious nuclear program. That deterrent capability has been eroded following the Israel-Hezbollah war in the summer of 2006. Although Hezbollah retains a substantial supply of short-range
Katyusha rockets and some longer-range versions, the organization no longer controls Lebanon’s southern border with Israel (Hizbullah 2006).

As far as monetary assistance, some estimates put Iranian donations to Hezbollah in the region of USD 50 million annually (exact figures are unknown). The group benefits from collections from individuals, charities, as well as legitimate commercial enterprises. There is evidence of Hezbollah receiving funds from narcotics, both cultivation and smuggling in Lebanon and elsewhere (Hizbullah 2006). Iran supplies most of Hezbollah’s more sophisticated weaponry, including artillery rockets and anti-tank missiles. Syria has also been implicated in supplying weapons to Hezbollah, either directly, or by allowing Iranian arms shipments to transit its territory (Hizbullah 2006).

The most recent conflict began when Hezbollah fired Katyusha rockets and mortars at Israeli military positions and border villages to divert attention from another Hezbollah unit that crossed the border and kidnapped two Israeli soldiers and killed three. The conflict killed over 1,500 people, most of whom were Lebanese civilians, severely damaged Lebanese infrastructure, displaced about 900,000 Lebanese and 300,000 Israelis (Executive Summary, Lebanon 2006). This war strengthened calls for Hezbollah’s disarmament.

Hezbollah’s violent acts are characterized by some countries as terrorist attacks, while others regard them as legitimate resistance, and some as jihad. Supporters justify Hezbollah’s attacks against Israel for several reasons. First, Hezbollah believes the security zone held by Israel is an occupation of Lebanese land. Many of the attacks took place while Israel occupied the southern part of Lebanon and held it as a security zone in spite of the United
Nation’s Security Resolution 425\textsuperscript{2} (Deeb 2006). Although a complete Israeli withdrawal was verified by the United Nations in 2000, Lebanon still considers the Shebaa farms, captured by Israel from Syria in the 1967 war and considered by the UN to be disputed territory between Syria and Israel, to be Lebanese territory\textsuperscript{3} (Deeb 2006). Furthermore, Israel continues to hold Lebanese prisoners in Israeli jails for crimes committed against Israel (Executive Summary, Israel 2006). Finally, as is common for large portions of the Muslim world, Hezbollah considers Israel an illegitimate state. For these reasons, many in the Arab world consider acts performed by Hezbollah against Israel to be justified as acts of jihad (BBC News 2006). Even 74 percent of Lebanese Christians viewed Hezbollah at the height of the war as a resistance organization rather than a terrorist group (National Public Radio 2006).

For years, Hezbollah was synonymous with terror, suicide bombings and kidnappings. It was among the first Islamic resistance groups to use tactical suicide bombings against foreign soldiers in the Middle East and has reportedly been involved in multiple kidnappings, murders,

\textsuperscript{2} The United Nations Security Resolution 425 calls for strict respect for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized boundaries; and calls upon Israel immediately to cease its military action against Lebanese territorial integrity and withdraw forthwith its forces from all Lebanese territory.

\textsuperscript{3} A small, 10-square-mile enclave of disputed ownership near the Lebanon-Syria-Israel tri-border area known as the Shebaa Farms continues to exacerbate tensions in southern Lebanon and complicate implementation of cease-fire terms. The area was captured by Israel from Syria during the Six Day War in 1967. Israel considers the Shebaa Farms to be part of the Golan Heights. Israel’s annexation of the Shebaa Farms has been contested by Hezbollah and advanced as a reason for its continued attacks on Israel.
hijackings, and bombings (Dahr 2006). The group’s manifesto includes three goals: the eradication of Western imperialism in Lebanon, the transformation of Lebanon’s multi-confessional state into an Islamic state, and the complete destruction of Israel (Hizbullah 2006). Today, although Hezbollah believes in an Islamic Republic like Iran, it finds it an inaccessible goal in Lebanon. Starting only with a militia, it has grown to an organization with seats in the Lebanese government, a radio and a satellite television station, and programs for social development (Deeb 2006). Hezbollah has evolved into a more pragmatic socio-political movement. It has gained political legitimacy, with a credible holding of seats in Lebanon’s parliament and a social service that far outperforms the state’s cumbersome bureaucracy.

The secondary players, Iran and Syria, have added additional layers of complexity to the triangular dynamic of the conflict in which Israel was at war with Hezbollah in Lebanon. Both countries have played significant roles in arming, training, and financing Hezbollah, and have used the Lebanese Shiite organization as a proxy to further their own goals in the region. Iran may have aspirations to become the dominant power in the Middle East, and many in the international community are concerned about its potential weapons of mass destruction capability. In this light, the fighting in southern Lebanon was viewed by some as a contest between two of Middle East’s rivals and most powerful actors, Israel and Iran (via Hezbollah), and could be a indication of future indirect confrontations between two possibly nuclear-armed nations (Sharp 2006).

The United States holds a legacy of constantly backing democracy. However, in the case of Lebanon, Hezbollah is increasingly being placed into office legitimately through elections, and is a great concern to the U.S. and Israel.
Fawaz A. Gerges, former professor at Harvard, Princeton, and Colombia, believes that,

_We should not be surprised that Muslim voters are empowering mainstream Islamists. Secular rulers have failed both to deliver jobs, social services, and education, and to defend the homeland against external threats. More and more Muslims view Islamists as the most effective alternative to the discredited ruling establishment_ (Gerges 2006).

The Lebanese government itself is far from monolithic. On one hand, parliamentary elections gave a majority (72 out of 128 seats) to a large anti-Syrian bloc headed by the late Prime Minister’s son; on the other hand, the Lebanese Shi’ite Hezbollah leads a 33-seat minority bloc, and a third 21-seat bloc headed by an independent cooperating with the Hezbollah bloc on some issues (Sharp 2006).

While fighting has come to a halt in the most recent conflict between Hezbollah and Israel, Hezbollah is contending with the United States and its international partners over which side can help rebuild southern Lebanon the fastest and win the “hearts and minds” of many distraught Lebanese civilians who have lost homes and businesses due to the war. Hezbollah militants and party members allegedly have been handing out $12,000 cash payments to anyone who lost their home during the war (Steinvorth 2006). According to the governor of Lebanon’s Central Bank, Hezbollah was distributing banknotes that had not gone through the formal banking system implying that they may have been transported across the border by land (Executive Summary, Lebanon 2006). According to _Time_, Hezbollah has pledged to rebuild apartment buildings and entire villages within three
years and has sent civil-affairs team wears hats that read, “Jihad for Reconstruction” (Time 2006).

To counter Hezbollah’s efforts, President Bush announced on August 21, 2006 that the United States would provide $230 million to Lebanon, an additional $175 million on top of an earlier pledge of $55 million (Shelby 2006).

On December 1, 2006, Hezbollah and its coalition, a major Christian party aligned with them, conducted a massive street demonstration in Beirut, demanding control of one third of the government, plus one, giving them veto power over the Cabinet. The protests were the “latest demonstration of the decisive rift splitting Lebanese society on the political future of the country” (Engel 2006). The current government has been a U.S. ally, expressing interest in having dialogue with Israel, but is accused of being an American puppet (Slackman 2006). The group has made it clear that the fight is against “American tutelage” and said the protest action will continue until the government falls (Engel 2006). Prime Minister Fouad Sinoria claimed, “I am going to stay in office and defend democracy and independence and we will not be scared by their threats or terrorized by their threats” (Slackman 2006). However, the protesters claim that they support democracy, and these street demonstrations display their people-power. They claim to want a free and open government, not controlled by the United States (Engel 2006).

Virginia Palmer a Foreign Service Officer in the Department of State in Regional and Trans-Regional Affairs suggests that we address Iran head on, but do so carefully considering their potential nuclear ambitions. She also mentioned that we need to pull Syria out of Iran’s orbit. This may be hard however, she admitted; because it
may take bringing back the Golan Heights to get back into good relations with Syria (Palmer 2006).

Regardless of how these recent events play out, the United States should take action against increasing Iranian and Syrian influence in the region. Without the accountability of the world community, Hezbollah is essentially free of consequences, such as sanctions, and many suggest they pose a significant threat against Israel and the United States. Risk that critical nuclear technology can be subverted to terrorist organizations is particularly high, especially if those groups have access to significant financial resources, and program participants are able to profit with little detection by either the proliferating state or by the opponents. With a weak central government, Lebanon is an increasingly unstable state. The threat that Hezbollah military hubs based in Lebanon pose to the United States and to its allies escalates dramatically if those hubs obtain access to nuclear weapons.

The United States must restrict Hezbollah’s ability to operate in the global commons. The U.S. must combat money laundering and restrict financial operations by Hezbollah immediately. This can be difficult however because of the many alternative financial mechanisms to earn, move, and store their assets (Dempsey 2006). On August 29, 2006, the U.S. Department of the Treasury designated the Islamic Resistance Support Organization (IRSO) of Lebanon as “serving as a key Hezbollah fund-raising organization” (U.S. Department of Treasury 2006)4. As a result of the designation, the IRSO is prohibited from

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4 According to Treasury officials, the organization openly raised funds for Hezbollah via direct solicitation and advertisements on Hezbollah’s Al Manar television network. The IRSO reportedly allowed its donors to specify whether or not they wished their funds to be used for military equipment or weapons purchases, in addition to a range of other services.
operating in the United States, and any of its assets under U.S. jurisdiction were frozen. The action against the IRSO has been followed by two actions against Lebanese and Iranian financial entities suspected of providing support to Hezbollah (Sharp 2006). This pressure must continue on these and other organizations aiding the transfer of money between Hezbollah and its supporters. Unfortunately, according to a Lebanese military official\(^5\), a majority of the financial support provided by Iran and Syria is physically carried over the border in large amounts. Border security must significantly increase. Currently, the Lebanese government has accepted the U.N. deployment, which is part of a cease-fire deal that ended hostilities on August 14, 2006 (CNN 2006). Under that agreement, 15,000 U.N. troops will be added to a small U.N. force already on the ground and is supposed to help the Lebanese army secure the country’s borders, in part to prevent re-supply of Hezbollah (CNN 2006).

The United States should quickly step up efforts to help build Lebanon’s local state capacity to combat terrorist action within its borders, and help stabilize Lebanon’s security forces over the next decade (Dempsey 2006). Security assistance programs must be in place in addition to a cultivation of local and regional partners who can avoid the necessity for direct U.S. intervention. The U.S. Department of Justice must partner with Lebanese law enforcement agencies and internal security forces to identify, apprehend, and bring to justice terrorist suspects operating or taking refuge within Lebanon. In an interview with a military official from the region,\(^6\) it was strongly suggested that the U.S. continue to aid the central government so that they can provide for the necessities of

\(^5\) The identity of the military official must remain anonymous due to non-attribution standards

\(^6\) The identity of the military official must remain anonymous due to non-attribution standards
the Lebanese people and repair much of the damaged infrastructure. He stressed the importance of setting up troops, in addition to U.N. forces, to secure the borders where money and weapons are continuously transported. Lebanese officials are very confident in their ability to recover and function as a democracy, but fear a continued campaign to force Lebanon’s U.S. backed government from office.

Diverse perspectives toward this crisis have brought the competing religious and political parties of some important figures across the Arab and Muslim world into contrast. A majority of the supporters are of the pro U.S.-Lebanese government, a more affluent Sunni population, while the pro Syria-Hezbollah supporters are generally poorer Shiite Muslims (Engel 2006). In a July Internet posting, an Al Qaeda representative rejected any Unitarian sentiment between violent Sunni groups and Hezbollah by characterizing Hezbollah as “the head of the Iranian spear in the Arab region,” and arguing that “any support to Hezbollah in Lebanon is indirect support of the Iranian objectives” (OSC Document 2006). Nevertheless, conservative Sunni Islamic leaders, such as Qatar-based cleric and international Muslim Brotherhood figure Yusuf Al Qaradawi argued that “Muslims should support the activities of Hezbollah as legitimate ‘resistance’ activities, based on Quaranic injunctions to defend Muslim territory invaded by outsiders” (Al-Jazirah Television 2006). The United States must work together with other Middle Eastern nations to discourage any alignment of terrorist organizations, and stop any propaganda promoting participation in such groups. The United States should continue to build diplomatic relationships with neighboring nations and encourage them to also demote terrorist organizations and not allow them to advance within their borders.
Finally, in a much broader context, the United States should endorse strategies to address the root causes of terrorism and the conditions that foster it. Over the next 15 to 20 years, the U.S. should identify the underlying issues that provoke young Muslim men to seek out the salafi jihad throughout the Middle East and Africa. The Bush administration must “deal with the…fundamental problems—economic distress, ethnic and religious fissures, fragile governance, weak democracy, and rampant human right abuses—that create an environment in which terrorists thrive” (Dempsey 2006). President Bush himself identified the task of reducing conditions that can be exploited by terrorists as the goal of his 2003 National Strategy for Combating Terrorism (Dempsey 2006). In order to accomplish this, the U.S. must promote a strengthening of Lebanon’s central government in order to meet the needs of the Lebanese people. The combination of cutting of Hezbollah’s supplies, building up the Lebanese government, demoting terrorism throughout the region, and addressing poverty are all crucial elements to fighting the war on terror.
Works Cited


Rise of the Bharatiya Janata Party in India

Joseph D. DiSilvio

Since Independence in 1947 India has been a secular state, protecting its minority Muslim, Sikh, Christian, and other populations from its 80 percent Hindu majority. Until the late 1980’s the country was ruled exclusively by the Indian National Congress party, which, beginning with the administration of India’s first President Jawaharlal Nehru, supported the secular constitution of India and enjoyed popular support from Indian citizens.

However, in the late 1980’s the rise of the Bharatiya Janata Party (BJP), espousing the idea of India as a distinctly Hindu state, has marked a notable shift to the right in societal voting patterns. While not yet successfully achieving their goal of eliminating the secularism of the Indian state structure and despite losing power to the Congress party once again in recent elections in 2004, they have gained considerable influence and become a real challenge to the once completely dominant Congress Party.

In fact, in the Indian Parliament’s lower house, the Lok Sabha, the BJP went from only 2 seats in 1984 to 85 in 1989. The popularity rose from there to 120 seats in 1992, and to 182 seats by 1999. By 1996 they were the single largest party in the Lok Sabha. Thus, why, after...

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1 Sunil Kumar. *Communalism and Secularism in Indian Politics: Study of the BJP*. (New Delhi: Rawat Publications, 2001), 48
2 Ibid, 50.
3 Kumar, 66-70.
almost half a century of the Congress Party’s continuous rule in support of a secular state, has the BJP gained considerable strength in their cause for the creation of a Hindu state?

While it is tempting to attribute the rise of the BJP and other right-wing Hindu nationalist political parties to a shift in public opinion, or some “transformation of the social structure”\(^4\) in India, the rapid success of the BJP and its allied factions can only be explained according to their strategies in terms of mobilizing the public to their cause and the reasons that society was receptive to this. In this way, I have found three major factors that have served as the fuel for this unexpected and dynamic change from Congress to BJP dominance. The BJP’s success, rather than simply a result of a shift in public opinion toward religious nationalism or right-wing politics, has been mostly a result of its ability to accommodate and adapt to society through strategic alliances with other political parties, exploitation of corruption and weaknesses in the Congress party, and programs aimed at social welfare.

In this vein, I intend to outline each of these three variables and how the BJP was able to use them to adapt to society’s demands of and disaffections with the ruling Congress party. I will start by outlining some basic history and terminology to be used throughout this essay. In turn, I will describe examples of how the BJP learned to ally with different political groups to garner support from various portions of society, how they were able, and perhaps lucky in some instances, to capitalize on scandals and certain policies of the ruling Congress party, and finally how they used both of these factors to bolster their

image as a provider of social welfare and societal improvement that other parties could not provide.

**Historical antecedents and Important Terminology**

In order to understand the BJP’s position in Indian politics, especially when discussing alliances with other parties, a brief description of its genesis and main ideological bases is warranted before going more in depth. The BJP was preceded by the Bharatiya Janata Sangh (BJS), which by 1977 joined with the Janata Party. Soon, there was a split within the Janata party between those with ties to Rashtriya Swayamsevak Sangh (RSS), a non-political cultural group espousing Hindu nationalism, and the other faction that feared this group would attempt to undermine their overall cause. By 1980, those allied with the RSS broke away from the Janata Party and created the BJP under the leadership of Atal Behari Vajpayee, which modeled itself after the old BJS, but with a more centrist attitude that will be discussed further below.  

During its existence, the BJP has been allied with many groups, the first of which is the broad, anti-Congress coalition called the National Democratic Front (NDF), but this gave way to other coalitions by the mid-1980’s. Hindutva, a doctrine meaning “Hindu Nationalism” or the idea of fashioning India as a distinctly Hindu nation, was an underlying policy of the BJP throughout its existence, being used in varying degrees as seen fit politically. For the purposes of this essay, the Sangh Parivar, a coalition of various right-wing Hindu nationalist parties like the

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6 Kumar, 80  
Vishwa Hindu Parishad (VHP), Shiv Sena, RSS, and BJP, has been an important group in the BJP’s success and contains political and cultural groups that predate the BJP and had already “spread their tentacles” throughout civil society in India, thus aiding their cause for broader support. The BJP allied with these groups strategically, as will now be discussed.

**Strategic Alliances**

This brings us to a description of how the BJP’s willingness to take a “flexible stand” on issues and coalitions has become one of the main factors in its rapid rise to massive support among Indian society. The alliances among the groups that came to make up the Sangh Parivar proved essential in the BJP’s success because the combination of all of these groups allowed for the BJP to encompass various segments of society that they had previously had trouble incorporating into their electoral base without the other political groups’ support, which is evident in the BJP’s electoral victories. Indeed, just as the Congress Party’s success was derived from its ability to combine many elements of society to make one “miniature Indian society,” the BJP now too used this tactic to make its own “umbrella” organization.

From its formation in 1980 to a crushing defeat to Congress in the 1984 elections, the BJP stayed away from its past ties to RSS and other right-wing organizations. Instead, under the leadership of Vajpayee, they emerged promoting democracy, “positive secularism”—a commitment to protecting religious rights of all—and national integration. After it won only 2 seats in the Lok

8 Chatterjee, 99
10 *Ibid*, 48-49
11 *Ibid*, 182
12 Chaterjee, 89
13 Kumar, 78-79.
Sabra in 1984, the party shifted back to ally with the RSS and thus play up Hindutva under the new leadership of L.K. Advani. This afforded BJP leaders the ability to still espouse a relatively moderate stance toward society, while also gaining the support of the large Hindu base already supporting the RSS.

Preceding elections in 1989, the BJP also allied with Shiv Sena, thus bringing in more support for the Hindutva cause. In this way, the BJP smartly allied with groups that already had created a support network for their objectives. Importantly, the BJP saw and capitalized on the national Hindu uproar over the Ramjanmabhoomi issue, which was the movement concerning the disputed Babri Masjid in Ayodhya. Specifically, this movement focused on demolishing a mosque and building an Indian temple, or a Mandir, in Ayodhya on the site where Hindus claim a Mandir had once stood that was the birthplace of an important Hindu god, Ram. The BJP formally signed a declaration in support of this cause, and even sent Advani on a Rath Yatra, a political and religious tour of the country, to gain support for this cause. The results of the 1989 Lok Sabha elections, in which the BJP gained an unprecedented 85 seats (as opposed to just 2 in 1984), proved the effectiveness of the new coalition of RSS, Shiv Sena, VHP, and BJP—comprising the Sangh Parivar coalition—in gaining the support of many sections of Indian society that the BJP would have had trouble receiving on its own. In this way, the BJP’s overall ideas gained support from a growing portion of society, both because of its own efforts and because of its attitude.

14. Chaterjee, 90
15 Ibid, 97
16 Hansen. The Saffron Wave, 401.
17 Chatterjee, 96-97.
18 Kumar, 67.
19 Hansen. The Saffron Wave, 905.
promoting working with other similar-minded, although more radical, political groups that helped bring in the support of other segments of society that had previously supported these other groups.

The BJP’s alliance with the Shiv Sena in 1988, for example, was undertaken by the BJP leadership because they saw Shiv Sena’s “immense dynamism” in its support from various portions of society. This was a common theme concerning the BJP’s decisions to ally with other political groups. However, by 1992 various internal rivalries had created a rift in the BJP/Shiv Sena alliance. The BJP, because of its growing appeal as the frontrunner in the Sangh Parivar and as a more moderate choice to other factions within the Sangh Parivar, was able to capture some of Shiv Sena’s political base, thus strengthening the BJP and showing their ability to utilize these alliances for their own political gains.

Maintaining these key alliances with the Sangh Parivar allowed for its continual growth in electoral victories, winning a majority of seats in 1996, until 2004 when it unexpectedly, but still rather narrowly, lost power to Congress. Through this alliance, the BJP has been able to play up its strong Hindutva roots when politically useful, such as during the period from 1989-1992 when the Ramjanmabhoomi movement was at its culmination in Indian society. At the same time it could still put on its moderate face in order to court minorities, even Muslims, by promoting its “positive secularism” doctrine and “integral humanism,” which stressed the importance of every

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21 Ibid, 113.
22 Kumar. 69.
individual in society and how both society and the individual were “essential for the existence, growth, and manifestation of the other.”

**Exploiting the Weaknesses of Congress**

As noted before, the main source of the Congress party’s strength among Indian society for so long lay in its wide “umbrella” of alliances, and policies that created what Sunil Kumar calls “a miniature Indian Society.” Events in the mid to late-1980’s, however, led to fragmenting of the once all-inclusive Congress party and consequently to the BJP’s ability to play off of these internal weaknesses for its own gain. While the party did attempt, during the time it was still the BJS, to counter the “authoritarian excesses” of Indira Ghandi’s government in the mid to late 1970’s, it did not make much headway because it still lacked the coalition force that was to propel it forward, as outlined above. However, by the mid-1980’s, following Indira Ghandi’s assassination in 1984 and Ravij Ghandi’s election thereafter, the BJP began to utilize corruption and weaknesses within the Congress party to gain support as a long overdue alternative to Congress party hegemony.

By the time of the 1989 elections, the BJP had a few key issues to use against the Congress in what Thomas Blom Hansen called a mostly “anti-Rajiv” campaign. Indeed, a key component of their victory, along with the alliances mentioned above, was their anti-corruption stance against the Rajiv Ghandi government. Specifically, this corruption pertained to the so-called Bofros Scandal, in which a Swedish company bribed high-level Indian

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24 Kumar, 82.
25 Ibid. 48-49.
26 Hansen, *The Saffron Wave*, 381.
27 Hansen, 399
28 Ibid, 421
governmental officials for preferential treatment.\(^\text{29}\) Also, in 1986, the Congress party had passed the Muslim Women’s Bill, which the BJP were able to easily call an instance of how Congress “pandered” to Muslim’s to gain votes against the majority of Indian society.\(^\text{30}\)

Similarly, in the 1996 campaign, Congress was easily criticized by the BJP because of reports of excessive police brutality and the mismanagement of a relief effort in response to a major earthquake in Latur. The Sangh Parivar used this mismanagement to its advantage by organizing its own relief effort, which left a lasting impression in the eyes of many Indians.\(^\text{31}\) Throughout these campaigns the Congress Party had also tried to discredit the BJP and its allies by calling them religious radicals. However, the BJP was able to use all of the Congress party’s blunders as mentioned to discredit these allegations\(^\text{32}\) while also promoting their centrist image based on their founding ideals. In all of these ways, it is clear that along with strategic alliances to broaden its popular support base, the BJP also was afforded the benefit of several scandals and blunders on the part of the Congress party that gave them more fuel for their rapid entrance into the dominant position in Indian politics. However, this is not to say that these scandals within the Congress party were the only impetus for the rapid ascendance of the BJP. As discussed above, their ability to choose alliances with parties that could encompass varying sections of society that were generally outside the publicly moderate face that the BJP was trying to promote

\(^{29}\) Chaterjee, 94.

\(^{30}\) Ibid, 92.

\(^{31}\) Hansen, *The Saffron Wave*, 902

enhanced support greatly. In addition, their strong commitment to aiding the poor and improving social welfare also played a large role in conjunction with these weaknesses within the Congress, as will be discussed now.

**Providing Social Welfare**

Related to the above two factors in many ways, the BJP was able to provide and promote social welfare programs to enhance their standing in society. It was able to do this mainly because in addition to its own social welfare projects, each of its allies had their own programs to help the poor and others in society, and the BJP was able to capitalize on these measures. Related to the second point of my argument, they were also quick to point out that they were providing services that the Congress had failed to supply, thus again bolstering their image relative to the Congress’.

From the beginning the BJP, in its five founding principals, had supported the idea of “Gandhian Socialism,” the main focus of which was “bread, freedom, and employment.”\(^{33}\) When they reorganized in the late 1980’s to ally with the Sangh Parivar, they made it a key component of their new structure to fight for the needs of the poor,\(^{34}\) thus allowing them to bring in lower and middle caste and class elements of society. In addition, in the specific context of Bombay, during the 1995 elections the party promised low-rent tenements to the poor population living in slums, which constituted 60% of the city’s population.\(^{35}\) Additionally, in Bombay the Shiv Sena/BJP alliance had “undoubtedly invested more in that area than had any of the previous state governments.”\(^{36}\)

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\(^{33}\) Kumar, 79.

\(^{34}\) Hansen, *The Saffron Wave*, 389-390

\(^{35}\) Kumar, 69.

The later BJP policies of social welfare were a stated policy of theirs entitled “social engineering,” which promised changes focused toward the low-caste, and predominantly low class, population of India. Thus, by providing such services to the poor, they were able to improve their standing in society regardless of what people may have said about policies such as Hindutva. In this way, they were able to support their image of a centrist party, while the RSS and other Sangh Parivar factions espoused more radical doctrine. In addition, these programs also came as a way of pushing the Congress party’s support down further relative to the BJP’s growing success.

Conclusion

From less than successful beginnings in the early 1980’s, the Bharatiya Janata Party had grown into a powerful force in Indian politics by the end of the decade, and has continued to maintain its place as an alternative to the once-dominant Congress Party. Despite Congress’ long reign as a representative of most of Indian society, the BJP effectively countered it and even questioned its ideology promoting a secular India. Through strategic alliances, exploitation of weaknesses and corruption within the Congress party, as well as social welfare programs, the BJP gained considerable support throughout the 1990’s in spite of its underlying Hindutva ideology, which promotes a distinctly Hindu, rather than secular, state. This example has universal application considering the BJP leaders’ ability to court support despite what many believe is a radical, even “fascist,” set of beliefs pertaining to religion

37 Kumar, 68-69
and politics. Despite this belief, the BJP draw support by creating a web of alliances that bring in various groups in society to their side. They have been successful in putting on a centrist face and highlighting Congress’ inability to rule as well. Finally, their programs toward social welfare have engendered additional support beyond these other two mentioned factors. In this way, parties can enjoy support even if society does not support all of their doctrines, and their level support depends in many ways upon what they can offer society, despite radical elements within their ranks.


From the issuance of the Emancipation Proclamation in 1863 to the passage of the Civil Rights Act of 1964, black Americans have made enormous strides along the perilous path to equal rights. Black America’s century long struggle for constitutionally mandated civil rights was one of great gains at the cost of great tragedy.

In the wake of Lincoln’s Emancipation Proclamation, “Negro slaves” would become naturalized U.S. citizens, armed with the right to vote as mandated by the fourteenth and fifteenth amendments respectively. The deployment of U.S. troops to the European theatre at the outset of World War II brought with it the racial integration of American combat units as over one million black Americans served in the armed forces. Following the war, a series of favorable Supreme Court rulings fueled the black civil rights movement to new highs. One such ruling came in the landmark Supreme Court case of Brown v. Board of Education of Topeka (1954) in which the Court overturned the doctrine of “separate but equal” established in Plessy v. Ferguson sixty years earlier. The Court ruled that segregation in public schools was inherently unequal and thus unconstitutional. One year later in Montgomery, Alabama, a seamstress by the name of Rosa Parks rose to civil rights prominence when she refused to relinquish her seat aboard a bus. Her subsequent arrest set off a 382 day long boycott of Montgomery’s buses in which blacks protested the city’s law requiring them to give up their
seats at the behest of their white counterparts. The Montgomery Bus Boycott became the black civil rights movement’s first organized protest, ending with the abolition of the city’s bus law\(^4\). However, the long march to what Martin Luther King Jr. referred to as the “promised land,” was not made without great suffering and loss. One such loss was suffered in the summer of 1964 near Philadelphia, Mississippi when three civil rights workers, one black and two white, were beaten and shot to death while registering black voters\(^5\). The brutal lynching sent shockwaves throughout the nation and according to many historians led to the ratification of the Civil Rights Act of 1964, the strongest civil rights bill in U.S. history. The Civil Rights Act of 1964 banned discrimination based on one’s color, race, national origin, religion or sex. The act safeguarded one’s right to vote, seek employment and make use of hotels, parks and restaurants among other public places\(^5\).

Over the course of one century, “Negro slaves” became “African Americans.” The victories of the civil rights movement opened the doors of opportunity and to some extent the gates of upward mobility to countless black Americans. Thus, one must beg the question, what were the driving forces behind the civil rights legislation of the past 150 years? Were the triumphs of the civil rights movement byproducts of the Democratic Party’s prominence in the nation’s decision making bodies? Were the successes of the black struggle for equality the result of focusing events such as riots, marches and boycotts? Or were the accomplishments of the civil rights era concessions made out of convenience by the federal government? I believe that the first question when answered in the affirmative was the primary reason blacks were able to overcome the overt racism of the era. This hypothesis will be the focus of my examination. My alternative hypotheses are as follows: first, that the
changes brought about by the civil rights movement were the result of major focusing events; and second, that the changes brought about by the civil rights movement were the result of concessions made out of convenience by policymakers.

The reasoning in support of the causal relationship between Democratic influence in the nation’s decision making bodies and civil rights advancements is rooted in the party’s emphasis on progressive values. The Democratic Party cites “widening the sphere of equality” and “protecting the civil rights and civil liberties of all Americans” as core principles in the party platform. Furthermore, the Democratic Party’s historic commitment to the nation’s underprivileged classes strengthens the causality between the independent and dependent variables; especially when considering that the nation’s underclass was predominantly black in the years of the civil rights movement.

In order to test the validity of my primary hypothesis that the triumphs of the civil rights movement were driven by the Democratic Party’s influence in the nation’s policy making bodies, I examine the connection between civil rights breakthroughs and the party in power. I further my analysis by comparing and contrasting the number of laws proposed and enacted by America’s two major parties in three civil rights related policy domains. The first of which is “general civil rights and civil liberties”—a combination of multiple subtopics. I elected to include the figures collected from this indicator to provide a broad overview of each party’s actions as they relate to civil rights and civil liberties as a whole. The second indicator of either party’s commitment to racial equality relates to “ethnic minority and racial discrimination.” Analyzing the results of either party’s attention to “ethnic minority and racial discrimination” will prove to be a valuable indicator of
whether the gains made during the civil rights era were due to Democratic values. The third and final policy domain examined pertains to the “education of underprivileged students.” Because society’s lower class was comprised almost entirely of disempowered blacks during the civil rights era, the data here should be a reliable indicator of the Democratic Party’s efforts to aid the black civil rights struggle. Lastly, data gathered from all three policy domains was graphed over a sixty year period (1946-2006) for two reasons. The first reason was that the civil rights movement is widely recognized to have begun after black servicemen returned home from the war front following World War II. The second reason for such a vast span of measurement was because affirmative action and school bussing are more recent phenomena in the civil rights struggle.

However, prior to comparing and contrasting either party’s action or inaction on the issue of black civil rights, I analyzed the correlation between key civil rights victories noted by the CQ Press and the party largely responsible for the victory. The results of the analysis are shown in figure one below.

**Figure One: Civil Rights Breakthroughs and Party Influence**

<table>
<thead>
<tr>
<th>Civil Rights Breakthroughs (1946-2006)</th>
<th>Party Responsible for Breakthrough</th>
</tr>
</thead>
<tbody>
<tr>
<td>1948: Racial integration of American combat units during World War II</td>
<td>Democrat: President Harry S. Truman, a Democrat, used his powers as Commander in Chief to integrate the armed forces</td>
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<tr>
<td>1954: Supreme Court mandates the racial desegregation of all U.S. public schools as part of the unanimous decision in <em>Brown v. Board of Education of Topeka</em></td>
<td>Democrat: 8 of the Court’s 9 Justices were either appointed by President Franklin D. Roosevelt, a Democrat, or had previously won public office as Democrats. Only Justice Harold Hitz Burton was a Republican (he was elected Mayor of Cleveland, Ohio as a Republican)</td>
</tr>
<tr>
<td>Year</td>
<td>Event Description</td>
</tr>
<tr>
<td>-------</td>
<td>-----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1957</td>
<td>The Civil Rights Act of 1957 aimed to ensure that all African Americans could vote</td>
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<tr>
<td></td>
<td>constitutionally mandated right to vote</td>
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<td></td>
<td>Dwight D. Eisenhower (Republican) proposed the legislation to Congress.</td>
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<tr>
<td>1960</td>
<td>The Civil Rights Act of 1960 established federal inspections of local voter rolls</td>
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<tr>
<td></td>
<td>established penalties for anyone attempting to obstruct another's attempt to vote</td>
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<tr>
<td></td>
<td>or register to vote.</td>
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<tr>
<td></td>
<td>Eisenhower (Republican) proposed the legislation to Congress.</td>
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<tr>
<td>1961</td>
<td>Issuance of Executive Order 10925 establishes the Equal Employment Opportunity</td>
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<tr>
<td></td>
<td>Commission.</td>
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<tr>
<td></td>
<td>John F. Kennedy (Democrat) issued Executive Order 10925.</td>
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<tr>
<td>1962</td>
<td>Issuance of Executive Order 11063 bans racial segregation in federally funded</td>
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<tr>
<td></td>
<td>housing.</td>
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<tr>
<td></td>
<td>John F. Kennedy (Democrat) issued Executive Order 11063.</td>
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<tr>
<td>1964</td>
<td>Ratification of the 24th Amendment to the Constitution abolishes poll taxes used</td>
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<tr>
<td></td>
<td>in Southern states to prevent poor blacks from voting.</td>
</tr>
<tr>
<td></td>
<td>John F. Kennedy (Democrat) proposed the legislation to Congress prior to his</td>
</tr>
<tr>
<td></td>
<td>assassination.</td>
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<tr>
<td>1964</td>
<td>The Civil Rights Act of 1964 outlaws all forms of discrimination based on race,</td>
</tr>
<tr>
<td></td>
<td>color, religion or sex, effectively abolishing the South’s Jim Crow Laws.</td>
</tr>
<tr>
<td></td>
<td>President John F. Kennedy (Democrat) proposed the legislation to Congress.</td>
</tr>
<tr>
<td>1966</td>
<td>The Civil Rights Act of 1968 prohibited discrimination concerning the sale, rental</td>
</tr>
<tr>
<td></td>
<td>and financing of housing based on race, religion, national origin or sex.</td>
</tr>
<tr>
<td></td>
<td>President Lyndon B. Johnson (Democrat) proposed the legislation to Congress.</td>
</tr>
<tr>
<td>1971</td>
<td>Supreme Court upholds desegregation school busing of students to achieve</td>
</tr>
<tr>
<td></td>
<td>integration as part of the unanimous decision in *Swann v. Charlotte-</td>
</tr>
<tr>
<td></td>
<td>Mecklenburg Board of Education*.</td>
</tr>
<tr>
<td></td>
<td>6 of the Court’s 9 Justices were either appointed by Democratic Presidents or</td>
</tr>
<tr>
<td></td>
<td>had previously won public office as Democrats.</td>
</tr>
<tr>
<td>2003</td>
<td>Supreme Court upholds the affirmative action policies of the University of</td>
</tr>
<tr>
<td></td>
<td>Michigan Law School in a narrow 5-4 decision.</td>
</tr>
</tbody>
</table>

Eight out of the eleven major civil rights era breakthroughs examined were made possible in large part by the Democratic Party’s influence. However, the above study alone is not sufficient to validate the hypothesis that major civil rights successes were due to the Democratic Party’s egalitarian values.

Thus, in order to verify the hypothesis empirically, I graphed the number of laws proposed and passed by either party in three civil rights related policy domains. In all
three graphs, Congressional attention and the number of laws enacted by each party are shown over a sixty year span beginning in 1946—the year World War II came to an end. Furthermore, in each comparison of the party’s in a policy domain, laws passed by the Democrats are shown in blue while laws passed by the Republicans are depicted in red. The number of hearings held in Congress, or Congressional attention to the issue, is represented along the vertical axis to the right while the number of laws proposed and enacted by the two major parties is shown along the vertical axis on the left. The results for all three policy domains are shown in figures two-four below.

Over the course of the past sixty years members of the Democratic Party have proposed and enacted more laws pertaining to general civil rights and civil liberties than their counterparts across the aisle. The disparity in the number of bills introduced and subsequently passed is especially clear between 1954 and 1968, the years in which the black civil rights movement is said to have reached its apex. Congressional attention to the issue reached a peak in the early 1990s; this can be attributed to the Rodney King police brutality issue or to early affirmative action hearings.

With regard to the “education of underprivileged students,” Democrats again have a clear advantage in the total number of laws passed over their GOP coworkers. While the Republicans passed two laws prior to 1970 to the Democrats’ zero, those representing the blue states passed twenty-four to the Republicans’ fourteen in the thirty years that followed. The dramatic increase in Congressional attention to the issue in the early 1970s is likely due to the landmark Supreme Court decision in Swann v. Charlotte-Mecklenburg Board of Education which upheld the practice of desegregation busing students to achieve integration.
Figure Two: General Civil Rights and Civil Liberties: Democrats v. Republicans
Figure Two continued
Figure Three: Education of Underprivileged Students: Democrats v. Republicans
Figure Three continued
Figure Four: Ethnic Minority and Racial Group Discrimination: Democrats v. Republicans
In the policy domain of “ethnic minority and racial group discrimination,” Democrats again exhibit a sustained commitment to proposing and enacting legislation over a forty-year period. On the contrary, members of the Republican Party exhibit a rather sporadic commitment to enacting laws designed to prevent “ethnic minority and racial discrimination.” The rapid increase in Congressional attention to “ethnic minority and racial group discrimination” circa 1968 can be attributed to the assassination of Dr. Martin Luther King Jr.

Trends highlighted in all three comparisons offer strong evidence in support of the hypothesis. Furthermore, based on the number of laws passed each year over the sixty year time interval, incrementalism appears to be the dominant theory of policy change at work. The incremental model relies on the notion that decision makers make incremental course corrections from the status quo. In essence, incrementalism can be defined as social or political gradualism. The graphical analyses in all three comparisons presented earlier indicate a steady implementation of new public policy initiatives during the civil rights era. Thus, one can identify incrementalism as the dominant theory of policy change at work.

However, the sweeping social changes which characterized the black civil rights movement may have been caused by a number of other factors. One such impetus to change may have been focusing events such as riots, marches, boycotts, instances of police brutality or the assassinations of notable civil rights figures. Throughout much of the civil rights era, one can identify a clear trend of focusing events followed by subsequent policy change. A number of instances are outlined in figure five below.

The hypothesis that focusing events are the cause of social change relies on the punctuated equilibrium theory
of policy change. According to the punctuated equilibrium theory of policy making, the policy process is characterized by stasis interspersed with periods of rapid change. The model stipulates that rapid change is sparked by focusing events and the media attention they demand.

However, while strong causal links between key events of the civil rights movement and reform can be made; other links may be deemed coincidental or spurious. For example, Dr. King’s assassination may or may not have resulted in the hasty signing of the Civil Rights Act of 1968—there is no way to verify such a claim. Therefore, while in some instances causal connections can be made, they remain ambiguous and open to interpretation. Moreover, groundbreaking events and occurrences do not always give rise to new policies. One of the civil rights movement’s most pronounced events, the lynching of Emmett Till, was covered extensively in media outlets across the globe yet did not precipitate any reform. Thus, while many notable events result in sweeping change, others do not.

The third and final hypothesis, that the accomplishments of the civil rights era were concessions made out of convenience by the federal government, is equally difficult to verify. According to Professor Richard Delgado of the University of Colorado Law School, the historic Supreme Court decision in *Brown v. Board of Education of Topeka* was made out of white self-interest:

> “When the courts and other official policy makers relax, or even decide to help minorities, this happens more to advance white self-interest than to help the supposed beneficiaries. For example, *Brown v. Board of Education* [. . .] came down
### Figure Five: Focusing Events and Policy Change

<table>
<thead>
<tr>
<th>Focusing Events</th>
<th>Effect(s) of Focusing Event</th>
</tr>
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<tbody>
<tr>
<td>1955 Rosa Parks’ refusal to relinquish her seat aboard a Montgomery, Alabama bus sets off the 382 day Montgomery Bus Boycott—details of which are broadcast to the nation.</td>
<td>The Montgomery Bus Boycott deprived Montgomery’s public transportation department of 65% of its income. Just eight months removed from the end of the boycott, the Supreme Court ruled that bus segregation was unconstitutional based on earlier precedents regarding school integration.</td>
</tr>
<tr>
<td>1960 After being refused service at the lunch counter of a Woolworth’s Restaurant in Greensboro, North Carolina, Joseph McNeill, a black college student, returned the next day with three classmates to sit at the counter until they were served. Again, they were refused service. Although the men were refused service they were allowed to remain seated at the counter. McNeill’s protest sparked similar protests in eleven cities across the nation—gaining considerable media attention.</td>
<td>The pressure exerted by nightly media coverage of the lunch counter sit-ins caused many restaurants and department stores located in the South to begin serving blacks. Nashville, Tennessee became the first major Southern city to adopt policies of desegregation.</td>
</tr>
<tr>
<td>1961 Busloads of volunteers (of mixed races) wage a cross-country campaign to end the racial segregation of bus terminals. Their plan was to test the Supreme Court’s ruling that segregated seating on interstate buses and trains was unconstitutional. Their legal action, however, was met with physical violence at many stops along the way. Local segregation laws were frequently used to arrest and try the freedom riders. However, as one group was arrested another arrived to take their place. Throughout the summer, more than 300 Freedom Riders traveled through the Deep South in an effort to integrate bus terminals. The conduct of the Freedom Riders became a major focus of the nation’s major media outlets.</td>
<td>When Freedom Riders were savagely beaten in Montgomery, Alabama, President John F. Kennedy felt justified in sending 600 federal marshals into the city to restore order. Following the showdown between the federal government and the state of Alabama, Kennedy made a deal with governors and congressmen who held office in the South that he would not send in federal troops so long as the Supreme Court’s ruling prohibiting segregation on interstate buses was enforced.</td>
</tr>
<tr>
<td>1962 James Meredith is barred from becoming the first Black student to enroll at the University of Mississippi.</td>
<td>President John F. Kennedy orders federal marshals to escort James Meredith.</td>
</tr>
<tr>
<td>1963 Thousands of African Americans, many of them school children, are arrested while protesting segregation in Birmingham, Alabama. Sheriff Eugene “Bull” Connor later unleashes fire hoses and police dogs on the demonstrators—images of police brutality against the protesters would be broadcast around the world.</td>
<td>Two months after the Birmingham protests, President John F. Kennedy sends a Civil Rights Act to Congress for consideration. The legislation would later become known as the Civil Rights Act of 1964—the strongest civil rights legislation in the nation’s history.</td>
</tr>
<tr>
<td>1964 Three civil rights volunteers are murdered in cold blood while trying to register poor blacks to vote. Two of the victims, Michael Schwerner and Andrew Goodman, were white.</td>
<td>The lynching of the three civil rights workers near Philadelphia, Mississippi hastened the signing of the Civil Rights Act of 1964.</td>
</tr>
<tr>
<td>1968 Dr. Martin Luther King Jr. is assassinated in Memphis, Tennessee by James Earl Ray while standing on an outdoor balcony at the Lorraine Hotel.</td>
<td>King’s assassination prompts the signing of the Civil Rights Act of 1968 just a week later. The Civil Rights Act of 1968 would ban discrimination in the sale, rental and financing of housing.</td>
</tr>
</tbody>
</table>
just as many U.S. servicemen and women of color were returning to civilian life from military service, where many of them for the first time had experienced a relatively racism free environment. Many of them probably would not have returned meekly to shining shoes and regimes of ‘Yes sir’ and ‘No sir.’ For the first time in a while, the possibility of real racial unrest loomed in the United States. At the same time, we were in the early stages of a cold war against the forces of godless, ruthless communism. It scarcely would have served U.S. purposes well had the front pages of world newspapers continued to show pictures of Emmett Till lynchings and southern sheriffs with cattle prods. Brown and other breakthrough cases occur not so much out of generosity or moral imperative, but out of a need to advance white self-interest” (13).

Delgado’s argument is substantiated by the fact that racial segregation in schools has increased since the Court’s decision in Brown v. Board of Education of Topeka. Moreover, Delgado points to the “administrative foot-dragging” which in many cases impeded the Court’s dictates from being implemented fully24. While Delgado’s argument is logical, it remains difficult to test empirically. The same can be said of arguments which claim that the Emancipation Proclamation was issued to weaken a Southern economy dependent on labor and not to liberate an oppressed people. The alternative hypothesis that the achievements of the civil rights era were concessions made out of convenience, while logically sound is not verifiable qualitatively.

The hypothesis claiming that the successes of the civil rights movement were due to the Democratic Party’s
progressive influence in the nation’s policy making bodies proved to be the most plausible of the three examined. Given an overwhelming Democratic majority in the 110th U.S. Congress, we can expect to see more laws and policy directives aimed at safeguarding civil rights. Furthermore, based on the theory of incrementalism, continued progress along the path to civil rights equality will likely occur gradually over the course of many years.
Works Cited


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5. Ibid.


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8. Ibid.
9. Ibid.
10. Ibid.
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12. Ibid.
13. Ibid.
14. Ibid.
15. Ibid.


18. Ibid.
19. Ibid.


Additional Resources


Civilian Participation and Respected Culture: A Comparative Analysis of the Democratization and Subsequent Governments of Benin and Cameroon

Holly Lange

Benin served as a model of ideal democratization in the 1990s, peacefully ousting a Marxist authoritarian dictator and democratically voting in a popular and successful replacement. However, Benin’s nearby neighbor Cameroon suffered considerably at approximately the same time, failing to overthrow a corrupt government and experiencing economic decline, horrific civilian violence, and subsequent political instability. I intend to investigate what allowed for Benin’s peaceful and successful democratization in 1990 where Cameroon’s attempts at attaining a democratic system at the same time were violent and unproductive. The role of civilian participation and the consideration of cultural and traditional practices in both Benin and Cameroon will be examined in this paper as the principal determining factors in successful democratization and subsequent successful governments. This paper particularly emphasizes the function of the courts in the preservation of citizenry input at every stage of democratic development. I will explore this argument by drawing on academic analysis of the democratic process and resultant governments in each country as well as primary sources including documentaries, live footage, transcripts from conferences, statistical reports, and court cases. My dependent variable is respected cultural traditions and customs through citizenry consideration and participation. My independent
variable is successful democratization and resultant government.

The comparison between Benin and Cameroon is particularly intriguing because of the lack of variance in their historical, political, geographical, and social makeup. I initially chose to compare these nations because both are West African states which were once colonized by France. This paralleled pattern of independence and development encouraged their similar socio-economic and governmental structures. Benin and Cameroon are both poor nations with per capita GDPs around $2,000 (CIA 2006). They are republics with presidents, a legislative branch, a judicial branch, and enjoy universal suffrage. Additionally, religious and regional fragmentation is apparent in both Benin and Cameroon with around 50 different ethnic groups in each country (CIA 2006). These many similarities suggest that discrepancy must exist elsewhere to explain the exemplary democratic transition and resultant governmental structuring in Benin as opposed to the violent and failed attempt in Cameroon.

My argument in this paper suggests that the respect of traditional customs in Benin throughout democratization is the primary factor which allowed for a peaceful transition into a successful government. An analysis of the process of democratization in Benin and Cameroon reveals the discrepancy between the consideration of civilian interests and values. The constitutions, the role of customary law, and the courts in each country which were products of the democratization attempts perpetuate the pattern of civilian participation and consideration.

Relevance to Comparative Law and Courts:

Democratization is a modern, constant struggle in many areas of the world. Thus, a careful analysis of
attempted democratic transitions is essential in pursuing and planning future endeavors. Particular to comparative law and courts, respect of local customs and traditions is paramount in understanding political legitimacy. If governmental and judicial institutions are not considerate and reflective of the interests of citizens, legitimacy inevitably declines. Benin serves as a model for international immolation, particularly in African states, where public response to a significant political shift was peacefully accepted and adhered to by the government and judiciary. Democratization, the constitution, and court rulings all reflected the input of the Beninese public at large, thus allowing for political legitimacy and a successful government. This pattern may be applied in other states with developing democratic governments and judiciaries.

**Process of Democratization in Benin and Cameroon:**

Democratization in Benin was the response to political, social, and economic unrest in the country throughout the 1980s. President Kerekou ruled the country through authoritarian Marxism, jailing or exiling anyone who opposed his military dictatorship. The mounting tension against Kerekou broke on December 4, 1989 when five protesters were killed (Joseph 217). Benin civilians reacted angrily. The courts responded, and legal mobilization eventually forced Kerekou to announce that Marxism was no longer the state ideology and that a conference would be held to discuss the future of Benin (Wambu 2001). The 1990 National Conference convened on February 19, 1990. In an unprecedented manner, the 520 delegates at the conference were reflective of the entire Beninese population (Joseph 220). Supporters and non-supporters of Kerekou were represented in teachers, farmers, students, military officials, religious authorities, governmental officials, nongovernmental organizations, and dozens of rural and urban development associations (Joseph 221 and Wambu 2001).
Benin’s conference declared sovereignty, against the wishes of Kerekou, so that any decision would not be overturned. This decision was supported by the Beninese Supreme Court, providing the declaration with necessary judicial legitimacy (Wambu 2001). The delegates elected Nicephore Soglo as the prime minister of the transition government, but allowed Kerekou to remain as a symbolic political figure (Joseph 222). Surprisingly, Kerekou and the army conceded to honor the decisions of the conference and the Supreme Court, thus solidifying Kerekou’s stature as a heroic figure who paved the way for African democracy (Joseph 222 and Wambu 2001). In addition to average civilians and the courts, the religious community including Catholics, Protestants, Muslims, and voodoo priests played a role in overseeing the resultant constitution, thus infusing the new government with legal, judicial, and spiritual legitimacy reflective of all Beninese people (Joseph 223).

The democratization of Benin clearly respected and represented the interests of the entire Beninese population. Dov Ronen said of the necessity of such a process,

“A very important contact between modern institutions and traditional people will have the reverse of the intended modernizing effect. Instead of these institutions [governmental and judicial] serving as the agents of change for the population at large, a means of absorbing them in to the modern system, instead of a ‘secularization’ of attitudes, values, and norms—the modern institutions themselves are ‘traditionalized’ in the minds of the people” (Ronen 240).

Individuals are infinitely more inclined to follow rules and laws that are considerate and non-intrusive of their
traditions and beliefs. As this quote exemplifies, concern of civilians allowed for the internalization of the new Beninese government “in the minds of the people.”

The success of Benin’s democratization is harshly contrasted with the experience in Cameroon. Paul Biya assumed Cameroon’s presidency in 1982 with the population’s expectation that he would assist the country in modernization and development. However, a quote from a dissatisfied teacher in the late 1980s reflects the president’s inadequacy, “Since [the elections in 1982] the party’s leadership has done little to implement such strategic watchwords as internal dialogue, the free exchange of ideas, tolerance of opinion, promotion of our national culture, and the local economy and social justice” (Krieger 89). Just as with Benin, this social discontent broke in violence when resistance leader John Fru Ndi was joined by 30,000 to 40,000 protesters in 1990. The Cameroonian troops were unsuccessful in breaking up the demonstration so the soldiers opened fire into the crowd and killed six young adults, arrested many more, tortured to death four of those arrested, and raped a female student (Krieger 102-104). The killing of the “Damenda six” drew domestic and international condemnation, but rather than admitting fault and holding a conference as in Benin, the Cameroonian government (ignoring rulings of their Supreme Court) justified the actions of the violent soldiers (Krieger 105).

This pivotal difference in the experiences of Benin and Cameroon solidified the trajectory of Cameroon’s attempted democratization. After the 1990 demonstrations, violence persisted, with an estimated 400 more people being killed by the government for expression of dissatisfaction in the next five years (Krieger 8). At this time attempted democratic elections were corrupt and controversial. President Biya was reelected
with 39% of the votes over the widely popular Fru Ndi’s 36% of the votes (Krieger 109). When the results were taken to court, the corrupt court ruled in favor of Biya (likely due to the influence of bribes), completely disregarding the wishes of the majority of the population (Joko 2001). The oppression of Cameroonians is a tragic situation of ignored citizenry. In the process of attempted democratization, the interests and customs of the larger public population were entirely abandoned. Protests were unfruitful, demonstrators were killed, court rulings ignored public interest, and the government continued to perpetuate its own narrow, corrupt self-interest.

**Constitutional Design in Benin and Cameroon:**

Not only was the immediate democratization process indicative of Benin and Cameroon’s respect for citizenry customs and interests, but I argue that the resultant constitution, law, and court rulings also upheld each country’s pattern of cultural consideration. Benin’s constitution has 33 articles on human rights. Many of these articles explicitly lay out the inclusion and respect of cultural practices. For example, Article 10 of Benin’s constitution states, “Every person has a right to culture. The state has the duty to safeguard and promote the national values of civilizations, as much material as spiritual, as well as the cultural traditions” (Benin Constitution). The constitution was drafted with Benin’s particular historical and social context in mind by the Constitutional Commission which had two explicit goals. The first was to take into account regional differences. The second was to minimize the authoritarian ambitions of the president and discourage repression (Joseph 228). These two goals encouraged the production of a document which is accessible and inclusive. After completion of the revised constitution, the changes were taken to the public for a vote. Since its adoption, the document has been reconsidered by the constitutional court (to later be
discussed in further detail), keeping the constitution updated and reflective of changing public wishes. Consideration of citizenry interests and traditions occurred at every stage of the revision of Benin’s constitution.

Cameroon’s constitutional revision in the 1990s largely ignored the civilian population and was divisive within the country. In fact Krieger explains how, “Southern Cameroonians abandoned its own weak constitutional and political devices, drafting a declaration demanding cultural, economic, and political prosperity” (Krieger 164). Cameroon’s constitution only includes a brief reference to human rights in the preamble and makes no mention of culture. At the end of Cameroon’s constitution, the UN’s Declaration of Human Rights is included, but the declaration is copied in its exact form and has no adaptation to the particularities Cameroon tradition (Cameroon Constitution). Through excluding the civilian interests once again (and lacking the potential for legitimate judicial review), Cameroon perpetuated the problems of democratization into the law and institutions of the nation.

Law in Benin and Cameroon:

In addition to the constitution, I argue that the institutionalized law within Benin and Cameroon varies distinctly. After successful democratization, Benin began to adhere to a combination of French Civil Code and Customary Law, thus infusing cultural interests with the rule of their colonizers. Thierry Verhelst said of customary law,

“Customary law should be retained in a number of fields because it is the body of law best suited to the African society...it reflects the cultural and societal patterns of the population to which it applies. The imposition of a foreign legal system
may result either in failure of the law to receive acceptance and enforcement, or in unnecessary and harmful wrenching of the social fabric of the society concerned. This in turn might lead either to the undermining of authority of the law, or to the disruption of society” (Thierry ii).

With theses potential benefits in mind, Benin effectively modernized its legal system, while still perpetuating a respect and awareness of traditional practices within the country. The inclusion of customary law in the Beninese system further reflects the goals and interests of its democratization and drafting of the constitution.

Customary law in Cameroon is as ineffective as the country’s cultural respect in democratization and the constitution. Legislature in East Cameroon has provided that in such cases of silence or uncertainty of customary law, the judges must refer themselves to written law (which is foreign to most Cameroonians). Further, these lawyers and judges have no training in customary law and therefore, introduce elements of French legal thinking which are alien to the traditional law of the majority of the population (Bay 221). If legislature is completely irrelevant to most citizens, these individuals are unlikely to respect or adhere to the system. A balance must be attained between modern and traditional systems of law to ensure legitimacy.

Courts in Benin and Cameroon:

Finally, I argue that the court system (which has proven in the above analysis to be pivotal in democratization, legislation, and the constitution) in Benin and Cameroon reflects the effectiveness in respecting cultural traditions. Benin has a Constitutional Court composed of seven members, three of which are appointed by the president, and four of which are
appointed by the National Assembly. Joseph Richard points out that this system of varied appointment allows for a reflection of a, “diversity of regional and political interests, as well as an almost universally acclaimed integrity and respect” (Joseph 225). The Beninese government is highly respectful of the constitutional court decisions once saying, “we are in a State of Law, and the government bows before the Constitutional Court” (Joseph 226). In addition to a constitutional court, Benin also has traditional courts and judges to deal with strictly traditional cases. These traditional judges “stress the necessity of adequate consultation with the public and study of its opinions in different section…otherwise the court has no legitimacy” (Gluckman 108).

There are two particular examples of cases in Benin at a Supreme Court level which reflected the court’s responsiveness to and protection of cultural rights. The National Assembly vs. the Ministry of the Interior supported local development associations, effectively liberating local communities from state-regulated monopolies over associational activities (Joseph 229). This ruling responded to the demands of local, rural communities and encouraged economic competition. The second case National Assembly vs. President of the Republic was a direct example of the legislative, the judicial, and the executive branches all working together on an issue of public participation. The National Assembly (Benin’s legislature) wanted to increase civil service salaries by 25% in response to social unrest, but the president was concerned with funding. Eventually negotiations and court mediation resolved this case (Joseph 229). A combination of Supreme Court, Constitutional Court, and Traditional Court has allowed Benin to successfully respond to public interest and prevent rampant corruption.
The active and responsive judiciary of Benin is distinctly contrasted with the corrupt courts in Cameroon. To begin with, there is no Constitutional Court in Cameroon as opposed to the respected Constitutional Court in Benin. Secondly, the judiciary is closely linked to the violent and unpopular government in Cameroon (Joko 2001). The public is reasonably distrustful and wary of a system which merely serves to perpetuate the interests of the political elite. Judicial legitimacy completely lacks in Cameroon and alternative methods of dispute resolution outside of the corrupt judicial system are prevalent (Gluckman 112).

**Caveat to Findings**

I believe that an analysis of the democratization and resultant constitutions, laws, and courts in Benin and Cameroon reveal that public participation and respect of culture essentially determines the success of a government. Benin’s unique democratization process produced a government and judiciary which respond to the cultural and traditional interests of the citizenry. Cameroon’s attempt at democratization resulted in a system which has perpetuated corruption and disregard of civilian customs. However, I do concede that respect for cultural traditions and consideration of the larger social population are not the sole factors which contribute to a peaceful democratization and flourishing systems of government. Issues such as leadership, cultural makeup, economic conditions, political climate, and varied social conditions must also be taken into consideration.

**Conclusion**

Despite these potential variables, I suggest that the above analysis and findings aid in the interpretation that cultural respect in democratization and subsequent governments is key to legitimacy, peaceful adherence, and
political success. A comparison between the transition into democracy in Benin and Cameroon reveals that inclusion of public opinion and cultural respect in conferences, constitutions, legal systems, and courts improves functionality and relative peace within a country.

These findings provide a glimpse into the conditions necessary for nonviolent democratization and resultant productive, legitimate governments in any nation. This study may be useful because I think that the particularities of Benin and Cameroon may be expanded to a global, theoretical basis: cultural respect of the citizenry is necessary for successful and peaceful governance. Although this idea seems simple, practical application evades most nations in the world. I believe that adherence to cultural respect, particularly though heightened court involvement, could exponentially improve human rights conditions and issues of social equity in all nations.
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http://www.afrimap.org/english/images/paper/Access%20to%20economic%20justice.doc


The similar institutionalization of courts in South Korea and Taiwan, such as nomination processes and term limits placed on judges, offer potentially significant limitations on the ability for either country’s judiciary to establish independence. But, while the two countries share many historical experiences—such as having strong external influences, dynamic economies that helped shape democracy and shifting from authoritarian rule to democracy—South Korea’s constitutional courts have significantly more autonomy than those in Taiwan. By looking at the different political contexts surrounding the formation of each country’s constitution, similar institutionalization of the courts, and the propensity of courts to either refrain from or assertively exercise independence, it becomes clear that South Korea’s weak political parties were crucial in allowing for highly active courts at the beginning of their establishment, whereas Taiwan’s strong political parties curtailed the courts exercise of judicial review.

In assessing the different results of similar institutionalization of the courts, it is important to define what is being compared. By focusing on the constitutional courts in Taiwan and South Korea, there is more direct comparison in regards to the interpretive range of each respective court. Taiwan’s judicial branch, the Judicial
Yuan, is divided into three subcategories: the grand council, the Supreme Court and ordinary courts. As such, it would be difficult to look the independence exercised by courts when each of the assigned responsibilities and jurisdiction of individual courts may vary between the two countries. In addition, the focus will be placed on the most recent versions of the constitutions in each country. The South Korean constitution has seen five major revisions since 1948, each of which signified a new republic. While any relevant information will be included, it would make the most sense to limit the analysis mostly to the context of the most recent formation rather than the entire choppy history of constitutionalism.

**Historical Context**

Taiwan’s constitution began on the mainland, but the rise of Chinese communists in 1949 pushed Chiang Kai-shek’s nationalist KMT party into Formosa. The early years of the KMT regime on Taiwan were characterized by a state of national emergency; the government declared martial law with temporary provisions (Beer, 124). In establishing military dominion over the majority of the Taiwan-born population, the KMT could not have majority elections but it could not suspend the constitution entirely either. The KMT still had hopes to recapture the mainland and its legitimacy was based on distinguishing the regime from the communist PRC (Tsang, 8). Forming the council of the grand justices provided a convenient solution to the problem. This first council was hand-picked by Chiang, guaranteeing a positive response from the justices. It also provided legitimacy and a means of suspending elections while still reserving significant power for the elites. The KMT could exert strong influence over the courts though a top-down approach to democratization even while maintaining highly authoritarian characteristics.
South Korea’s constitution, on the other hand, was written in the aftermath of a series of failed regimes. Toppled, ousted, executed and incarcerated—leaders in South Korea have had a grim past. The Sixth Republic of 1988 came into power after the leadership of the Fifth Republic was forced to open its doors to democracy (Zhao, 155). In an attempt to save itself, the Fifth Republic had named itself a transitional government to quell the people’s complaints. This tactic may have bought the regime some time, but it increased the Korean people’s desire for democracy by fueling their hopes for one. Uprisings increased and led to severe crack-downs by the state, the largest of these being what is called the Gwangju Massacre in which over 200 civilians were killed at a student demonstration (Robinson, 110). Public outrage over the deaths generated nation-wide support for democratic reforms, eventually leading to the first democratic elections in 1987. Through a largely bottom-up approach to democratization, Korea did not have one consolidated political party or regime at the time that the Sixth Republic came into power.

Similar Institutionalization of Courts

The United States served as a reference society that influenced institutional and systematic changes during the long authoritarian periods in both Taiwan and South Korea (Beer, 327). Many of these influences created similarities in the two countries’ governments. The constitutional courts in both countries have developed similar duties and institutionalized regulations for courts. Term limits for constitutional judges are an example of similarities. In the Korean Constitution, the term of the office of the Chief Justice is six years and he cannot be reappointed (ROK Const., Art. 105). The term of office of the Justices of the Supreme Court is six years and they may be reappointed as prescribed by law. In Taiwan, the case is similar. Whereas judges hold terms for life, those in the
grand council are not considered “judges,” therefore eight of the grand justices, including the vice-president and president of the Judicial Yuan, serve four-year terms, and the remaining grand justices serve eight-year terms without mentioned limitations on reappointment (ROC Const., Art. 81).

Specific checks on judges also exist through the nomination processes, as written in the constitution. In regards to the separation of courts, both have experienced struggles for jurisdiction between the top courts. The ability of the grand council in Taiwan to consolidate its power through a negotiation of relations within the different courts has led to favorable rulings, providing a check on legislative and executive powers. Grand justices are specifically responsible for interpreting the Constitution, are nominated and, upon confirmation by the Control Yuan, appointed by the President of the Republic (ROC Const., Art. 79). The judges of the Korea Constitutional Court are appointed by the president without the need for confirmation (ROK Const., Art. 104). However, the relations between the Korean Supreme Court and constitutional court are more confrontational. While grand justices in Taiwan were able to secure a position as the highest normative authority over the constitution, the Korean constitutional court's struggle with the Supreme Court—which is the highest court—over issues of supremacy, is less conclusive. Yet, the constitutional court seems to enjoy supremacy for now (Ginsburg, 256). These limitations color the political scene, contributing to a need for caution by courts in ruling against other governmental branches, but do not singularly curtail judicial independence.
Court Authority in South Korea and Caution in Taiwan

While certain provisions in the constitution can potentially limit judicial independence, it does not predetermine the possibility for successful independence either. For example, an aftereffect of traditional leadership being kept within founding families of parties is that the constitutions of both Korea and Taiwan tend to empower the president, but the exercise of this power over the judiciary is more pronounced in Korea than Taiwan (Koo, 213). In fact, Korea’s courts are notably independent of the executive. The role of the president and the strength of political parties are determined by the historical political context, but even if these different contexts led to similar institutionalization of power, the actual product of those institutions is not necessarily the same. So, whereas Taiwan democratized under a dominant party associated with the old regime, Korean parties continue to be notoriously underdeveloped despite reserving strong powers under the president (Ginsburg, 244). This fragmentation of political parties is a very significant factor that lends strength to Korean courts.

In Korea, there was a need to establish some kind of leadership after the fragmented change in regime. With a political deadlock between parties of equal strength with very uncertain outcomes, it was strategic for all parties to demand a strong form of judicial review as a form of political insurance against high probability of electoral loss (Ginsburg, 247). In Taiwan, however, the constitution was drafted by a single dominant party with a single figure clearly at the center—Chiang Kai-shek (Zhao, 43). This is a matter of comparing fledgling judiciaries against respectively weak or solid executive and legislative branches of government. Thus, Korea started with, and remained, at high involvement in regards to judicial review, but Taiwan worked toward its current level of influence.
through a gradual process under the heavy hand of the dominant party. The fragmented party system in Korea allowed for stronger judicial institutions and the fragmented judicial branch in Taiwan was largely influenced by the party.

To understand how Korea’s courts could establish such an active role within the government, it is important to look at how weak parties enhance judicial review. First, weak parties lack organized mechanisms to influence court composition and structure (Diamond, 99). In Korea, the parties as formed under the Sixth Republic came in the aftermath of a failed authoritarian Fifth Republic. Under this party, there was little opportunity to develop one specific organized political party to oppose the regime. There were, instead, more widespread grass-roots movements (54). Second, weak parties that are unable to cooperate are unlikely to overrule a court through legislative action (Ginsburg, 245). Without consolidating power within another branch of the government, legislators and executives may not be able to rally help to punish the courts for actions that others may support. Finally, weak parties can provide opportunities for judicial power because they are less able to control the bureaucracy (ibid).

Political parties, such as in Korea, that gather into two or more groups of fairly equal strength enhances the courts power; the possibility of sporadic access to power becomes increasingly salient and alternating parties have a strong interest in safeguarding the court as an autonomous adjudicator. For, when a dominant party holds sway, it has little incentive to empower courts as the party can rely on direct control and enforcement to protect its preferred policies. This imposes in weak parties the need to compromise. Unable to establish direct control, parties of equal strength compromise in order to achieve joint purposes (Stone Sweet, 39). In the case of political parties
in Korea, such purposes included the potential to rule and to direct the polity. In establishing a parliamentary democracy, each political party knew that its ability to exercise power and influence would fluctuate, depending on its relative electoral success (Ginsburg, 215). In a highly uncertain political atmosphere, each party hoped to see its desired policies instated. Yet, the parties also knew that constructing stable rules for competition amongst themselves was necessary as a first step to governing. They had an equal desire and stake in the law being fair, lest one of their competitors gains a greater advantage over another.

In this bargaining process, conditions change and the interests in the parties to the agreement will evolve. Contracting and bargaining is not limited to parties, but is also a part of the establishment process for the responsibilities of each governmental branch. The establishment of constitutional review can be understood as an institutional response to the shifting contract, and the connected problems of uncertainty and enforcement (Stone Sweet 44). Review functions to clarify the contracts overtime, to monitor compliance and institutionalize the rules. As Korean courts continue to exercise power, they retain more of it; similarly, though starting slower, Taiwan’s courts established a step-by-step process to claiming independence (Ginsburg, 139). However, if a bargain wound up in unfavorable to one side, it is harder for that certain party or branch to establish clear jurisdiction or strong exercise of independence later on.

Of course, there are always issues of public support and the social context that also contribute to the political atmosphere of a country, which in turn can even strengthen courts. The speed of Korean democratization was much faster paced than the slow, gradual process in Taiwan due to these differences in the political scenes.
That speed, combined with a variety of other factors, made a difference. In Taiwan, the KMT established strict controls over the people; in fact, many native-born Taiwanese saw the KMT as a brutal oppressor. The reaction to this stronghold was limited by the force of the KMT. The constitutional reform was a gradual process in Taiwan, and the courts played a cooperative role more than a contentious one (Tsang, 52). Here, the court fears the very real possibility of constitutional override of any unpopular decisions and therefore will be more cautious. In Korea, republics were formed and destroyed every decade or so and the people clamored for change. While some demonstrations were brutally crushed, many times the people’s push for democracy is what gave court decisions the backing and force to be adhered to. Constitutional reform was accomplished quickly at the outset of the transition process, providing courts with a solid moment to invoke power under the constitution. The urgency to establish reforms, the rush to create a government acceptable to all parties, empowered the courts and supported strong judicial review (Diamond, 35).

**Indicators of Judicial Independence**

In comparing the powers of courts in Korea and Taiwan, indicators are necessary to assess the degree of independence exercised by the judiciary. One such indicator is the number of petitions to the court and interpretations rendered before development of the courts and after. In Taiwan, during authoritarian rule, the scope of the council for independent decisions suffered as expected. As liberalization increased, the council became more active, as evidenced by the number of petitions and interpretations rendered by the council by term (The Judicial Yuan, 2006). But there is a drop in the number of petitions due to the backlash the courts received on some of their decisions. The numbers rise again, slowly, and are projected to continue in the trend as the courts open up;
most petitions originally came from other government bodies, but over 90% came from individuals by the fifth term, illustrating the degree of public access to the council (Ginsburg, 126). In Korea, petitions have been the single largest source of cases for the constitutional court (223). At the outset of these courts, there were large numbers of petitions and actions by the court in successfully striking legislation and overturning prosecutorial decisions. This reflects court autonomy and active exercise of power (Jayasuriya, 266).

Furthermore, the sheer numbers of political parties that have held the presidency in Korea far outweigh that of Taiwan. Each of the major figures involved in the 1987 constitutional amendments has now served as president of the country, illustrating that perceptions of future electoral uncertainty were accurate at this time, particularly due to the violent confrontations between civil society and the state in the previous periods (Koo, 247). Yet, the courts have remained a stable player through this latest uncertainty. In contrast, the KMT in Taiwan retained control of the important institutions of the country from 1986 until the election of Democratic Progressive leader Chen Shiu-bian as president in 2000 (Tsang, 15). Taiwan had a dominant-party setting, whereas the courts generally worked more as part of the government structure rather than an institution that protects from another. This is changing, but only through a gradual process. The party system has continuously evolved in both countries, but in Korea it retains the fragmented character that led to the adoption of an open system of judicial review at the outset.

Conclusion

The different degree of judicial independence in each country illustrates the inexorable politicization of courts, regardless of similarity in institutionalization of court power. Yet, this politicization does not necessarily always
weaken judicial review. Instead, the most significant factor contributing to the autonomy of South Korean constitutional courts is weak political parties whereas Taiwan’s strong political parties limit the expansion of judicial independence.
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Arizona’s Citizen Clean Elections Act/Campaign Finance reform

Danielle Bernard

It is believed by many that there is exclusiveness in American political elections, caused by contributors’ financial support to political candidates. This belief is not new to the American public, as indicated by the following quote, “By the end of the nineteenth century, lavish contributions by major corporations and wealthy ‘fat cat’ donors had reached levels that alarmed progressive reformers” (Luna: 5). The method of providing financial support to candidates, especially now with the significant amounts of money available, must be reviewed and changed to ensure American people’s trust in the legitimacy and transparency of United State elections and the candidates. Are the proposed campaign finance reform bills the answer or do they impede on an Americans rights, does something need to be done to ensure legitimate candidates with transparent goals for the office? Several states have decided yes something must be done and are already reforming their campaign finance laws. One state in particular, Arizona, has accomplished implementing a campaign finance reform, which, to date, appears to be successful as indicated by reports and political polls. Thus Arizona has begun to “clean” their elections by the use of publicly funded money, instead of allowing the candidates to be “bought and paid for” by large campaign contributions from corporations and/or independent interest groups. What is responsible for this campaign finance reform is the creation of the Citizen Clean Elections Commission (C.C.E.C). Arizona is among
more than thirty-five states that have expressed interest, funding, guidelines and legislation to start to “clean” their elections and help create legitimacy in state government. Arizonan’s voters have reacted to the implementation of the Clean Elections Act in two different ways. Some consider it a necessary improvement in campaigns and in the government, while others see it as an unnecessary bill that disrupts campaigns and infringes on personal rights. But whatever side a voter might be on, campaign finance reform and clean elections is absolutely necessary to ensure a prosperous and valid election that has the most benefits with the smallest costs, and that is what Arizona has done.

The Citizen Clean Elections Commission (C.C.E.C) of Arizona started out as a citizen made campaign finance reform initiative that was then voted to the ballot and passed in 1998. In 1996, State Senator Joe Eddie Lopez realized that campaign fundraising must change. “Less than one-third of one percent of the population gave contributions totaling more than $200 in the 1996 election. A huge proportion of the campaign cash that politicians raise comes from business interests, giving them special access to and influence over the legislative process” (Luna: 97). The small amount of money that was contributed to campaigns, by voters, proves that big businesses and special interest groups largely contribute the majority of funding used in elections. This fosters the belief that if these entities are contributing these large amounts of money to the campaigns that they will, in turn, have an immense influence on the candidate and the decisions he or she may make, if elected to office. Senator Lopez was the first person in Arizona to introduce a Clean Elections Bill, in 1996. This Bill would make public money available to fund campaigns. The Senator’s bill was ignored by the Senate and was never passed. The clean elections idea, however, was not forgotten. Many organizations such as The League of Women Voters, The Common Cause, and
Arizona Citizen Action, The Public Campaign, The Good-Government Coalition, and individual volunteers worked on writing the initiative and educating voters. With support from the public the initiative was placed on the ballot and passed. According to the 2002 “Road to Victory” report by the Clean Elections Institute, “The passage of this Act was a direct response based on voter disdain for Arizona’s corrupt political history, particularly the influence of special-interest money in political campaigns”. Arizona voters in the past years witnessed the impeachment of a Governor, the induced resignation of another Governor because of illegal spending and finance corruption, and a Savings and Loan scandal involving a U.S Senator.

The basic principle of the C.C.E.C is to regulate the spending and fundraising of state campaigns, while limiting the influence and participation of high spending corporations and special interest groups. The state offices that participate are under regulation by the CCEC. The Citizen Clean Election Act deals with the finance reform of the campaigns. It does this by giving the campaign candidate two options: either public funding by becoming a Clean Elections candidate or private funding and not being a participatory Clean Elections candidate. Under the Act, the candidate has the freedom to choose between these two options. Regardless of which option is chosen, they must comply with the rules and regulations of the Commission. One of these regulations that both participatory and non-participatory candidates must follow is that each candidate has to submit documented forms, called “trigger reports” of all donations, funds raised and spent, etc. to the Commission by specified dates. This regulation alone allows for transparency in the actions of the candidate, and who supports them. Hence the Citizen Clean Elections Commission’s (CCEC) pledge is to rid the State government elections of finance corruption and have
“clean” elections with government-funded money, rather then money contributed by corporations or special interest groups. The CCEC is a non-partisan commission that is unbiased to participatory clean election candidates or non-participatory candidates. The CCEC is comprised of five commissioners, two Democrats, two Republicans and one Independent. Statewide government officials elect the commissioners. The government official with the “highest” rank, the Governor, elects the first CCEC commissioner, the position lower then the Governor will elect the next commissioner, and this carries on until all the commission seats are filled. Commission electives cannot come from the same county; they must be Statewide and could not have held a governmental office five years prior to or may not hold one five years after serving. These regulations are to ensure that the commissioners are unbiased and that each county in Arizona has a chance to be represented.

For a candidate to be eligible for public money, and to become a Clean Elections candidate, he/she must complete the required documents and submit them to the CCEC. The potential candidate must then be able to collect a specific number of signatures from registered voters as well as raise a certain amount of five-dollar contributions. Only one signature and one $5 contribution may be obtained per citizen, this system appears to be working in certifying the candidate’s credibility. The Clean Elections Institute stated, “2002 Clean Elections candidates collected almost a half-million dollars (90,000 $5-qualifying contributions) in small contributions from Arizona voters.” Once the contributions are collected, the five-dollar bills are consolidated into one check and turned in to the CCEC along with the required documents by the deadline given. The money raised is then added to the money that will fund the candidates’ campaigns. For example, the legislative positions must raise two hundred
and ten, five-dollar bills ($1050) and signatures. The position of the Governor must raise four thousand dollars through $5 contributions. To ensure the legality of the donations prior to certification, the Commission takes a random sampling of the signatures and the documentation. The candidates, whose petitions are certified, will receive public funding; the amount is based on the position they are running for. The legislative positions in the primary will receive eleven thousand and three hundred dollars. Their funding can go up three times the initial amount, to ensure “equality” between participating and non-participatory candidates, if the non-clean elections candidate raises more private money then given to the public funded candidate. For example, if the non-participatory candidate running for Attorney General or Secretary of state positions raised an amount above the publicly funded candidate, the publicly funded candidate’s financial backing may be increased to a rough total of thirty-seven thousand dollars. If the non-participating candidate raises more then the tripled amount, there is nothing that the clean election candidate can do to match this amount. In the general election, the legislative candidate will receive sixteen thousand nine hundred and eighty dollars, and up to three times that amount if required.

In the 2002 general election, the Clean Elections candidates for governor received over two million dollars each for their campaigns; however, the money that the candidates receive is not the only funding that they can collect, prior to the start of elections. Clean Election candidates can receive up to two thousand eight hundred and thirty dollars in early donations, but the amount can only be a hundred and ten dollars per registered voter. A non-participatory candidate has no aggregate total limit, but cannot receive more then two hundred and eighty dollars per registered voter. These amounts do not include
“personal contributions” i.e.; family members, a spouse’s family members or the candidate’s personal funds can make this type of donation. The amount is capped at five hundred and fifty dollars. Once campaigning officially begins, the candidate is not allowed to accept private money or use personal funds. The limits were established and approved through the Initiative process and the CCEC.

Where does the funding for the CCEC come from? How does the government supplement this seemly costly program? One way is by giving a tax write-off on Arizonian’s state income tax. An individual can, voluntarily, donate five dollars to the CCEC or if they are married, ten dollars. As documented by Arizona Governor Janet Napolitano, more than six hundred and fifty thousand citizens voluntarily donated to CCEC through their income tax write-off in 2002. If a person wants to donate more, he/she gets a “dollar for dollar” tax credit up to five hundred and fifty dollars or twenty percent of a donation. The taxpayer is given the benefit of receiving whichever one of these is a higher tax break. Remaining monies are collected through a ten percent increase on all criminal fines, civil fines and penalties collected. So, you could be donating whether you intended to or not. In addition, there are civil penalties for campaigns that do not follow the rules and regulations set by the CCEC. It must be stated that using this contribution approach, the money donated is given to the CCEC and not directly to individual candidates. The CCEC then distributes those funds as defined by law. “A total of $12.8 million was disbursed to candidates in the 2002 election cycle” and thus far there are no reported financial problems in running the CCEC with this approach. In the 2002 gubernatorial primary election, all candidates were publicly funded except one. In the general election, one candidate was “Clean” (publicly funded) and the other privately
funded. They were evenly matched with funding, but the Clean Election candidate prevailed and won the election and became governor.

One can only assume that there are positives and negatives to this fairly new Clean Elections Act. With the moderately new campaign finance reform in place and active, some voters and organizations suggest that there are problems with the implementation of the reform, and therefore the CCEC is constantly under attack. Some have complained that the reform is benefiting the incumbent although this has not been proven “Campaign finance regulation is not about "reform" or ethics. New restrictions on spending will only help those already in power by making it harder to challenge them” (CATO). They go further to claim that the reform bands some forms of money intake but allows others which also make it easier for the incumbent to win another election. “All major bills before the House either ban or limit largely unregulated contributions to political parties, the so-called "soft money." Congress will not debate regulating contributions by Political Action Committees (PACs) in any way” (Samples, CATO). Statistically PAC support tends to go the incumbent, and with the way the contributions are regulated the support give the incumbent a high winning chance because of the reform. Some say the CCEC, instead of encouraging more people to run in elections and promote equality among candidates, is discouraging them and lowering election competition. Others claim that it causes lowered election competition because of the technical rules and regulations. There have been complaints from candidates over the legal rhetoric such as being fined because they raised too much money, or submitting their documents at the wrong time or filling out one of the forms incorrectly. Other complaints suggest that the CCEC is not necessary; and that receiving public funding will not affect candidates’ voting nor will it
alter their corporate or independent group ties. The first amendment also states that every individual has the freedom to choose which candidates or government official to support, if any. The method of instituting a 10% increase in civil or criminal violations fines for the purpose of funding Clean Elections was seen as an infringement on that right. (If a person receives a fine for any civil or criminal violations ten percent of their fine will go to one or more of the Clean Election candidates running) Some, like John Samples, A Cato Commenter, see the finance reform as more of a set back then a jump forward in politics, and that the reforms are made with special interests in mind and not the people, “the struggle over campaign finance concerns the good of the parties, not the good of the nation” (samples). The attacks on the reform tend to be from the more conservative side of politics, mainly Republicans and the Libertarians. Others are also not happy about the reform because it equals the monetary and influential political playing field, “Wealthy special interests with deep national ties to conservative and right-wing causes and candidates are pouring in hundreds of thousands of dollars to gut Arizona’s landmark voter-approved Clean Elections Act” (Public Campaign Fund). This article demonstrates the intensity and force of attacks the CCEC is receiving. With all the criticism of the reform, the CCEC is staying positive with the support from Arizona voters and the public. “Despite hostile lawsuits and political attacks, 64 percent of respondents in a recent Arizona Republic poll voiced support for the state’s Clean Elections system. Approximately 70,000 registered voters gave $5 qualifying contributions to one or more candidates in 2002” (Arizona statistics). These are just a few of the tribulations and attacks the Clean Elections Commission has faced. The commission has a long road ahead of them to maintain the Clean Elections Act in Arizona and bring trust back in American elections.
There are always two sides to every problem, especially in politics. With the possibility of a publicly funded campaign, a candidate does not have to be “bought and paid for” by interest groups or corporations, which in the majority of Americans would give the candidate and the election more legitimacy and transparency, bring the candidates back to the people. "Money currently makes too big a difference in national politics." Sen. John McCain (R-AZ). In this day and age money is what determines who can run and who they “owe” once in office. A Newsweek Poll conducted by Princeton Survey Research Associates in 1999, stated that when people were asked whether political contributions have too much influence on elections and government policy, ninety-percent found it that it did have to much influence. With the implementation of the Citizens Clean Elections Commission, candidates that would not be able to normally run now have a chance with public money funding their campaigns. As stated on an Arizona Campaign Reform fact sheet, that because of the CCEC more diverse groups of people are running for elections. Thirteen candidates in the primaries were of Latino, African-American, Native American and Asian origin in 2000; in 2002 thirty-seven of the candidates were minorities. These statistics prove that minority participation had increased from less to no participation before 1998, to great involvement in 2002. When referring to minorities, “…in 2000 revealed that 4 out of 5 would not have run without the availability of public funds” (Arizona fact sheet). Not just minorities are taking advantage of the opportunities presented by the CCEC. More women are becoming candidates for office, as are people with low incomes. With public money, candidates can now focus back on grassroots politics, meeting the public, working on the issues, and not trying to buy more air time or fund large money events, or high-dollar advertising then their opponent. Is that not what politics
The Orator should be concerned about, the people and their issues? With CCEC in place, candidates are now able to do this, and voters can chose the candidate that fits closely with their issues and not the candidate with the flashiest advertising or largest event. In a study done by the Behavior Research Center, in a 2001 poll, eighty percent of Arizona citizens believe that contributions influence votes on public policy. This verifies that public funding is a more honest way to campaign, and the CCEC will actively give voters back their confidence in the government. In traditional primary elections, a candidate with the same affiliation as the incumbent may not be able to receive adequate funding to run against the incumbent. With the money funded, candidates at present have a chance to run and the public can choose which candidate they want to represent them. With the widely available candidate information, voter information, and events, voting rates are up, and more people feel that they can participate in and with their government. “The citizens Clean Elections Act, in four years, helped increase voter turnout twenty seven percent in the 2002 primary elections and twenty three percent in the 2002 general election” (Arizona Governor Janet Napolitano). Governor Napolitano, being so impressed with the CCEC and being the first Clean Elections candidate to win the Governor’s seat, has officially named November “Clean elections Month” in 2003. Since Clean Elections, there has been a reported “seventy-five percent reduction in the number of races determined by money” (CEI). That means more candidates are being elected for their stand on issues, their ideas, and etc., and not because of the size of their wallets.

Regardless of the criticism by some, the Clean Elections Commission exhibits only positive results from the campaign reform. Found on the Clean Elections Institutes web page, the CCEC and the implementation of the Citizens Clean Election Act has accomplished thus far:
Clean Elections Candidates won forty-one percent of the State’s offices; Republicans and Democrats benefited; demonstrated public money was a popular choice with more than fifty-seven percent (139 of 247) of all candidates participating in Clean Elections, which has increased from thirty percent in 2000; increased voter participation; voters had more candidate choices; candidate competition increased over one hundred and ten percent, while competition for statewide races rose sixty-four percent in just one election cycle. Results also included decreased influence of big-money- special interests while providing adequate funding for candidates; and most importantly, it is strongly supported by the public. Sixty-four percent of Arizona voters voted for clean elections candidates. With results like these, one can only assume that the Citizens Clean Election Act and the enforcement and monetization from the Citizens Clean Elections Commission, is breaking down the walls of government cynicism by the public and replacing it with confidence. There is no doubt that big-money corporations and widespread interest groups have increasingly influenced American politics, thus causing skepticism of the government by the public. The Citizen Clean Elections Commission and similar campaign reforms seems to be the best answer to put politics back on track and refocused to what is most important, the people. “The 2002 election results further prove that big money donors and special interests can no longer buy Arizona voters nor pay for Arizona government” (Arizona fact sheet). Arizona’s campaign finance reform, despite some complaints, is working and voters are satisfied. As can be seen the benefits of clean elections and the low costs outweigh the negative attacks of the CCEC. It has been a positive improvement to Arizonian elections and is a necessary reform to implement nation wide.
Facts and Percentages

A Political Poll, questioning which group has most of the influence and power in the political campaigns

**TRENDS 1994-2000** Base: All Adults:

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*Harrison Poll

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<tr>
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<td>Corporation Commission</td>
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<td>State Senate/House</td>
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<td>$5</td>
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*Funding Our Own Democracy


Arizona Voter Turnout Percentage Change By County

![Graph showing voter turnout percentage change by county in Arizona from 1998 to 2002.](image-url)
### 2002 Arizona Participating Clean Elections Candidates Demographic Statistics
#### September Primary

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<td>216</td>
<td>117</td>
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<td>100%</td>
<td>1</td>
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*The percentage suggests a negative trend in political participation by African American candidates. However, one must consider that (1) the African American population is less than 3%\(^5\) of the statewide population, and (2) is concentrated in one urban district in South Phoenix. George Dean, President and CEO of the Greater Phoenix Area Urban League, offers the following insight, “Without clean elections you couldn’t afford to get in, but once in, candidates do not receive a full salary that might keep them interested in long term politics.”\(^6\)
Works Cited


*Special thank you to Barbara Lubin of the Clean Elections Institute, Arizona. The staff from the CCEC office in Arizona, and finally the staff from the Public Campaign Fund in Washington DC.
In today’s world of high-speed technology, media are closing distances between people and blurring boundaries. As information and ideas are passed more quickly from one side of the globe to the other, the distances between people and cultures – both physical and metaphysical – become less significant. This increased flow of ideas has proven unsettling to some, who see it as a threat to their own culture. France is one such country. Although they believe in the free flow of ideas, the French government has become increasingly concerned that culture and national identity may be taking a back seat to information flows and “cultural imperialism” in years to come. These concerns, shared by other European countries, have prompted the government to take action against cultural blending.

France has developed a unique set of quotas and restrictions meant to enhance and maintain their culture through the enhancement and maintenance of French audiovisual productions. Almost as explicitly, the French wish to fend off American “cultural imperialism.”1 Their restrictions have been considered a benefit to many, a burden to others, and a highly controversial move to nearly everyone. In order to understand the choices made

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by lawmakers that have led to these policies, we first must understand some of the history of audiovisual policy and broadcasting in France.

Early in the 1970s, the French government, who saw broadcasting as a way of disseminating their own views as well as representing the French culture both at home and abroad, dominated French broadcasting. During this period of complete control, the government used television to promote culture and education. This public service format changed in 1974, when President Valéry Giscard d’Estaing was elected and the government’s Office de la Radio-Télévision Française (ORTF) was split into seven public companies. It was hoped that the split would reduce costs by focusing the production functions, as well as create better quality and diversified programming. It was also, however, a first step towards the loosening of government control over audiovisual works in France. Although the division of power over production opened the door to the commercialization of broadcasting, the French government maintained its ultimate control.

Around this time, France began a direct broadcasting satellite (DBS) project with Germany in order to counter some of the US and Japanese domination of communication technologies. DBS could distribute messages through the air not only to their own citizens in

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remote locations, but also to other countries. Although other European countries were developing the technology as well, France and Germany decided to pursue DBS technology as a joint endeavor.

Another dramatic change came in 1981 with the election of the socialist President François Mitterrand. Although his party was expected to return broadcasting to its public service role, economic difficulties and other international factors led Mitterrand to liberalize broadcasting, allowing localized private radio stations. In 1982, the Law on Audiovisual Communication finally rid France of the State’s monopoly on broadcasting. As the government was changed again in 1986, the broadcast market was opened to private players through the Law on Freedom of Communication.

As broadcasting went through these changes, four market sectors emerged: programming, where broadcasters buy programs from producers; advertising, where advertisers buy slots from broadcasters; production, where broadcasters buy from infrastructure operators; and delivery, where people buy the service from broadcasters. With these four sectors and their dependence on the commercialization of French media, a concern about cultural blending emerged. Power over content was being shifted away from the French government, and as the commercial market took over, the public increasingly

demanded American and other imported programming for entertainment, taking airtime away from French-made entertainment and programming. The Government decided that actions must be taken to preserve the French culture.\(^7\) In this they were not alone.

The European Union (EU) had also come to the conclusion that increases in imported media were posing a threat to the European culture in general. In 1989, they implemented a directive called Television Without Frontiers (TWF).\(^8\) This directive was meant to protect both corporate interests and the right to intellectual property and cultural diversity of citizens. As the TWF directive ensures: “audiovisual works are the expression of an identity” and “audiovisual [policy] should, therefore, favour the emergence of a European conscience and a greater cohesion at the level of the continent.”\(^9\)

While the EU was concerned with maintaining the European identity, however, France was particularly concerned with its own national identity being hidden behind the American view of the world being transmitted into the homes of its citizens. This has led them to develop a unique set of obligations, regulations, and

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encouraging provisions meant to protect their citizens and their unique culture.

Quotas are the clearest examples of obligations impressed on French media to encourage cultural propagation and enrichment. Although the European Union requires that 50% of their programming be European, France has an augmented percentage compared to other countries. In France, at least 60% of the movies and series aired by television channels must be from European countries. At least 40% of these must also originate from French speaking countries. This requirement is actually eased from the prior requirement of 60% of the content coming from the EU and 50% of the content originating in France due to the relatively limited quantity of content available.

The television quotas are not only applied on a daily basis, but also apply to the primetime hours of 8:30 p.m. to 10:30 p.m. in a more strict way than the EU’s Broadcast Directive entails. This is to prevent the airing of imported programs during peak hours and French programming only late at night. Television series times have more recently been extended to include the time from 6 p.m. thru 11 p.m., mainly due to the fact that the French people are increasingly using television as a source for news and entertainment over some other types of media. Also,

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“television cannot show films on Wednesday evenings, when cinemas put on new releases. Nor can they show films during prime-time on the traditional cinema-going nights of Friday and Saturday...each TV channel can only show an average of two films a week.”

Interestingly, the 40% of movies and series originating in French-speaking countries is extended to include non-European countries, primarily encompassing Canada. This is due to the fact that a large part of the effort to maintain the French culture is preserving the French language. Actions to protect the French language have become an even more pressing concern with the growing numbers of people learning, speaking, and conducting business in English rather than French.

The quotas do not end with television. Although it was self-regulated in the past, radio stations also have quotas to support French artists today. These are in place not only to spread their works, but also to encourage the development of new songs and open the market to new artists. “In 2000, only 24,400 different songs were played on French stations compared to 56,300 in 1995, and half as many different artists.” In order to spread the works of existing French musicians, 40% of the songs played must be in French or a regional language that is spoken in France. In order to encourage new artists, at least 50% of

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what is aired must be from new talents or at least be new releases\textsuperscript{15}.

One modification was made to the radio policy by the Law of August 2000. Oldies format and exclusively new release stations’ format made it difficult to adhere to these quotas, creating a need for some change or exception. Oldies stations must now air 60\% of their music in French, but only 10\% of the content needs to be new releases. New Release stations were modified to have a quota of only 35\% of their songs in French, but of these 25\% must be by brand new artists\textsuperscript{16}.

Since the implementation of the radio quotas, many stations have actually seen an increase in popularity. One station in particular began airing more urban music and saw a dramatic increase in listeners. Not only was this good for the station, but it also began to raise the popularity of hip hop in France, diversifying radio content. This, in turn, also led investment in radio to double and investment in new artists to increase three-fold between 1995 and 2001. Sales of new releases also doubled, and sales of French music jumped from 49\% to 60\% between 1995 and 2002.\textsuperscript{17}


Although all these quotas ensure the airing of French programming, there must also be ways of encouraging the actual production of French works. Just as in the music industry, there is also encouragement for emerging film artists. Currently, free-to-air broadcasters, which are those broadcasters who emit signals that people can legally receive without a subscription, must allot at least 3.2% of their total yearly revenue to the production of European movies.\textsuperscript{18} At least 75% of the broadcasters’ allotted funds must be given to independent producers. Depending on the channel, numbers of European or French language audiovisual works that must be supported by the funds vary; ranging from only 4.5 up to 18.6, most of the channels falling nearer to 18.6. In all cases, however, two thirds of the investments must go to independent producers. This requirement led to a massive rise in international popularity of French independent films. In 2001, there was a 400% increase at the box office in the U.S. alone\textsuperscript{19}. Unfortunately, it has also been frustrating for television producers, who believe that they should not have to give both funding and air time to French movies.\textsuperscript{20}

Financial encouragement has also been offered to programming producers through an organization called the Compte de soutien aux industries de programmes

(COSIP), or the Fund for Support of Programs Industry\textsuperscript{21}. COSIP draws funding from all television channels, which must donate 5\% of their net revenue, as well as from taxes on movie theater tickets and video rentals\textsuperscript{22}. Thus, the more money a movie makes in the theater, the more revenue that theater has to claim, and the more money it donates to COSIP.

Specifically, the funds brought in by COSIP are distributed to French filmmakers and producers of audiovisual works. Although French movies out-grossed American ones in the 1970s and 1980s, that is not the case today. Only about a third of the revenues taken in at the box office come from domestic films and about 60\% of the box office revenue comes from American-made films\textsuperscript{23}. In the long run, COSIP’s efforts are intended to take some of the revenue brought in by foreign films and put it back into improvements for the French film industry. Today, COSIP also draws funding from a tax on text messages, integrating yet another communication technology into the cultural enrichment effort.

The large percentage of income from American films is still a concern to the French. As President Jacques Chirac mentioned, he doesn’t want to see “European


culture sterilized or obliterated by American Culture for economic reasons that have nothing to do with real culture.”  This issue has led to the conclusion that French filmmakers need to become less dependent on subsidies, and should be creating more commercial movies as well. The industry has been slowly shifting towards movies with commercial appeal by creating more big-budget films to compete with imports.

Another concern in France’s film industry is the number of short film being produced domestically. France is the largest producer of short films in Europe. Unfortunately, these short films have little commercial value due to their limited options for distribution internationally, and even at home. As companies and schools pour money into the production of short films, the return on their investment is minimal.

Keeping tabs on these and other concerns is the Centre National de la Cinématographie (CNC). Supervised by the cultural ministry, the CNC provides large encouraging provisions in the form of subsidies to filmmakers, along with the help of the central government and ministry. The CNC’s subsidies for movies are given in

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two different types of programs: automatic and discretionary\textsuperscript{26}.

Automatic aid is given when the film is being developed, and must meet very specific criteria. In order to receive automatic aid, the cast and crew must be residents of the EU, the Film must be made in France or one of its territories, co-production must be formalized through a treaty, and the film must be directed by people from the EU or who have lived in France for over five years.

Discretionary aid comes in the form of loans with no interest. In the past, they have gone exclusively to new directors and films deemed “artistic.” More and more, however, larger amounts of money are being given to bigger productions in order to compete in the commercial film industry. In order to procure these loans, the director must get a license from the CNC, and therefore be a French national. The film must also be shot in French. Discretionary aid is further divided into aid for new directors and experienced directors. These two groups receive funding loans for about 20 and 30 movies, respectfully. Although the money given to the directors is considered a loan, they are intentionally very loose on repayment policy. Therefore, only about ten percent of the loans are actually repaid in full.

France and other countries also give discretionary aid to co-production films between people from different countries. In France, this fund is called the Fonds Eco

and provides subsidies to co-productions with other Eastern European countries depending on various treaty conditions. When a film qualifies for these subsidies, it is given aid in the same way as a film completely produced in France.

The CNC is also a large supporter of short films through production assistance and quality awards. They not only subsidize short films, but also support their exhibition on television. Support from the CNC is given specifically by the Financial Contributions Committee and by COSIP. A committee consisting of ten professionals and four people from television stations gives production subsidies to those scripts they deem worthy. A separate committee of ten people reviews films after they have been made and give out different awards, along with financial support, to the best short films. This money is usually split 80/20 between producers and directors. It does not, however, have to go towards creating new films. These quality awards are intended to champion excellence in short films rather than stimulate quantity productions.

If these subsidies from the CNC were not enough, tax breaks are also given to filmmakers by film financing companies operating under the Sociétés de Financement du Cinéma et de l'Audiovisuel (SOFICA)\(^\text{30}\). The film financing companies get money by giving out loans with interest to filmmakers. They get the money they loan out from investors, offering excellent tax breaks for those who contribute to the company. Companies who contribute can write off up to 50% of their investment, while individuals who contribute up to 25% of their income can write 100% off on their taxes within five years of their investment.

Unlike with CNC subsidies and loans, SOFICAs draw up payment plans unique to each film production and hold producers to it. Sometimes these payment plans demand most of the money back quickly after the film is completed, but other times the payment period is drawn out so that the SOFICAs can share in a larger portion of the production revenue. In either case, SOFICA is always recognized in the film credits.

The CNC and SOFICA both exemplify ways in which the Government gives funding and financial incentives to filmmakers in order to create a French film industry that champions both quantity and quality filmmaking. This generous funding serves to increase the number of people

producing French films by offering more financial compensation. The more films that are created, the more these films are exported to disseminate the French culture and, for all intents and purposes, counteract the imported works from non-European and even pan-European countries. Unfortunately, even with all the subsidies and funding that programmers receive, they are still having difficulty keeping up with the television industry’s demands for programming. Still, both quality and quantity programming funding are important for maintaining French culture through film, as well as sharing the culture with the world.

The commitment to culturally stimulating French productions became an especially prominent issue in 1994. That spring, the world’s leading nations in trade held the General Agreement on Tariffs and Trade (GATT) talks in which the American negotiators agreed to remove tariffs on all European goods. Their one stipulation was that Europeans, especially the French, removed their restrictions on American films and handled them as equals without special treatment. To this, the French clearly refused, promising to veto any proposition that would require them to lower their taxes and quotas on audiovisual works. “If the GATT deal goes through as proposed, European culture is finished,” said Claude Berri, a well-known film director. As an example of what France considered to be a threat, Stephen Spielberg’s *Jurassic Park*

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was particularly named as a “threat to [French] national identity” by high-ranking French officials.

The American negotiators eventually backed down, although not without disapproval from Hollywood which exported about $3.7 billion worth of films to France. When this occurred, French director Jean Jacques claimed, “We removed the threat that European culture would be completely eliminated.” Adding to the damage done by French policy to the US, other countries in Europe are paying close attention to France, who is attempting to rally them against cultural imperialism. Although the US could, in turn, put restrictions on French audiovisual imports, with only about $288 million worth of French films exported to the US, it is hardly worth the effort and would not damage the French industry as much as they have damaged America’s. What has been deemed the “cultural exception” created by France is still an extremely controversial policy because many say it virtually eliminates free trade in the industry.

With the coming of internet, as with any new medium, new cultural protection issues arose. One recent issue came up when Google announced that they may be making works from the world’s largest libraries available online. France, concerned that the collection will be dominated by English works, began a project of their own to put famous French works online. Another issue, which the government cannot really control, is that people are increasing their consumption of American music by getting it online rather than over the radio, rendering the radio quotas practically obsolete.

Some people, including the French government, argue that cultural protectionism makes sense and maintains cultural diversity. These people argue that by protecting individual cultures and not allowing them to blend together or influence one another, we end up with a greater cultural plurality. The opposite argument has also been made, however, stating that the French policy of cultural protectionism decreases its competitive edge in the international market. Those who oppose cultural protectionism also claim that by limiting the flow of ideas, you create a nearly static culture, which is not a true national culture at all. Culture must have some malleability. People who say otherwise may be confusing culture with tradition; tradition is merely one component of culture.

Progressively, more exported films from France are inspired by another era, describing historical French culture rather than popular culture; an area of more interest to specialized groups than a broad audience.

Artistic integrity has long been a characteristic of French film-making, which dominated the global market in the early 20th century, but producing niche films that catered to French, particularly Parisian audiences, ultimately led to the downfall of the once great industry. Economies that flow are very important in an international market and, unfortunately, the French productions do not flow well. Content that caters to French people as well as the fact that the French language is not as widely spoken throughout the world as English both contribute to difficulty in French productions’ marketability. Another issue is that although the French must have certain amounts of European Union programming, none of the countries of the EU have quotas for specifically French content.

Those who oppose French policy claim that restrictions and quotas do not fit in to a competitive world and they make French productions, which already have some difficulty in terms of marketability, even more difficult to sell internationally. Despite their controversial nature, the French Ministry of Culture claims that most television and film producers believe that the restrictions and quotas placed on them are beneficial to the industry. In private, however, many may change their stance, saying that the restrictions take away the freedom of both producers and viewers.

Hollywood has maintained a huge presence in this debate. They put together a campaign against the EU when they began audiovisual quotas, and their anti-cultural exception position is well known. Some analysts, however, have decided that America should remove themselves from the debate. They believe that if Europeans work through the issue without American interference, they will decide that American cultural imperialism is not a significant threat. Rather, they may find that the true
threat is France imposing their restrictions and quotas on other countries, affecting the international market.\(^{38}\)

There is another controversy taking place within France over whether culture is being protected, or monopolized through the existing cultural protectionist policies. Currently, it is widely accepted that the diversity of the French people is not well represented in television programming. In addition, the medium is virtually monopolized by the French government and one large corporation. Together, these factors combined with quotas for French programming are said to be putting a cultural monopoly in to place.\(^{39}\) Unfortunately, it is very difficult to implement any quotas to regulate the lack of diversity represented in programming while maintaining the cultural presence in programming.

Although the debate over French protectionism is far reaching, it is not the only instance of cultural protectionism, or even the oldest. Other countries such as China, Canada, and South Korea have had policies, whether successful or not, that aimed to protect against cultural imperialism. France’s policies, like some other countries’, have become very controversial because they affect the audiovisual industry as well as free trade in France and internationally. The quotas, restrictions, and subsidies placed on French media have been seen as a benefit to some industries such as radio and film, but can also be a hindrance to others such as television and the


internet. Despite the near monopoly on television content by the government and one large corporation, efforts seem strong to illustrate French culture and its diversity through television and other media.

The cultural exception to free trade is still seen as an important measure for protecting France and all of Europe from American cultural imperialism. Whether or not this is actually the case, however, remains unclear. It should be interesting to see if the trend toward cultural protectionism continues, dwindles, or spreads in the future.
Works Cited


