

GOING BEYOND JOHN LOCKE? Influencing American Population Growth

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THE POPULATION PROBLEM—A CLEAR AND PRESENT DANGER?

Not long ago Robert S. McNamara argued cogently that the present facts of the world's population explosion are distressing enough "to jolt one into action."¹ If current rates of population growth are maintained, by the year 2000, a mere six years will add an increment equal to the entire expansion in the world's population-size from the formation of the Roman Empire to the middle of the nineteenth century. A person born in the 1970's and living a normal American life expectancy would witness a world of 15 billion people. "In six and a half centuries from now—the same insignificant period of time separating us from the poet Dante—there would be one human being standing on every square foot of land on earth: a fantasy of horror that even the Inferno could not match."²

It is extremely doubtful that man's increasing capacity to use the planet's land and ocean resources can forever keep pace with population growth. If neither voluntary nor governmental effort curbs population growth, the day will likely come when natural or unnatural forces will impose an unpleasant solution—whether through famine, disease, pollution, nuclear holocaust, homosexuality or cannibalism.³

To be sure, different patterns of population dispersion both

in this country and throughout the world, and different patterns of resource consumption and cycling, could for a time decrease the already plenteous pockets of ecologic strain. Nonetheless, the planet's "carrying capacity" is finite, even if it is not yet practically enumerable. Ultimately, one comes up against the laws of thermodynamics.⁴ And, well short of such physical limits, one may come up against the boundaries of psychologic tolerance for crowding, urbanization and separation from the natural environment.⁵

The fact that the United States, as a developed economy, has not had to contend with the typical vicious spiral of underdeveloped countries—wherein national indices of economic growth are seriously diluted by annual increments of population—does not justify a lack of concern for population problems. During the past decade population imploding into the American "center city" has contributed to several hundred violent challenges to the government's "monopoly of legitimate force."⁶ In turn, these riots have engendered abundant conservative political reactions from other, less-crowded, more affluent living areas. Similarly, environmental pollution and transportation congestion indicate that well short of the upper limits described by thermodynamics, population growth and distribution present severe problems to a polity attempting to govern a "developed economy."⁷

A governmental practice of abstaining from systematic intervention in the course of population growth, whether the outgrowth of a reasoned decision or of inaction, constitutes a political result as freighted with consequences as a decision to intervene systematically. Moreover, as Daniel Moynihan has argued recently,⁸ nonintervention is frequently an illusion. In reality, intervention is often present in the unintended form of a helter-skelter of side effects flowing from explicit governmental programs in other areas. Thus, building a freeway from the center of a city to a suburb may ostensibly be just one part of a transportation policy. Yet it actually exerts pressures upon the "natural flow" of intra-urban migration. In this sense, the side

effects of other policies produce a "hidden population policy."⁹ Thus, the conclusion is inescapable that excessive population growth constitutes a political and not merely a technical problem. One resulting analytic question is, consequently: what sort of a future response by America is likely? It is the aim of this essay to analyze the major characteristics of the American political system that augur less than a speedy and adequate response.

FOUR BARRIERS IN THE AMERICAN POLITICAL SYSTEM

An era is sometimes best delineated by the contours of its leading social and economic strains. In such an era the prospects for a society depend substantially upon a dual capacity: (1) for timely perception of such strains as problems requiring political action; and (2) for solving these problems by means of "normal" political channels. Otherwise, the society runs the risk of disaster. At least, its government must be able to temporize with the problem and leave it to the next generation.

It can hardly be doubted that the phenomenon of nuclear power has posed an overriding political problem for mid-twentieth century America. That an equally important political problem of the late twentieth century will be the population explosion scarcely warrants greater doubt. American politics of the mid-twentieth century accomplished the necessary minimum of deferring the nuclear issue. However, for several reasons political scientists may be less optimistic with respect to the capacity of the American polity in confronting the population explosion. To begin with, by comparison the nuclear problem had one great "advantage"—its obviousness. By comparison, population has been a quiet issue. Furthermore, it is arguable that in at least four ways the American economic, political and ideological structures were far better adapted to grappling with the nuclear issue.

The first—and least serious—structural barrier to adequate grappling is economic. Restrictive population growth has at least an apparent short-run disadvantage to American business.

Unlike nuclear deterrence, if successful, it provides fewer, not more, consumers. As an interest-group pushing for massive government financial aid, G. D. Searle Co. and its competitors in the contraceptive market are hardly a match for defense-related industries.

Second—and more significant—even before Hiroshima, at least a few powerful members of the military, political and scientific elites were cognizant of the problematic nature of “the bomb.”

Third, except for the strand of isolationism, which it notably weakened, nothing in the tapestry of American politics hindered the acceptance of the nuclear issue as a political problem. Rather, it sprang directly out of a long-standing problem—national security. The cold war underlined its crucial character to both politicians and public. In contrast, perception of population growth as a political problem is not built into the normal decision-making patterns of American politics. To be sure, the United States has not wholly lacked national political leaders concerned about population issues—particularly former Senators Gruening of Alaska and Clark of Pennsylvania, Senator Joseph Tydings of Maryland, Senator Robert Packwood of Oregon and former Secretary of Defense McNamara. Nonetheless, and despite the Congressional creation in March, 1970, of a National Commission on Population Growth and the American Future.¹⁰ one could hardly describe American political attitudes as yet characterized by a pervasive sense of overwhelming urgency about it.¹¹ Despite their efforts the two former Senators became “former” by acts of the electorate not two years after Tydings rightly singled them out as “pioneers.”¹² Similarly hinting at resistances in American politics to ready problem-perception, not until Robert S. McNamara left the Defense Department and moved to the World Bank did he find an adequate power-base from which to attack the problem wholeheartedly.

It is hard to believe that any of these structural barriers will prove insurmountable in the future. In marked contrast, a fourth structural disincentive may be serious enough to warrant extended examination. Achieving a comprehensive population

policy threatens to be gravely complicated by American political ideology.¹³ On its face, the notion of nonvoluntary methods of control seems “unAmerican.” Moreover, at least for significant groups in the American population, even the idea of voluntary birth control cuts against the attitudinal grain.

THE AMERICAN LEGACY OF JOHN LOCKE

The polity of any country selects social and economic strains for political debate and corrective legislation in a nonrandom discriminatory fashion. It is likely to be more susceptible to certain types of social or economic stress than to others. Of the many factors that may determine the speed with which such a stress or strain is picked up in the political arena and transferred into a problem of governance, probably the most important is the ideologic spectrum of that arena. That is, social or economic strains that can be intellectually “diagnosed” and “prescribed for” within the prevailing ideologic spectrum are more likely to get a “quick hearing.” Those that fall outside it find difficulty getting onto the political stage at all.

To say this is to focus upon a different and earlier part of the political process than that to which American political scientists generally point when praising the American political system. The usual focus fixes upon the advantages in problem-solving capacity accruing from agreement upon fundamental ideals and basic procedures. This—so the prevailing wisdom declares—accounts for the past success of the American two-party system: it has produced relatively quick solutions because it has functioned a “brokerage-house” of competing interests rather than as the battleground of fundamentally conflicting world views.¹⁴ Thus—so the argument runs—the American political process’ essential ideological unity has allowed far more expeditious solving of political problems than has characterized most European political systems since the French Revolution of 1789 unleashed grand ideologic conflicts upon the European continent.

This argument may well be correct so far as it goes. But it is

very partial because it overlooks the point just made. It overlooks the question of the breadth of ideologic spectrum and its relation to whether a problem is, or is not, speedily recognized. It focuses, thus, upon the later problem-solving stage rather than upon the earlier, initial question of problem-perception. Yet, it is this that may be most important in respect to the population problem. It is possible, in other words, that the difficulty posed to the government of America by population growth is precisely that it raises an issue that lies outside the normal political spectrum. Let us examine this.

As Louis Hartz has so cogently urged, it is probably the thorough-going yet essentially unconscious commitment of the United States, since the revolution of 1776, to the classic liberalism of John Locke that has historically most distinguished American political life from the politics of other industrialized nations.¹⁵ This is by no means to deny that American political conflicts have been "vital" and "real" since the armies of George III departed American shores. It is merely to note that the ideologic differences between major political factions contending in the American political arena have been narrow of scope when compared with the wide spectrum of major European political movements since 1789. Rather than presenting a vast array of political values from those of monarchists and aristocrats on the feudal Right to those of socialists and communists on the political Left, American politics has been restricted to the placid liberal meadows in the center of the European political landscape. If one leaves aside the few possible exceptions comprised by some early New England Federalists and a few apologists for slavery in the South, the United States has actually not seen genuine conservative politicians. Thus, American advocates of the inherited rights of aristocracies and of absolute monarchs have been chiefly conspicuous by their absence. So too, at least until the decade of the 1960's (and on this score the issue is still very much in doubt), genuine socialism has been either absent or powerless upon the American political scene.

What has passed for American conservatism—whether that of

the nineteenth-century pro-business Whigs or that of contemporary Goldwaterites—has not in any fundamental sense been an American counterpart of European conservatism. Rather the American conservative has duplicated the political values of the right wing of European liberalism—a right wing still very much in the European center. American conservatives have strikingly avoided embracing the major sociopolitical postulates of European conservatism: belief in the inherent inequality of men; conviction that men are naturally more prone to irrationality than to rationality; and in consequence, insistence upon their inability to govern themselves without wide-reaching governmental limitations upon the individual's pursuit of property and liberty. Quite the contrary, American conservatism has advocated almost exactly the opposite tenets; the natural right of the individual, whether laborer or capitalist, to work out his own economic and social destiny in the absence of, or at most in the minimal presence of, political constraints. In short, the American conservative has virtually reproduced the rationalist view of human nature and the belief in economic laissez-faire that has characterized the great philosophic descendants of John Locke in Europe—Adam Smith, Jeremy Bentham and James Mill. So too, at the popular level, American conservatism has advocated the “platform” of “haut bourgeois” liberal political movements of Europe.

With respect to the economic realm, the leading characteristic of the liberal left of the United States has, similarly, not been advocating the chief political solution of socialism for curing the ills of mankind—abolishing private property. Quite the contrary, again, from the time of the trust-busting Progressives under Teddy Roosevelt through FDR's New Deal to the present, its two principal economic thrusts have been different not merely in degree but in kind. One has been a tendency to seek economic solutions by “regulating against” concentrations of business power to swing the country back to a golden Jeffersonian era in the past composed of small rural and industrial enterprises. The other has been to build compensations into

capitalism—either by tempering the natural “Smithian” swings of boom-and-bust cycles through very modest use of Keynesian techniques of political control over the economy, or by encouraging the wider distribution and hence enjoyment of still-very-private property rights—by means of unemployment compensation, progressive income taxation and trade unionism—the very *bete noir* of true Marxian socialism.

The net of all this is a most curious paradox of comparative political ideologies. The economic solutions proposed by the Democratic left, which have been most bitterly assailed by the American right as “creeping socialism,” are precisely those that European Marxist-Leninists have most sweepingly denounced on precisely the grounds that by ameliorating rather than exacerbating the “internal contradictions of capitalism” they would delay the coming of the Communist revolution.

To say this, however, is to say more than to point up a curiosity of ideological history. It is to suggest that America’s very consensus on basic political beliefs may have precisely the opposite effect upon the perception and solution of population problems from that which it has generally had in American political history. Far from expediting resolution within the two-party system, that consensus may cause the American polity to display less rather than greater solving ability than its European counterparts.

Why might this be? Should it come to pass, it would be because “dealing with” population seems to entail extensive governmental control over individual autonomy. Further, if the typical European political style has been to engage in endless debates about the merits of a particular governmental control, the typical American political style has been to react emotionally and “axiomatically”¹⁶ against any such idea. The European ideologic spectrum has been able to encompass a political proposition entailing governmental control with far less alarm at the initial point than the narrower American spectrum. Thus, ideologic reflexes in the United States may engender a perceptual barrier to problem-solving of population growth.

FOUR CATEGORIES OF POPULATION CONTROL MEASURES

Simply to note the probable existence of such an ideological barrier is not to describe its height. In attempting that, it is initially necessary to venture into the admittedly precarious domain of speculation about the “logical inevitability” of conflict between various population control measures and Lockean norms of American individualism. Hence, it may be useful to attempt a categorization of the many population proposals that have been advanced according to their apparent conflicts both with the political values emanating from that Lockean norm and with the facts of contemporary American relations between the individual and the political system. Such a categorization discloses four types of proposals.¹⁷

The first category comprises those proposals that would simply heighten the possibilities for self-determination by the individual mother or by the married couple. Thus, this category would include all proposals of a noncompulsory, essentially informational sort: all programs for disseminating as broadly as possible arguments for, and methods of, fertility control and family planning, regardless of whether the actual disseminating agent be an individual physician, a marriage counselor, a private educator or an employee of some branch of the government. Furthermore, it would include proposals for liberalizing laws on induced abortions—inasmuch as whatever else they may bode, they share in company with proposals for disseminating information the goal of increasing the capacity of the individual to make an autonomous decision.¹⁸ The one attempts to increase access to information; the other urges a greater range of choice based upon information so gained.

The second category includes all proposals¹⁹ for adopting courses on population growth, family planning and the like as a regular part of the curriculum in public schools. It could, of course, be urged that this category is simply a subdivision of the first group of proposals for improved dissemination of information. However, the two differ in one important respect.

The first type offers the information to a willing hearer. He presumably can "turn it off" at will. By contrast, the second legislates "sitting through."

The third category of population measures would involve the government in creating inducements to voluntary restrictions upon childbearing. The large number of proposals of this sort may be subdivided into two kinds. One consists of positive incentive payments for limiting births,²⁰ for spacing children through periods of nonpregnancy or nonbirth²¹ and for voluntary sterilization.²² The other consists of negative incentives that would be built into the income tax structure—for example, taking away exemptions for exceeding N children²³ or levying fees on births above the Nth.²⁴

Last, the fourth set of proposals would create involuntary controls.²⁵ These include: "marketable licenses to have children,"²⁶ temporary sterilization of all females²⁷ or males or permanent sterilization after N births;²⁸ required abortion of illegitimate²⁹ or post-Nth pregnancies; and finally, general fertility agents³⁰ placed in, for example, the public water supply with counteracting agents distributed as the government sees fit to individuals who have demonstrated their emotional and economic capacity for parenthood.

Estimating the Clash Between Proposals and Ideology

The four categories of population control proposals are, clearly, ordered with respect to the degree of their potential conflict with American norms of the autonomous political person. From the standpoints of both likely ease of acceptance by the American people and the extent of change in the structure of American political values that they entail, the "best" solution to population problems is that which "does the job" by relying as heavily as possible upon the lower-numbered types. But here, time may well constitute the essence of freedom. Failure to act as the problem builds may require greater reliance upon more restrictive governmental measures. A "package" of lower-numbered techniques adequate today might not be adequate

in a generation. Therefore, it is important to face population problems before measures highly restrictive of freedoms become necessary. In turn, consequently, it is important that timely consideration be given to potential attitudinal hostilities to these types of proposals.

With respect to the first category, it is doubtful that a commonly raised difficulty—Roman Catholic aversion to birth control—will prove a potent long-term political force. If the reaction of the Catholic laity in the United States to Pope Paul's Encyclical reaffirming the traditional Roman abhorrence of interfering with "natural processes" be any guide, it is difficult to believe that the Encyclical will greatly affect lay behavior, despite any conflicts in attitude that it may presently impose on the Catholic population.³¹

If, indeed, one is to be concerned about resistances that may manifest themselves among particular groups within the American population, in all probability one's concern is best directed elsewhere—to two other varieties of resistance that until not long ago were largely unperceived.

The first pertains to lower-status group views as to the optimal size of family. In 1969, Judith Blake argued provocatively that an unpleasant fact remains after due allowances are made for religious beliefs.³² In her view all the statistics point away from the "accepted wisdom" of family planners that lower-income group mothers have too many children just because they are ignorant of contraceptive techniques. Rather, since 1952, a gap in attitudes has appeared between high and low socioeconomic status groups about the optimal family size. Among upper-status non-Catholic women the "ideal" number of children has fluctuated closely around a median of 3.1. Among lower-status non-Catholic women the "ideal number" has hovered much closer to four.³³ That difference casts a shadow over assumptions that mere governmental provision of information about contraceptives will suffice.

Judith Blake's "gloomy view" engendered a substantial scholarly dispute as to its merits.³⁴ Moreover, a year later Larry

Bumpass and Charles F. Westoff reported a set of empirical findings very different in thrust.³⁵ Their research indicated that almost one-fifth of recent births in the American population were “unwanted,” and that, if anything, the percentage of such births was greater among lower economic and educational groups and among ethnic minorities. In their view, ignorance about, and the unavailability of, contraceptive techniques among “lower-status groups”—rather than desires for larger families—accounted for such groups’ higher rates of fertility. If so, then voluntary measures could be expected to go a considerable way toward minimizing population growth.

Be the respective merits of the varying viewpoints about present desires concerning family size as they may, it is more difficult to be sanguine about the future import of a different, ideologically based resistance in ethnic-minority sectors to family planning schemes. This resistance is most clearly manifested in the militants’ charge that such schemes directed at the poor are—given the coincidence of minority racial status and poverty—sugar-coated genocide pills.³⁶ The crux of the problem here has, of course, nothing to do with the charge’s abstract merits or demerits as an interpretation of family planners’ motives. Rather it turns on the real existence and on both the present and future extent of such attitudes among minority groups. On balance, it is difficult to believe that hostility based upon racial-ideologic foundations will disappear, or even lessen, in the face of marginal standards of living. On the contrary, the increasing amount of racially based violence in American politics during recent years suggests, if anything, a short-run strengthening of such hostile attitudes.

In consequence, substantially changing American population growth rates may well require the prior satisfaction of at least three economic and political conditions: (1) elevating the living standards of the “forgotten fourth” to a degree such that the norm of a small family would have even a vague possibility of being universally accepted as the “ideal;” (2) restructuring abortion laws so that couples have freedom of choice with

respect to carrying pregnancies to term; and (3) large-scale adoption of the second type of proposal—building courses on population into the public educational curriculum.

It lies beyond the scope of this article to prognosticate about fulfillment of the first condition. However, judgments may be rendered with respect to second and third. In the absence of a really violent pendular swing toward Right or Left during the 1970s in American politics, it seems plausible to anticipate a scattering of reactions against “sex education” in state legislatures³⁷ overcome by a stronger long-term movement toward both more permissive laws on abortion and incorporating population courses into school educational programs.

Essentially, there are four reasons for so anticipating. One: resistance to reform of abortion laws³⁸ is chiefly based upon a combination of legislative inertia and neofundamentalist³⁹ fears that so doing would increase “sexual promiscuity.” Such fears, compounded perhaps by a residue of Victorianism in respect to discussing the birds and the bees, underlie recent movements to prevent or to repeal sex education courses in public schools. It is doubtful that such motivations for resistance can long maintain a decisive strength in the face of the greater political truth of the relation between poverty, large families and urban unrest, and in the face of the inability of such statutory restrictions to alter sexual behavior among the post-Kinsey generation, to prevent the gaining of such knowledge in “extracurricular ways” or to prevent illegitimate pregnancies.

Two: neofundamentalist laws against abortion clash with yet another fundamental tenet of American political beliefs—the virtue of individual self-determination. Consequently, an inner contradiction exists in the value-structures of many persons opposed to liberalizing abortion laws and sex education. Such inner contradiction does not maximize long-run strength.

Three: it is not clear that such antipathies to “sex education” would necessarily carry over to curricular innovations entitled “population problems.”⁴⁰

Four: as the college students of today become the opinion-

setters of tomorrow, and as their generation swells the voting ranks, it is probable that more permissive attitudes will dominate. Thus, samples of university students in two states with recently liberalized abortion laws suggest strongly that the present liberal legal position requiring a physician's therapeutic judgment rather than merely a couple's decision, will not be thought very liberal in ten years' time. Despite California's 1967 reform, 92.6 per cent of a sample of University of California students wanted further liberalization.⁴¹ Indeed, asked to judge the desirability of legal reform in ten different areas, they felt abortion-law reform most important—even more so than legal reform with respect to marijuana. In a similar vein, a sample of second-year medical students at the University of North Carolina displayed a heavy commitment to voluntarism.⁴² None of the medical students opposed family planning, but only nine believed that family planning information and education would prove adequate to solve problems of American population expansion. Over 90 per cent of the medical students favored abortion when carrying to term would threaten the mother's emotional or physical health. Importantly, these students would not require any showing of potential danger to life itself. All students in this sample proceeded beyond present North Carolina statutory allowances for abortion in the event of *rubella*—with its known linkage to birth defects—during the "first trimester." All would permit abortion on a showing that *any parental condition* posed a substantially greater than normal chance of a defective child. Last, 90 per cent of these students would legalize abortion without interposing a "physician's veto" if both husband and wife jointly desired one. In sum, these samples suggest among the younger generation a strong commitment to principles of voluntarism. And too, they suggest similar support for public school curricular innovation.

By comparison with the first two categories of proposals, the third—governmental establishment of positive or negative incentives to limiting child births—raises issues of a much more serious, yet potentially soluble, political nature. In the long run,

the chief question is probably not, will general attitudes shift to favoring such incentives, but when? The survey of medical students disclosed an interesting split in opinion on this issue. Considerably greater support was given to the indirect “negative” incentives than to direct governmental payments. Thus, of the 43 students, 12 favored incentive payments for voluntary sterilization, over one-third *reversing* tax exemptions for exceeding a certain number of children determined by statute, and over half favored *limiting* the maximum number of tax exemptions.

Possibly the opinion survey tapped a difference in attitudinal reflexes peculiar to members of a profession among whom the less obvious reward of a “tax write-off” collides less blatantly with laissez-faire ideologic premises about self-help than does direct dispersal of tax-payers’ funds by the government. On a sensible economic basis, however, such a distinction is difficult to defend. Nothing procedurally novel exists in the relation between government and individual entailed by reversing tax exemptions. Just so, nothing is really new about direct incentive payments. In both instances, the government simply reverses a former policy of rewarding citizens for “furthering the national interest” by having more children, and promotes another “national interest” by rewarding restraint. Whichever way the tax exemptions run, or whether there be more or fewer child welfare payments, the government is carrying out a policy by inducement. The present structure of tax exemptions in child welfare payments may constitute a less conscious population policy, but it is still a population policy. That it is hidden does not make it absent. Further, no genuine economic difference exists between direct and indirect “rewards” with respect to possible “threats” to the American Democratic ethos. The only logically viable distinction is in the much more restrictive terms of “who is affected.” Tax exemptions for not having children are more—if not very—likely to take hold on certain middle-income brackets than upon upper-income families who could not care less or upon those whose incomes are so low that they

do not pay taxes anyhow. Reversing, that is reducing, tax exemptions for having more children might, particularly if *ex post facto*, affect matters all right, but they might well be unconstitutional. And, they might simply affect the welfare rather than the number of children. In the absence of a general national minimal standard of affluence and in the absence of pervasive adoption of the small family norm, direct payments may be required if this third category of proposals is to be sufficiently effective to avoid ultimate future recourse to the fourth type of proposal. And, the sharp conflict of such "compulsory general legislation" with American liberal individualism is clear.

A DEBATABLE CONCLUSION

If the foregoing analysis of the potential clash between population proposals and American norms of freedom is substantially correct, only the fourth category of proposal offers a logically tenable showing of "inevitable conflict." The first three types are, by contrast, logically consonant with American norms of individualism and consistent with fiscal inducement policies typical of compensated capitalism since the New Deal.

To say that, however, is not to "solve" the political problem. What Oliver Wendell Holmes once suggested characterized the law—that its life lay not in logic but in experience—may be paraphrased here. The life of American politics has by no means worked out along the logical Madisonian lines of "wise representatives debating rationally the public interest" and making law upon the conclusions thus reached.⁴³ This is not the place to work out the extended implications for solving the population problem of that shift from "rational search for the national interest" to the contemporary era's difficult "mix" of great genteel "countervailing powers"⁴⁴ playing brokerage-politics and of lower-status ethnic and generational minorities engaging in an increasingly violent politics of "going for broke." It must suffice here to enumerate the reasons for doubting that

such a "mix" favors speedy consensus on proper population policies.

To put the matter in a comparative light, the relative success of a handful of other industrialized countries in achieving a population growth rate much under one per cent does not necessarily bode a similar American success. Two countries come to mind here: Japan in the postwar era and France between 1880 and 1940. At least three crucial differences in the political cultures of these countries warrant caution. So too, does one difference in their international political positions.

First, both French and Japanese ideologies historically have been far less inclined than America's Lockean Liberalism to suspicion of a societal effort purporting to be at once "co-ordinated" and "voluntary."

Second, an additional cultural characteristic, though not strictly "political," may be important enough to merit brief mention: psychological attitudes relating masculinity to the male's capacity to produce male offspring. The existing "survey research" is insufficient to support a "confident statistical judgment" as to the likely strength of such attitudes. Nonetheless, if literature in any way represents the salient concerns of the society from which it springs,⁴⁵ it is worth noting that concern for "masculinity" has been a running major theme of American literature whereas it has not been one in European literature.⁴⁶ Oddly enough, in this respect the United States may warrant comparison not so much with industrialized Northern European countries as with the underdeveloped nations of Latin America where, in company with motivations to assure "old age security," *machismo* has hindered many a family planning scheme. It would be foolhardy to predict "insolubility" for this reason, but it would be remiss not to note it as an attitude requiring possible future reckoning.

Third, neither Japan nor France had large racial minorities that could argue from long and persistent discrimination that birth-control constituted a "threat of genocide."

Fourth, the very fact of American desires for "free world

leadership" may present an additional political problem.⁴⁷ It is not inconceivable that American advice to underdeveloped countries to impose population controls may provoke the reaction, "But what of yourselves?" The point here is related to the burden of past suspicion engendered by the widely unpopular combination of private American enterprises abroad and Marshall Plan, Point Four aid and so forth. It is, to abuse Shakespeare, a "Polonian" problem. Forced to be a lender because of the dulled edge of world husbandry, the United States—if it is not to suffer the slings and arrows of ungrateful friendship—may be called upon to "set an example." In this sense, the external ambitions of America's international policy may impose internal strains, which would not weigh upon "middle powers" such as France or Japan.

The foregoing analysis may seem to paint a rather gloomy picture of the American political system's likely capacity for timely action in respect to population growth. Surely, it would be fair to pose the question: might not the conclusion differ if one looked in more detail at the most "progressive" part of the political structure? Might not such a part undertake the task of "leadership" in treating the problem? It is easy enough to identify that part—the federal judicial system, and particularly the post-1937 Supreme Court. Yet, whatever one may say of the Court's "task-solving" leadership in general, it offers little ground for reaching a more optimistic conclusion in specific. How so?

If any gross generalization can be safely made about the American political system since the New Deal, it is surely that the Supreme Court has been the major governmental architect of sociopolitical change. One has, in substantiating this, merely to recite the cases of *Brown vs. Board of Education*,⁴⁸ *Baker vs. Carr*⁴⁹ and *Miranda vs. Arizona*.⁵⁰ Now quite possibly—with the replacement of Earl Warren by Warren Earl Burger—the Court may jettison that role of chief governmental agent of change. However, one aspect, and the crucially relevant aspect here, is not likely to alter. Underlying the Warren Court's running

debate between judicial libertarians and judicial conservatives has remained a common political premise: that civil rights cases have presented essentially a conflict between rights of individuals. At no point during even the thickest of the skirmishes between those two judicial “giants” of the past third of a century, Hugo Black and Felix Frankfurter, was there a denial of the Lockean consensus on the primacy of individualism.⁵¹

Nowhere is this underlying unity of ideology more apparent than in the decision family planners have most applauded—*Griswold vs. Connecticut*,⁵² overturning that state’s antibirth-control statute. In one sense, at least, *Griswold* deserves to rank among the most unusual civil rights decisions in the Court’s history. But that sense is not one which in the longer view of things should give much comfort to population planners anticipating Supreme Court leadership. That reason was, of course, the extraordinary split of judges compared with “normal” Warren Court cleavages. The seven-man majority included both the Court’s most ardent libertarian, William O. Douglas, and its most august conservative, John Marshall Harlan. The two-man minority—no less oddly—was composed of Hugo Black and Potter Stewart, both of whom in recent years have generally played the role of “swing men” at the Court’s center. What that suggested was further underlined by the number and quality of the opinions handed down. The nine Justices produced no less than five opinions, holding the law, respectively: silly but constitutional;⁵³ violative of the hardly ever before used Ninth Amendment;⁵⁴ contradictory to the Fourteenth Amendment’s “concept of ordered liberty;”⁵⁵ and finally in violation of a right older than the Bill of Rights, American political parties and the school system—the right to privacy in marriage.⁵⁶ Doubtless the Justices caught the sense of post-Kinsey American society as to what should be done; but equally certain, they were not at all sure how to do it.

Surely, indeed, deeper scrutiny of *Griswold* brings into sharp question any inkling that it portended a day of open hunting for population control advocates. One common and unsaid

premise lay at the base of the five apparently disparate opinions just as it has lain beneath the surface of the integration, reapportionment and criminal procedure decisions: a continuing assumption of the vital reality of the Lockean consensus. Each majority opinion had a distinctly Lockean undertone. In short, precious little constitutional fodder may be found for those who might hope that Griswold augured judicial leadership into the post-Lockean world of mandatory legislation concerning population control. The "community values" balanced in Griswold, as elsewhere, were quintessentially the values of a community consisting of autonomous individuals. Griswold did not even begin to reckon seriously with the Rousseauan view of community that individuals could be "forced to be free." Quite the opposite. Thus, the leadership of Griswold, besides displaying uncertainty of specific reasoning, was also very short of direction. It stopped, in effect, at the first half of the first category of proposal types—the right to information and to "tools" if wanted. Nothing in Griswold boded recognition of procreation as part of a greater population problem. The essence of Griswold was that the government may not, by interference with a right to privacy, compel the individual not to know. That was where it seemed to stop. And that stopping-hint was surely born out by the refusal of the Warren Court in its final, numbered days to hear a challenge to New Jersey's abortion law.⁵⁷ Nothing in judicial sensibilities, in short, gives much inkling of "going beyond Locke." To conclude, if the Supreme Court, even in the era of its balmiest libertarianism from 1962 to 1969, was not to suggest a way through a political-ideologic log-jam, what reason is there to expect imminent "breakthrough" by other "less progressive" substructures of the political system?