American Wartime Democracy Redux:
The Internment of Japanese Americans in 1942*

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This paper explores how public opinion of political intolerance was represented and eventually formulated into a policy by examining the case of the evacuation and incarceration of Japanese descendants in the United States immediately following the Pearl Harbor attack. In this case, political intolerance was arguably accepted by the public and implemented by the elites without any detriment to democratic principles. It is also a case in which the discovery that public opinion does affect public policy-making does not make such a course of action "laudable." After a survey of theoretical accounts, the remaining part of the paper is divided into three sections: the decision on evacuation which culminated in Executive Order 9066, the subsequent decision on incarceration rooted in Executive Order 9102 and a concluding remark. In the first two sections, the paper delineates how public opinion became framed into a policy by President Franklin D. Roosevelt in a descriptive model of representation as reflected in policy decision-making: the reactive and preemptive representation of public opinion. As a conclusion, the paper dwells upon the dilemma in democracy and speculates on its ramifications. In so doing, this paper lays out 1) how American democracy worked in wartime in accordance with its principle, but 2) why its aftermath is discomforting even for its advocates by examining the 1942 relocation of Japanese ethnics, and 3) further research.

Key words: American democracy in wartime, public opinion, political intolerance, FDR, Japanese descendents, Pearl Harbor attack

Introduction

In a letter addressed to Thomas Jefferson, dated October 17, 1788, James Madison wrote:

> In our Governments the real power lies in the majority of the community, and the invasion of private rights is chiefly to be apprehended, not from acts of Government contrary to the sense of its constituents, but from *acts in which the Government is the mere instrument of the major number of the Constituents*. (1867, 425)[1]

It is a banality that the majority of people or their representative institution can imperil the rights of some people in peace-time democracy. The interest of the majority indeed does become a great source of plausible danger to minorities in the context of democratic majoritarianism. While Madison and others were concerned with pure majority rule by the directly elected legislature, this paper pays special heed to the fact that the US Constitution empowers presidents to legislate through inherent executive powers—including executive orders—presidential directives that have the force of law.[2]

The President of the United States is the only representative elected by all the people of the country. With his national constituency, he is always tempted to claim to speak for the people and the country. Moreover, crises are opportune times to legitimatize and reinforce such a mandate claim, that is, if and only if he is assured that the people are behind him (Stone 2004). Intriguingly and ironically, the maxim that laws are mute in the time of war (*Inter arma enim silent leges*) may not always be indispensible.[3] In other words, one needs to ask if this reverberates across all perilous times, or if there is a limit to its validity, especially given the fact that under presidentialism the President is also the commander-in-chief. Furthermore, what is the criterion by which it is possible to tell apart those that threaten national security from those that are merely hoaxers? And who gives the authority to do this by what means?

After the attack on Pearl Harbor of December 7, 1941, the Franklin D. Roosevelt (FDR) administration chose to intern 112,000 ethnic Japanese—albeit two thirds of them being US citizens—simply because their loyalty could not be verified in the time of war largely due to their alienage. In *Hirabayashi v. United States*, 320 U.S. 81 (1943) and *Yasui v. United States*, 320 U.S. 115 (1943), the United States Supreme Court upheld the suspension of *habeas corpus* under which "the safety of the people becomes the supreme law."[4] The 1942 internment of Japanese ethnics was argued to be simply

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1) Italics are the author's addition.
2) For specifics on the American presidency, refer to Yi (2011).
3) *Inter arma enim silent leges*, or in times of war, the law falls silent.
4) In *Ex parte Milligan*, 71 U.S. 2 (1866), it was remarked that even the Bill of Rights were essentially "peace provisions of the Constitution."

one of a series of actions taken out of wartime necessity, dictated by a perceived peril to American general welfare. Or was it an act taken outside the law on the part of the FDR administration that was blindsided by, yet willing to thrive on, political intolerance against members of its own society?

However, in 1986 and 1987, the US District Court in Seattle and the Federal Appeals Court overturned Hirabayashi's conviction for violating a curfew and the relocation order. Internment was indeed a "fearful sign of the times, fair or not," yet how was it possible at all (Ramsey 2005)? How was an exception to "We the People" justifiable during American wartime democracy to begin with? Or do we simply "need not show that a policy is good if there is no coherent account of how it could be bad" (Caplan 2007, kindle edition, 49)?

This paper explores how public opinion of political intolerance became represented and eventually formulated into a policy by examining the case of the evacuation and incarceration of Japanese descendants in the US immediately following the Pearl Harbor attack. In this case, political intolerance was arguably accepted by the public and implemented by the elites without any detriment to democratic principles. It was also a case in which the discovery that although public opinion can affect public policy-making, that does not make such a course of action "laudable" (Kinder and Herzog 1993, 360). Most of all, it is unsettling to learn that many elites, including the President, appeared obliging to frame the alienage of fellow members as equivalent to disloyalty.

After a survey of theoretical accounts, the remainder of the paper is divided into three sections: the first deals with the decision on evacuation which culminated in Executive Order 9066, the second with the subsequent decision on incarceration rooted in Executive Order 9102, and the final provides concluding remarks. In the first two sections, this paper also delineates how public opinion became framed into a policy by President Franklin D. Roosevelt in a descriptive model of representation as reflected in policy decision-making: the reactive and preemptive representation of public opinion. In conclusion, the paper dwells upon the dilemma in democracy and speculates on its ramifications. In so doing, this paper lays out 1) how American democracy worked in wartime in accordance with its principles yet managed to betray the trust of its own members, and thus 2) why its aftermath is discomforting even for its advocates when examining the 1942 relocation of Japanese ethnics, and 3) its implications.

Theoretical Explanation: Policy Decision-making as a Representation of Public Opinion

Whether and how government policy is responsive to citizens' preferences in representative democracies is a perennial and essential concern. Accordingly, there are vast volumes of works devoted to theorizing the effects of public opinion on policy, in particular, and representation, in general, yet they are equally divided into conflicting findings.[5] What is common among these mutually exclusive findings, though, is that the extent to which policy responds to public opinion is conditional upon other factors such as the nature of the policy, the type of political system, the degree of salience, and the specific period in history, to name a few.

For instance, Monroe concludes that policy is highly consistent with public opinion if it involves foreign policy and if the concerned issues are highly salient (1979, 3-19). Several researchers criticize a large number of works which they claim are limited to the micro-level analysis of individual legislators, as macro-level responsiveness does not exactly correspond to changes in the voting behavior of individual members of Congress (Weissberg 1978). Moreover, when it comes to political intolerance, including racial prejudice or ideological deviance, a broad consensus on the extent to which such political intolerance affects political attitudes remains elusive.[6]

Indeed "tolerance is more costly than intolerance" in terms of psychological price and social cost (McClosky and Brill 1983, 4). Various studies of psychological and group behavior suggest that endurance—recognition and protection—of deviant opinions or behaviors goes against human nature, especially if those opinions or behaviors are perceived as threatening to existing values. Moreover, if freedom is perceived to be distributive, the expansion of one group's rights may reduce others turf even though such an expansion is not always a zero-sum game. In contrast to intolerance, which requires little learning, tolerance obliges one to be educated on democratic principles and to be able to understand the "rules of the democratic game" (McClosky and Brill 1983, 15).

Regarding the effect of education on abated intolerance, Stouffer (1955/1963)—along with McClosky and Brill (1983)—strongly supports such an educational impact.[7] Yet Prothro and Grigg caution that it is more important to put democratic rules and procedures into practice than merely to mention one's consensus on abstract ideas, thus underscoring consistency (1960, 276-94). Interestingly, McClosky and Brill point out that not all expressions—verbal or behavioral—of intolerance result from one's ignorance

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5) Economists are equally divided into those who predict a high extent of responsiveness (e.g. Downs) and those who are pessimistic due to a bias toward organized interests (e.g. Olson). A group of political scientists (e.g. Schattschneider) concur with the second group of economists, noting high information costs and transactions costs, while others (e.g. Key) are cautiously optimistic although the direction of causality is reversed.

6) Regarding racial prejudice, refer to Huddy and Feldman (2009). For political dissidence, refer to Gibson (2007).

or inconsistency between abstract ideas and concrete conduct. Indeed purposive action based on intolerance is especially taken during wartime in the name of democracy (1983, 18). Is it possible, then, to differentiate tolerance as a desirable doctrine per se from realistic democratic practice, particularly in perilous times[8]

Some argue that few democratic theorists adopt "full and universal" tolerance as a requirement of a practicable democracy.[9] The concept of republicanism, for example, is based on conflict resolution through a pluralistic structure in the Constitution rather than the abstract acceptance of tolerance as a norm. By definition, democracy and tolerance may be linked, but as a matter of implementation, the two may conflict. Thus develops a notion that there may be circumstances under which the principles of tolerance may be compromised in order to preserve "some more important value" such as the survival of a democratic system. Consequently, controversy arises surrounding whether a decision to limit certain expression or conduct, or in anticipation of its possible occurrence, may be considered an act of intolerance even though such a decision has been made through democratic procedure, i.e., the representation of public will.

Furthermore, the conventional proposition is that elites are more tolerant of deviant ideas or behaviors than the mass public is.[10] Given that democracy, in principle, is founded on government by public opinion, if the conventional wisdom is correct, an intolerant mass public can drive elites, with democratic blessing, to repress people who hold deviant ideas or who partake in deviant conduct.[11] However, as Druckman (2001) acknowledges, elites can influence, if not manipulate, public opinion, especially when the source of the frame is deemed to be credible. Is this an inevitable dilemma of democracy or a contingent outcome under extraordinary circumstances Moreover, what does it portend for liberal democracies to be "internally inclusive" while "externally exclusive" when it comes to "the paradox of democratic legitimacy" [12]

In order to ponder these questions, this paper first elaborates on political intolerance with regard to circumstantial restriction, and the role played by public opinion under such extraordinary circumstances.

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7) For more details, refer to Stouffer (1955/1963). Gibson (2007) further elaborates what consequences high political intolerance has upon political freedom by comparing survey data from 1954 to 2005.

8) As Caplan (2007) succinctly puts it, should we acknowledge that "voter irrationality is the key to a realistic picture of democracy" (kindle edition, 62)?

9) For more details, refer to Gibson (2006).

10) Thus follows a positive correlation between education level and the sophistication of democratic principles. However, Gibson (1988) criticizes the elitist theory of democracy and argues that elites are responsible for political repression such as the McCarthy Red Scare. For another critical review of elitism, refer to Lupia (2006).

11) For more details, refer to Key (1967). For a critical review of the effect of framing, refer to Druckman (2001).

12) Howard (2009, 3). Howard cites Seyla Benhabib and reasons that liberal democracies have to amalgamate "the universal language of fundamental human rights" with the "clear and enforceable borders." For more specifics, refer to Benhabib (2002).

Intolerance may result from either a perceived threat or a mere dislike. Intolerance in a form of dislike has no legitimate place in democracy. However, intolerance resulting from a perceived threat to general welfare provides a possibility for justification. War in which the survival of the democratic system is at stake is a typical example. When the threat is perceived to come from an undemocratic belligerent, political intolerance for the sake of a higher value, namely the protection of democracy, is often advocated by the public and elites alike.[13]

More fundamentally, many theorists cast doubt upon the level of information and of interest held by the public (Lippmann 1922/1949; Converse 1975). Lacking knowledge and the capability of abstract thinking, the public is described as incapable of forming opinion, although much of this "non-attitude" among the public turns out to be the artificial outcome of vague survey questions (Kinder and Herzog 1993, 362).[14] In a nutshell, public opinion is considered to form on a particular topic, which elites find selectively relevant to policy-making. If public opinion is pertinent at all, the next question is how is it possible for policy makers to represent it in a coherent manner? In other words, how does the representation of public opinion take the form of policy?

Stimson et al. (1995) present two mechanisms of representation: election and public policy-making. The public use their "ultimate weapon"—voting privilege—in selecting or deselecting representatives to meet their expectations (Key 1967, 554). This legitimate and democratic replacement of "rascals" with new representatives should increase the odds that the public have their wishes implemented. By throwing out these "rascals," the public get their will represented *post facto*: member change in the government is one manifestation of the reactive representation of public opinion. In contrast to this well-known mechanism of representation, a complete mechanism of public policy-making calls for the further elaboration of elite-led preemption. Conventional theory usually deems public policy-making to be a response to changes in public opinion. Stimson et al. (1995) find this explanation lacking and specifically focus on public policy-making as a preemptive segment in the representation of public opinion: elites tune policy-making to public opinion with election in mind.[15]

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13) If not for the norm of the Kantian democratic peace, war between democratic nations loses its moral justification. Yet even in this case, one nation is defined to be more democratic than the other. For example, when America was fighting the War of Independence with England, although England had a long tradition of evolutionary democracy, she stood for the repressive regime over a newly forming political entity in the New World. In the process of building a democratic nation in which principle was founded on liberty and equality, America had to make a practical compromise between tolerance and democracy with regard to the fate of those loyal to England.

14) Public opinion is still riddled with the heterogeneous public and the complex mixture of preferences, values, and so forth. A key is an "artful frame" through which diverse public(s) and elite can communicate. For example, affirmative action is framed as "remedial action for the past wrong" by advocates and "unfair advantage on the basis of race" or "reverse discrimination against whites" by opponents. In so doing, the so-called unbridgeable gap between public and elites disappears and the connection between public opinion and its impact on public policy becomes possible. For more details on political ideology, refer to Lane (1962).

15) Yet Page and Shapiro (1983) caution against a hasty conclusion that democratic responsiveness pervades American politics even though changes in policies are largely congruent with large and stable opinion changes on salient issues.

Stimson et al. define representation as dynamic when 1) "public opinion moves meaningfully over time," 2) "government officials sense this movement," and 3) "those officials alter their behavior in response to the sensed movement" (1995, 543). This paper uses Stimson et al.'s model to explore how President Franklin D. Roosevelt, as Chief Executive, managed to step in to represent public opinion preemptively in anticipation of a high job approval rating in election. It is broadly agreed that American democracy—in accordance with the presidency specified in the Constitution—empowers the President to do just this. This paper, however, addresses one aspect of dynamic representation—policy decision-making—in presidentialism, as it is another matter entirely as to whether the President should use the power of executive mandates under certain specific circumstances.

Howard (2009) also sheds light on the politics of citizenship, in particular, by looking into the historical and temporal variation across 27 EU countries.[16] He defines citizenship as follows:

> … citizenship bestows upon individuals membership in a national political community … citizenship serves as … a powerful instrument of social closure … it allows states to create *internal boundaries that separate citizens from foreign residents, by associating certain rights and privileges with national citizenship.* (2009, 3)

These "boundaries of political membership," however, essentially connote exclusion within internal boundaries. Thus, determining whom to include—or more controversially, whom to exclude—is likely to become politicized, especially if alienage is mobilized as a politically suspect classification.[17] By looking into the 1941 and 1942 decisions in the next two sections, this paper aims to illuminate how this *politics of citizenship gerrymandering* unfolded during American wartime democracy.[18]

Executive Order 9066: Nothing is Quiet on the Western Front

What was brewing in the minds of the American public shortly before Pearl Harbor? On the national scene, the public is described to have been "psychologically preparing for war," especially since the German invasion of Poland (The Fortune Survey 1940, no. 39). On the question of attitude toward the

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16) Howard (2009, 3). Italics are the author's addition.
17) Constitutionally, alienage is often considered a suspect classification, a legal classification of groups that meets the criteria to suggest that they are the subject of discrimination. These suspect classes—including race, national origin, and religion—receive closer scrutiny by courts if an Equal Protection claim alleges unconstitutional discrimination against all government actions.
18) Italics are the author's addition.

present war, 38.7 percent of respondents thought it a mistake to get involved in the war while 53.7 percent supported military intervention.[19] Yet the regional disparity between the East South Central and New England on the one hand, and the Pacific Coast and the East North Central on the other hand was distinct.[20] In the first two regions, the public was in favor of risking war by two or three to one whereas in the last two regions the public was equally divided between risking war and being against it.[21] The geographic region that the public projected as willing to defend was rather wide, with the percentage of supporters running from 40.9 percent for Australia to 85.2 percent for the Panama Canal. The price for such military intervention is very high in terms of curtailing one's private consumption or leisure and fairly high in terms of sacrificing one's family life.[22]

A Gallup Poll also showed that the public was gradually accepting military intervention in regions from Canada to Europe.[23] One interesting survey result specifically deals with Japan. On the question of the governmental ban on the sale of arms, airplanes, gasoline, and other war materials, the percentage of supporters increases from 73 percent in January, 1940 to 90 percent in October, 1940 (The Gallup Poll, 208 and 246). On the question of more active intervention, supporters increased by one-and-half times between February, 1941 and November, 1941.[24] Compared to the rest of the public, what was going on

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19) Q: Which one of the following statements most nearly represents your attitude toward the present war?
 A1: Those who think this is our war are *wrong*, and the people of this country should resist to the last ditch any mover that would lead us further toward war (16.3 percent);
 A2: A lot of *mistakes* have brought us close to a war that isn't ours, but now that it's done we should support in full the government's program (22.4 percent);
 A3: While at first it looked as though this was not our war, it now looks as though we should *back* England until Hitler is beaten (41.3 percent);
 A4: It is *our war* as well as England's, and we should have been in the fighting with her before this (12.4 percent);
 A5: Don't know (7.6 percent).
20) The current regional divisions by the Census Bureau consist of Northeast—New England and Mid-Atlantic, Midwest—East North Central and West North Central, South—South Atlantic, East South Central, and West South Central, and West—Mountain and Pacific. The Fortune Survey of 1940 used four out of those nine regional divisions: East South Central (Kentucky, Tennessee, Mississippi, Alabama), New England (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut), Pacific Coast (Washington, Oregon, California—Alaska and Hawaii acquired statehood in 1959), and East North Central (Wisconsin, Michigan, Illinois, Indiana, Ohio).

21)	East South Central	New England	Pacific Coast	East North Central
For risking war	70.8	61.5	48.3	42.3
Against risking war	22.6	30.9	48.9	49.9
Don't know	6.6	7.6	2.8	7.8

22) The material sacrifice, including leisure time, was supported willingly whereas the emotional sacrifice, such as moving residence or job for defense purposes and military draft, was accepted if forced to.
23) On the question of military aid to Canada in the case of attack, 87 percent supported the aid and 13 percent opposed it. On the question of English and French refugees, 58 percent supported accepting them to stay in the US until the war is over while 42 percent opposed it (The Gallup Poll, May-June 1940, 228-9). On the question of military intervention, the ratio of supporters increased from 32 percent in February, 1940 to 68 percent in November, 1941. The ratio of opponents decreased from 68 percent to 32 percent, a remarkable change in public attitude.
24) Political intervention was more popular in February, 1941 as 56 percent supported it and 24 percent opposed it. In

among Japanese descendants residing on the West Coast? Smith depicts "a divided people" between the Japanese aliens called *issei*, meaning the first generation, and the Japanese-American citizens called *nisei*, meaning the second generation, as well as among *nisei*, between the Americanized and the re-Japanized through education in Japan, called kibei, meaning those who come from America.

Several characteristics are found among the Japanese population to provoke "reasonable doubt." What differentiated Japanese immigrants from the rest was not skin color *per se*, but their unique "community." For example, of the 112,000 people of Japanese ancestry, 18 percent were *kibei* citizens. Given that 60 percent of the total Japanese population were *nisei* citizens, three out of ten citizens of Japanese ancestry remained familiar with Japan.[25] Language schools in the US were another way to strengthen bonds with Japan. Furthermore, there existed organizations whose members usually alleged patriotism to Japan rather than the United States. Not only their pro-Japan tendency but also their active fund-raising for the cause of the Japanese government, including military aggression, were especially perceived to be threatening to the American system at the time of international crisis.

However, it was the majority of *nisei*—70 percent of the Japanese-American citizens—who were most dismayed at pro-Japan activities undertaken by these organizations called *kai*. In an effort to prevent any reactionary policy unfavorable to them, these citizens began to cooperate with the FBI or Naval Intelligence by providing information about the leaders of these patriotic organizations. Nevertheless, the rest of the American public perceived all Japanese descendants to be the same. That is, the American public did not recognize that West Coast Japanese descendants were sharply divided over their loyalty. Even worse, not many cared to differentiate the Japanese population. In other words, the American public chose to be intolerant of the Japanese population as a whole, as they were framed to be disloyal due to their alienage. Accordingly, they found it perfectly legitimate to redraw the boundaries of political membership during those perilous times, i.e., the politics of citizenship gerrymandering dawned upon wartime democracy.

How did this intolerance eventually manifest as Executive Order 9066 which called for the relocation of the Japanese population in the West Coast? The bifurcated model of policy decision-making as a form of representation is presented in Figure 1. Executive Order 9066 authorized, first, the Secretary of War to prescribe military areas which would supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and which also superseded the

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comparison, military intervention divided the public into 40 percent of supporters and 39 percent of opponents. This ratio drastically changed toward November, 1941 when 64 percent supported risking the war with Japan and 25 percent opposed it. This tendency culminated in the survey conducted during November 27 through December 1, 1941 when 52 percent thought the war with Japan was imminent and 27 percent thought not.

25) McWilliams (1942) provides the statistics. As of April 1, 1940, 126,947 persons were recorded as people of Japanese ancestry. 47,305 were Japanese aliens, who were ineligible for citizenship permanently, and 79,142 were Japanese-American citizens—62 percent of all Japanese descendants. In California alone, 93,717 were Japanese descendants—74 percent, a high regional concentration. 33,569 were aliens and 59,158 were citizens, about the same ratio as the national one.

responsibility and authority of the Attorney General. Additionally, it authorized the exclusion and relocation of residents in the designated areas for the sake of "protection against espionage and against sabotage to national-defense" (February 19, 1942). How did this policy of relocation come into being? I argue that public political intolerance was channeled through reactive representation (I) and preemptive representation (II), thus crystallizing into E.O. 9066 (III).

<Figure 1> The Mechanism of Public Opinion Leading to E.O. 9066
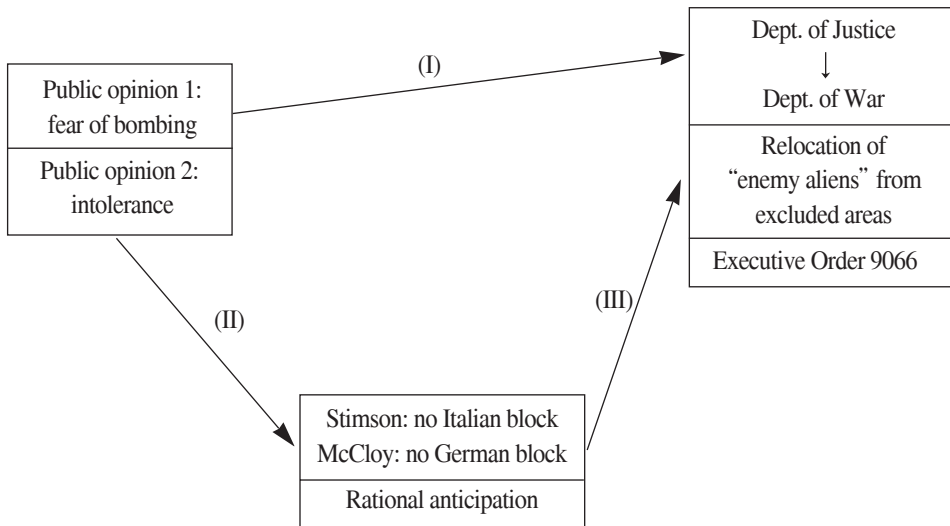
(I) corresponds to the reactive representation of the public's fear of bombing, which led to the decision to transfer the authority to prepare for imminent war, first from the Department of Labor to the Department of Justice, and finally to the Department of War.

(II) corresponds to the preemptive representation of the public's intolerance by FDR who sought an unprecedented third-term presidency, thus drumming up public opinion against "enemy aliens."

(III) culminates in E.O. 9066, which authorized the relocation of "enemy aliens" from excluded areas under the authority of the Department of War.

Reactive representation (I) occurred as a *post facto* response to public opinion. The Gallup Poll and The Fortune Survey are two of many sources to which the elites may have looked for a clue to public opinion. This does not necessarily mean that elites literally searched for concrete evidence of public opinion and were relieved when they found it. There is reasonable presumption, however, that the elites in a democratic system should and did take their cue from public opinion. One instance is found in the crude attempts to gauge public opinion by the Federal Office of Government Reports, which was a forerunner of the Office of War Information. This office collected newspaper editorials in the West Coast

region and circulated its analysis among high government officials.[26]

Sensing national preparation for the imminent war and the inevitable personal sacrifices, the elites carried out the corresponding policy-making decision. Initially, the government ordered all non-citizen residents in the US to register with the government. This measure was in line with responsive representation.[27] Immediately after Pearl Harbor, moreover, all bank accounts held by these aliens were frozen (Smith 1995, 95). Finally, reactive representation (I) occurred when FDR decided to transfer authority from the Department of Labor to the Department of Justice, and finally to the Department of War by Executive Order 9066. By transferring authority over the alien population to the Department of War, the FDR administration reacted to the public's fear and transfigured democracy for wartime.

Not only did the public perceive the threat of war in general, but they also became convinced that the enemy would bomb cities. For example, 49 percent of West Coast residents thought bombing to be a possibility while 40 percent thought otherwise. A slightly smaller portion of East Coast residents, that is 45 percent, regarded bombing possible whereas 44 percent considered it unlikely (The Gallup Poll, December 1941). Naturally, restriction and the exclusion of access to coastal areas were legitimated as being militarily necessary. As a result, the relocation of "enemy aliens" was decided upon as the responsive representation of public opinion by the government. How, though, was the Japanese population designated by the FDR administration as an "enemy alien" among all other immigrant groups? In order to answer this question, this paper addresses the preemptive segment in representation of public opinion (II).

As noted above, the general public in the US remained suspicious of the "peculiar" Japanese population. Pearl Harbor substantiated "reasonable doubt" and legitimated intolerance; neither Germans nor Italians invaded American territory, after all. In addition to the peculiar bonds within the Japanese community, there was also the residential and the occupational peculiarities of Japanese descendants on the West Coast, the argument goes. McWilliams pointed out that a large percentage of these people resided close to the coast.[28] So did General DeWitt, commanding general of the Western Defense Command, claiming that "… by design or accident virtually always the Japanese communities were

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26) The Western Defense Command conducted a similar survey of public opinion among newspaper editorials on the West Coast. One thing to note is that this survey conveys stronger support for the measures executed by the military command than the federal government survey.

27) On the question of the necessity for alien registration, 95 percent agreed and 5 percent disagreed. The same trend was found across regions (The Gallup Poll, May 25-30, 1940, p. 228).

28) McWilliams takes the example of fish canneries where the population of Japanese descendants were concentrated (1942, 295). Since fish canneries furnished this Japanese population with a good earning, conjecture was high that fund-raising for the cause of the Japanese government would be rampant. Moreover, such an environment would provide a favorable atmosphere in which Japanese spies could work freely. However, the primary members of the Japanese American Citizens League were fishermen and their livelihood was at stake (Smith 1995, 82). The other large portion of membership was taken by farmers.

adjacent to very vital shore installations, war plants, etc. ⋯" (Smith 1995, 106). Regardless of the truth of this, it is noticeable that the military command sounded the alarm of a worst possible scenario—espionage and sabotage by the Japanese community—in their comments to the journalist coterie, and to political elites alike.

   In addition to these circumstances, 1940 was the year of a presidential election in which Roosevelt was seeking an unprecedented third term. The Gallup Poll shows that 57 percent of respondents supported Roosevelt while 43 percent did not (June 6, 1940). Except in the South, FDR carried a narrow advantage over Willkie, the Republican presidential candidate. Out of a desperate effort to avoid electoral defeat, Roosevelt and the Democrats may have looked for additional blocks of votes among German and Italian descendants. This begs the question why such an attempt was considered worthwhile at all. Unlike Japanese descendants, they were judged to have incorporated into the American stream to the extent that such an electoral strategy would not anger the general electorate (Smith 1995, 114). Moreover, the German and Italian constituency was large in comparison with the Japanese one, as shown in Table 1.

Table 1 Potential Constituents: German, Italian, and Japanese Descendents

| Ancestry | Total | Urban | Rural | |
			Non-farm	Farm
German	1,238	920	169	149
Italian	1,624	1,430	148	46
Japanese	127	70	12	45

Source: *Sixteenth Census of the United States*: 1940.

1. All figures are in thousands and for citizens and aliens combined.

2. The total population of the US in 1940 was 131,669 thousand.

   Of the 11 million "foreign-born white" population, Italian and German citizens were the first and the second largest groups: 14.2 percent and 10.8 percent respectively. Combined, these two populations comprised one quarter of the entire white "foreign-born" population. With this in mind, and taking into consideration the widely accepted intolerance toward the Japanese population, Stimson and McCloy as a mouthpiece of the Roosevelt administration, appealed for leniency towards German and Italian populations.[29] This political pressure left only the Japanese population, whose voice was too small: it was stuck as the only "enemy alien" group to be relocated. The "evacuation juggernaut" rolled on, but

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29) John McCloy was FDR's Assistant Secretary of War while Henry L. Stimson was FDR's Secretary of War.

definitely not under its own steam (Smith 1995, 115). The decision on mass evacuation was made by everybody from the public to the elites in spite of sporadic resistance like that mounted by Biddle.[30] More importantly and pertinent to the present argument, the possibility of the mass evacuation of the Japanese population was deliberated on by elites who claimed to represent public opinion with the approaching election in mind.

Executive Order 9102: "To Utah"

Once the decision had been made to relocate any person from "prohibited and restricted" areas and to transfer authority from the Department of Justice to the Department of War, the military moved quickly to enforce the mass evacuation. In addition to this military pressure, political pressure mounted for mass evacuation, especially in California. For example, California Republican Leland Ford described the wishes of his constituents as follows:

> ··· to prevent any fifth column activity ··· *all Japanese, whether citizen or not, be placed in inland concentration camps*. As justification for this, I submit that if an American born Japanese, who is a citizen, is really patriotic and wishes to make his contribution to the safety and welfare of this country, right here is his opportunity to do so, namely, that by permitting himself to be placed in a concentration camp ···.[31]

To this political climate was added the practical concern that the removal of the Japanese population who were mostly occupied in agriculture would harm food production. The initial proposal was to create concentration camps in the interior of California where the Japanese population could work as free labor to provide food stuffs. In spite of its simple appeal, execution of the mass evacuation and incarceration with war material was equally dissuasive. In fact, as far as the practical measures of the evacuation were concerned, confusion loomed large.[32] The Roosevelt administration, however, did not itself propose any specific plan for the resettlement of the Japanese population. As long as the militarily designated areas were free of the Japanese population, the administration naively hoped that evacuees would migrate voluntarily to interior locations and resettle. When asked where these people should go, one government official abruptly said, "To Utah or something" (Smith 1995, 137).

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30) Francis Biddle was FDR's Attorney General during World War II.

31) <http://www.digitalhistory.uh.edu/learning_history/japanese_internment/ford_statements.cfm> (searched date 27 September 2011). Italics are the author's addition.

32) For example, the Treasury Department's communiqué mentioned its concern over "re-employment" of the evacuees in new areas.

However, the hopeless "voluntary evacuation" was soon abandoned amid exploitation by "opportunistic junkmen and secondhand dealers" and strong resistance from inner states to receive such a large Japanese population. The hearings of the Tolan Committee addressed the issue of protecting evacuee property; in particular[33] Key contends that the protection of property rights is an essential rule of the game under constitutional democracy (1967, 539). The public was certainly aware of such a principle and willing to abide by it with sympathy. Yet for some strange reason, the mass evacuation itself was rarely criticized in the same spirit.[34] A fundamental reason is arguably that public opinion was in favor of the mass evacuation of the Japanese population from the West Coast. The logistical problem relevant to the resolution at the time, however, was that public opinion was against the relocation of those evacuees anywhere. One editorial by Walter Lippmann is even estimated to have instigated the decision toward mass evacuation.[35]

<Figure 2> The Mechanism of Public Opinion Leading to E.O. 9102 and P.P. 4
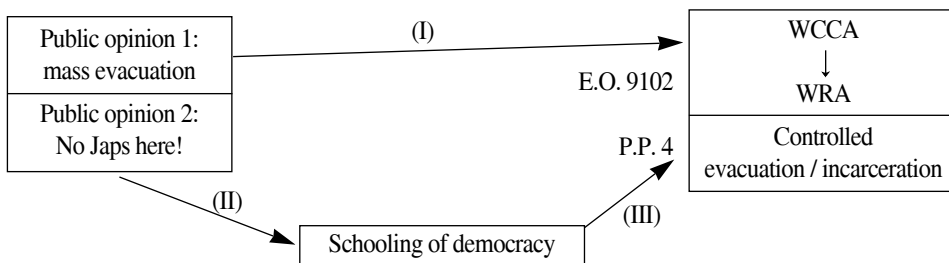
(I) corresponds to the reactive representation of the public's vague preference for the mass evacuation of Japanese descendents from the West Coast, which led to transferring its authority from the Wartime Civil Control Administration (WCCA) to the War Relocation Authority (WRA) by E.O. 9102.

(II) corresponds to the preemptive representation of the public's intolerance towards Japanese descendents, which prompted the FDR administration to opt for "temporary" living accommodations in the name of "schooling of democracy" and ultimately incarceration.

(III) culminates in E.O. 9102 that authorized the War Relocation Authority to carry out the controlled mass evacuation and P.P. 4 that authorized forced evacuation and eventually incarceration.

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33) In addition to the Truman Committee, a Senate committee for the continuous oversight of war agencies, the Murray Committee, another Senate committee, and the Tolan Committee, a House counterpart of the Truman Committee, were established to examine the logistics of wartime economy.

34) As Biddle succinctly put it, the Constitution may have hardly bothered any wartime President partly because of his entitlement. Francis Biddle, *In Brief Authority* 219 (1962).

35) The term "fifth column" refers to those who engage in espionage or sabotage within their own country. Dated February 13, 1942, a column titled "The Fifth Column" by Walter Lippmann was published in the Los Angeles Times, condoning removal of the Japanese population from the West Coast. "It is a fact that the Japanese navy has been reconnoitering the coast ⋯ a citizen may not be interfered with unless he has committed an overt act ⋯ The Pacific Coast is officially a combat zone ⋯ And nobody ought to be on a battlefield who has no good reason for being there ⋯" <<<http://www.digitalhistory.uh.edu/learning_history/japanese_internment/lippmann.cfm> (searched date 27 September 2011).

How did public opinion become represented and formulated as forced evacuation after the idea of "voluntary evacuation" was abandoned? To answer this question, a descriptive model of policy decision-making as a form of representation is of use. Figure 2 consists of two parts of representation—reactive (I) and preemptive (II)—which culminate in E.O. 9102 and P.P. 4 (III). Executive Order 9102, followed by Public Proclamation No. 4, decided to replace voluntary evacuation with the alternative for a practical reason and ultimately made the forced evacuation and incarceration legal in 1942.

As mentioned earlier, public opinion was unequivocally in favor of mass evacuation of the Japanese population as a vague idea. As a reaction to this public opinion (I), E.O. 9102 was adopted to transfer the authority of evacuation from the Wartime Civil Control Administration (WCCA) to the War Relocation Authority (WRA). It became increasingly evident that voluntary emigration created anxiety in terms of the infringed property rights and of public intolerance in inner states. Consequently, political leaders began to acknowledge that "temporary" living accommodations should be required for all the evacuees including those who chose to emigrate voluntarily only to be rejected by other states (Smith 1995, 150). By establishing a bureau specifically assigned to handle this impending evacuation, the FDR government reacted to public demand for mass relocation from the West Coast.

E.O. 9102 finally authorized the controlled evacuation instead of the much troubled voluntary evacuation in order to carry out the relocation of the Japanese population in an orderly and speedy manner. The eventual decision on incarceration, then, was the preemptive representation of public opinion (II) which clearly rejected accommodation of the "enemy alien" in their backyard. The internment decision was also a preemptive action taken by elites who claimed to represent public opinion which regarded such a policy decision as a noble challenge in order to carry out the "schooling" of democracy in the "relocation center." The public and elites went along with this incarceration of the entire Japanese population with the conviction that civil liberties were being protected for themselves and for the "enemy aliens" alike. They justified this separating of themselves from the "enemy aliens," by arguing that they were doing the service of guarding the "enemy aliens" from becoming the target of violent intolerance. Strout even contended that the record down to the present was a good one when compared with that of World War I (March 16, 1942).

What was the criterion for drawing such a wishful conclusion at the time? For one thing, the protection of property rights was guaranteed. As Smith (1995) points out, however, many evacuees turned to the Evacuee Property Department, the government representatives in charge of the task, only as a last resort. An irony is that these were the lucky ones whose belongings, at least, were kept intact (1995, 142). To property-conscious Americans, this act was considered evidence of their sincerity regarding democratic principles. Content with their decision, all of them went along. Yet history judged this decision of FDR's administration harshly. Why is there commotion, then, when FDR had the

authority to act the way he did?[36] A simple, possible answer is that it is a completely different matter whether he, as President of the United States, should have acted so despite his entitlement.

The following section touches on this sticky question. Suffice it to recollect historical precedents here, though. FDR is certainly not the only President or the last one to be placed in a situation in which he had to choose wisely or otherwise in a time of crisis. Executive power is indeed vested in the President of the United States of America, and especially in wartime his perception of national survival almost always takes precedence. From John Adams to Thomas Jefferson, Andrew Jackson, Abraham Lincoln, Woodrow Wilson, FDR, and more recently George W. Bush, the President is rightfully entitled to defend public safety and many chose to do so.[37] And they all claimed their mandate to represent the people and their wish for national survival.

Normative democratic theories dictate that democracy works when it does what people want. Critics pick up from there and argue that democracy does not function simply because it fails to do what people want. Yet as Caplan poignantly proposes, it is high time we should change our thinking and embrace the fact that democracy can fail at times even though or because it does what people want.[38] His account for such a gap lies in the fallacy of our presumption that voting is equivalent to shopping. Some may object to its banality, but this paper concurs with Pitkin that

⋯ representative government is the ideally best form of government, for the very reason that it will not actually be representative in its character unless it is properly organized and conditioned ⋯. (1967/1972, 240)

Executive Order 9066, Executive Order 9102, and Public Proclamation No. 4 were all legitimate representations of public opinion. On all these occasions, public opinion opted for political intolerance as a realistic democratic practice in a time of crisis and elites received the message only too well. The outcome was the evacuation of the Japanese population, regardless of its citizenship, and its subsequent internment until the end of the war. Unfortunately, it is of no comfort that public opinion precipitated policy decision-making even in a time of crisis. It might have comforted laymen and political leaders alike back in 1941 and 1942 to be assured that representative government was fully functional. Indeed

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36) For a thorough review of executive orders, refer to Mayer (2009).

37) For example, Adams argued for the passage of the Alien and Sedition Acts which made political dissent criminal, thus authorizing the President to deport any non-citizen he deemed "dangerous to the peace and safety of the United States." Jefferson sought to enforce the Embargo Act so that he could charge those who violated it with treason. Andrew Jackson attempted to censor the mail in the South so that he could stop abolitionist documents from being distributed, while Woodrow Wilson tried to censor the press in wartime. Lincoln ordered the trial of civilians by military tribunals, which George W. Bush quoted in the war on terror.

38) Caplan (2001, kindle edition, 265).

the War Relocation Authority (WRA) conducted a preliminary nation-wide survey of public opinion on the Japanese evacuation and tried to find support for all the measures involving the Japanese population. It found a support level of 92 percent. Nevertheless, history does not judge such a travesty so benignly. By revisiting the 1942 internment of Japanese descendents and its implications for the present times, this paper draws the following conclusions.

Concluding Remarks

The 1942 Fortune Survey provides a portrait of a satisfied public which found that their will had been represented well in crisis management. Yet somewhere in the mountainous deserts 112,000 people were interned merely because of their ancestry and, in a majority of the cases, despite their citizenship.[39] Was political intolerance in 1942 really justifiable under the extraordinary circumstances? One result of a Gallup Poll casts doubt on the legitimacy of this justification. The following two questions were asked of residents on the West Coast in a special survey in December 1942.

Q 1: Would you be willing to hire Japanese servants to work in your home after the war is over?

Q 2: Would you be willing to trade at Japanese-owned stores after the war is over?

This survey was carried out when the internment of all the people of Japanese ancestry had been completed, and is thus pertinent to the question raised in this paper. To the first question, 69 percent said "no" and 26 percent said "yes"; to the second question, 58 percent said "no" and 38 percent said "yes." If the public placed its faith in democratic principles and if "schooling" of the Japanese population in the "relocation centers" is justified as an effort to nurture such principles, why does the public deny a second chance to their re-born Japanese counterparts? Did intolerance start as a perceived threat, but end up as a mere dislike? Did the above two questions actually address the degree of public resentment rather than a legitimate policy of intolerance? Or was this intolerance a form of dislike in disguise throughout?

Although this paper alone cannot answer these questions fully, it can be inferred from the available data that the decisions on mass evacuation and incarceration were not the outcomes of strict military necessity. In addition, the 1943 Gallup Poll provides a poignant venue to revisit the 1942 decision. Compare the following three questions and the results:

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39) According to the "Estimation of the Situation" report filed by DeWitt, "… the very fact that no sabotage has taken place to date is a disturbing and *confirming* indication that such action will be taken …" (Smith 1995, 124). What was behind such a horrendous conclusion? "… these are organized and ready for concerted action at a favorable opportunity …."

> Q 1: Which country do you think we can get along with better after the war?Germany or Japan? (June 11, 1943)
>
> Q 2: Which country is the greater threat to America's future?Germany or Japan? (December 23, 1941)
>
> Q 3: In this war, which do you think is our chief enemy?Japan or Germany? (February 24, 1943)

To the first question, 67 percent answered Germany and 8 percent answered Japan. On the second question, 64 percent thought Germany to be a threat and 15 percent thought Japan to be so while 15 percent thought that both Germany and Japan posed a threat. However, in an updated version of the second question, here labeled Q3, 53 percent selected Japan as a threat and 34 percent selected Germany. Interestingly, the aftermath of Pearl Harbor had less effect on the threat perception the American public held regarding Japan than imagined. Yet one and half years later, after nearly all the Japanese descendants were locked up in remote areas, this perception increased by more than three times. The outlook of a longer war with Japan may partially explain such a sudden jump in threat perception.[40] The American public might have shifted its intolerance target from Germany to Japan. Or maybe this three-fold increase was an artificial effect of "schema" through which respondents formulated a different attitude at a particular point in time (Zaller 1992, 37).

Controversy lingers around whether the decisions of 1941 and 1942 were legitimate acts of political intolerance as such decisions represented the predominant public opinion of the time. Key (1967) is arguably correct in suggesting that the decay of democracy is inevitable if public opinion precipitates decision-making all the time and in all cases. It is indeed an irony of democracy if public opinion has to be contained simply because its predominance may jeopardize the very existence of healthy democracy. Nor is Lippmann's poignant comment comforting if we consider that he was a person who instigated the intolerance of the Japanese population by all means. In the end his actions betrayed his good-will sermons.

> ⋯ it is only when we are in the habit of recognizing our opinions as a partial experience seen through our stereotypes that we become truly tolerant of an opponent. Without that habit, we believe in the absolutism of our own vision ⋯. (Lippmann 1922/1949, 82)

Caplan points out that 1) policy can be popular yet counterproductive in democracies and that 2) such irrationality is common (2007, kindle edition, 2580). Especially when the media picks up an unusually scary anecdote which feeds into the public fear and politicians jump on the bandwagon, pledging to

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40) The Gallup Poll provides the result of a survey in which respondents were asked their expectations regarding the length of war with Germany and Japan respectively. 61 percent said from six months to one year with Germany; 58 percent said from one to two years with Japan (February 26, 1943).

solve the problem, a string of panics ensue even in the form of policy change. Democracy preaches many noble ideas, including political tolerance and political responsiveness in one breath. Yet in perilous times, those two ideas can contradict each other. Furthermore, elites like the President and his coterie of policy makers are only too glad to join the bandwagon of "folly," all in the name of democracy (Caplan 2007, kindle edition, 2252). Yet if the folly of democracy leads to political, social, and economic excommunication of a segment of its own population, then someone should dare to express dissent against democracy as religion.

Democracies usually work well, but that does not relieve the public and elites alike from their obligation to question the sanctity of democracy, especially in times of crisis. And mandate or not, the President is not exempt from it, either. In the process of dynamic representation, the public and elites should draw up a balance sheet by listing all pros and cons and actually dwell on it before deciding on one policy over another. The question is not whether they can afford to, but whether they are willing to, especially in perilous times. The 1942 internment of Japanese ethnics is a classic example of their unwillingness to jump off the bandwagon of "democratic fundamentalism" (Caplan 2007, kindle edition, 2280). "Democracy with attitudes," as Bartels (2003) succinctly puts, reminds us all that not all the ills of democracy can be cured by more democracy.[41]

By choosing war—violence against external enemies—American democracy, either knowingly or unwittingly, put war at the very center of its own identity. Unfortunately, war usually reaffirms the myth of American identity and cultural hegemony, thus often popularizing campaigns of counter-subversion against the enemy, not only without but increasingly within. This paper is a preliminary descriptive account of how the 1942 internment of Japanese descendents occurred, yet the implications go beyond that particular event. Although America is not uniquely evil in times of crisis—as many authors point out, it is unique in that its enemy's ethnics are almost always found among segments of its own population.

This paper is a preliminary review of one particular case in which political intolerance was embraced and manifested as a series of policies for the sake of general public welfare under presidentialism in perilous times. The 1941 and 1942 decisions to inter Japanese ethnics also serve as cases in which the politics of citizenship gerrymandering took place in the name of democratic legitimacy. If "citizenship bestows upon individuals membership in a national political community," as Howard (2009, 3) notes, then citizenship should serve as "a powerful instrument of social closure," but it in this case it did not. This paper has elaborated how elites chose to respond to public opinion by gerrymandering internal boundaries that singled out one particular segment of citizens—largely on the basis of their specific alienage. Their decision, in effect, excluded this targeted population from fundamental rights and

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41) Al Smith, who ran in the 1928 presidential election, remarked that "all the ills of democracy can be cured by more democracy," on which Caplan poignantly comments that such is democracy as religion, i.e., not to be touched under any circumstances.

privileges that are often associated with national citizenship.

To answer why such a decision was even possible, this paper drew on the concept of dynamic representation as proposed by Stimson et al. (1995), especially its account of policy decision-making. Yet this paper falls short of identifying the exact nature of a possible causal relationship between public opinion and policy as a form of representation. Instead, it argues for the need to approach the 1941 and 1942 decision from an alternative perspective by focusing on "the paradox of democratic legitimacy" and the executive powers vested in the presidency, especially in times of crisis. This "paradox of democratic legitimacy" is unfortunately recurrent, as witnessed in a series of policy decisions targeting the vague category of "enemy combatants" during the terms of George W. Bush, which may be a probable research topic in line with this paper.

This has also resounded across the Atlantic Ocean where many European countries are renewing their politics of citizenship and/or immigration. Such phenomena are particularly alarming, given that Europe aims for a borderless polity within. What is even more unsettling is that crisis itself is framed in ever more entrepreneurial, although not necessarily constructive, manners. When the issue of citizenship and political membership becomes politicized and salient in the political debate, publicity usually sours the healthy deliberation of a good policy—often feeding on the hyped-up sense of crisis that is not always threatening to its survival. This elusive nature of the politics of citizenship provides another venue for further research on public opinion and policy decision-making as representation.

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