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Electoral Reform in Japan;
Where are the Rules

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INTRODUCTION

Pressures for electoral reform have existed in Japan for many years and yet no
substantive changes have ever been instituted. Although there has been mass
urban migration the electoral apportionments have not kept pace. This has
produced a rural bias in the electoral process.[1] Voter inequality between
the least rural districts and the most populated has risen as high as one to
5.26 in the Upper House and one to 4.99 in the Lower House (Hata, 1990:160).
Along with favoring the rural districts the electoral process also favors
larger parties. Taagepera and Shugart (1989) present data from Japanese
elections to gauge its degree of proportionality (see Graph 1). As is shown
from the graph, the electoral process consistently grants the LDP more seats
than it has votes. Conversely, the smaller parties consistently win fewer
seats than their percentage of votes. Electoral reforms to date have split
populated districts in half, given seats to the most populated districts and
in one occasion (1986) taken seats from the least populated districts.
However, voter inequality remains high and elections favor the larger parties.

In Japan the Liberal Democratic Party (LDP) has been in virtually
continuous rule since 1955. LDP rule has not been matched by any other
incumbent party in the industrialized democracies in the postwar era. In
Japan the LDP controls both the legislative and the executive due to the
process whereby the only nominees are from the ruling party.[2] The benefits
the LDP receives from the current electoral process provides very little
incentive for instituting electoral reform. However, the latter era of LDP
rule has been plagued with corruption scandals. These scandals are providing
internal pressures for electoral reform.

At the current time there appears to be two camps in the LDPs the
younger members who want meaningful reform to improve the LDP's credit rating
and the senior party leaders who don't want to be bothered (Wolfe, 1992:773).
The younger members have good reason to be concerned with LDP discrediting.
In 1983 former Prime Minister Tanaka was convicted for his role in the
Lockheed bribery scandal. The 1989 Recruit insider trading scandal led to the

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[1]For this analysis electoral system refers only to the method of
translating votes into seats whereas electoral process refers to the electoral
system as well as apportionment.

[2]Since 1978 the Prime Minister has been elected in a two stage process.
First, all members of the *majority* party vote in a primary. The top two vote-
getters then have a run-off election within the Diet members. Prior to this
time the Diet elected the Prime Minister without any public participation
(Krauss in Ishida and Krauss 1989: 47).

resignation of Prime Minister Takeshita and Finance Minister Miyazawa along with a number of cabinet members. As will be described in section four the scandal along with an unpopular consumption tax contributed to the 1989 LDP loss of majority control in the Upper House. To make matters worse Takeshita's successor, Sosuke Uno, was forced to step down after only two-months as prime minister due to a sex scandal.

Upon Prime Minister Miyazawa's election he introduced support for electoral reform including implementation of a single-member district system as a solution to the embarrassing corruption scandals. Some LDP members support single-member districts because it would reduce ballooning campaign costs and it would eliminate competition between party members (Baerwald, 1990:549). Many members attribute corruption to the intraparty competition associated with multi-member districts (Ishikawa, 1989:139). They believe that eliminating intraparty competition, through single-member districts, will decrease the pressure on candidates to raise campaign funds and more importantly it would decrease the pressure for entering into shady financing arrangements.

The change to single-member districts has strong opponents both within the LDP and in the opposition parties. Powerful factions within the LDP fear that in the absence of intraparty competition Diet members will not be as dependent upon them for campaign funds. Consequently factions would see their influence decrease (Wolfe, 1992:775). Smaller parties are opposed to single-member districts as well for fear that they will be squeezed from the competition. Single-member districts tend to result in the decrease in the number of parties to two. This would mean that the LDP and Japanese Socialist Party (JSP) would benefit from this change but all the other parties obviously would not.

Curiously, the electoral reform plans of the LDP do not address voter inequality or proportionality. Perhaps by instituting fair representation and alternating political powers the corruption problem would take care of itself. However, this paper does not attempt to develop a cure for Japan's corruption; rather it attempts to determine the source of the LDP bias in Japan's elections and the failure to correct the malapportionment. The first section provides historical information on Japan's parliament and political parties. Section two explores the Single Non-Transferable Vote (SNTV) system utilized in Japan to assess whether a change in the electoral system would yield more proportional results. After concluding that the electoral system is not the source of the problem section three explores apportionment issues of increasing the number of representatives per district and redrawing district lines. Section four explores the institutions and rules which govern the electoral process in order to ascertain why electoral reforms have not addressed the voter inequality and LDP bias. Section five concludes with

suggested avenues of reform and the likelihood of their implementation.

SECTION I: HISTORICAL ·INFORMATION

During the American Occupation (1945-52) the U.S. intentionally and completely revamped the Japanese political system. According to Ishida and Krauss the Americans "attempted, through 'social engineering' to create not only a democratic political system, but a democratic society and culture that would support and maintain that system" (Ishida and Krauss, 1989:3). Although a national assembly existed in Japan since 1889, prior to the Allied Occupation democracy was never completely institutionalized in prewar Japan. It's members were elected by limited male suffrage however it served primarily an advisory role to the emperor and his elite bureaucrats. A completely revised Constitution in 1946 stripped the emperor of his power and made popular sovereignty the basis of the Japanese state. Japan's national assemble, the Diet, was given similar powers as parliaments in the West.   Fundamental freedoms of speech, press, organization, and religion were guaranteed by the constitution. Local government were given greater autonomy and were allowed to elect their leaders. The growth of political parties was encouraged and suffrage was extended to women. The Allied fear of a future repeat of Weimar Germany led to Article nine of the Constitution which prevents Japan from developing an offensive military.

In 1947-48 a major change in Occupation policy took place in reaction to the onset of the Cold War. This policy shift attached less value to "democratization" and greater importance to stability. The U.S. also radically changed position on the demilitarization of Japan to being more concerned with making Japan an ally. This concern grew with the 1949 Chinese Communist revolution and the onset of the Korean War in 1950. This reverse course caused severe consequences to the political alliances and political culture in Japan. The conservatives who were resistant to the democratic reforms were now in support of the U.S. whereas the left had previously supported the American Occupation but now, with the reversal in demilitarization, it was in fierce opposition. These ideological cleavages still remain in the structure of Japan's political parties to this day and play a critical role in party fragmentation.

History of Political Parties in Japan
The political parties of Japan can be grouped into three stable camps: the conservatives, the reformists, and the centrists. The conservatives consist of the Liberal Democratic Party and the independent members of the Diet. The centrists include the Kōmeitd and the Democratic Socialist Party.   The reformists include the Japanese Socialist Party and the Japanese Communist

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Party. Fairly predictably since 1960 the conservatives win 50 percent of the vote, the centrists 20 percent and the reformists 30 percent (Fukatsu, 1990:276).

The LDP has the broadest and largest support base of the parties. It's support base includes big businesses and business associations including the influential Keidanren (the Federation of Economic Organizations), farmers and the powerful farmer cooperative, Nōkyō. The LDP is also the "catch-all" party for many professional groups, educators, small businesses, local development associations and any other group that favors a pro-business government. The most important group not affiliated with the LDP is the labor unions. Japan's labor union is made up of five major federations but is split between several opposition parties.

The second most powerful party, the Japanese Socialist Party (JSP), has the support of the largest labor union, Sōhyō (General Council of Trade Unions). The Sōhyō is considered to be the most left of the federations. The JSP was founded in 1955 at the same time as the LDP. At that time it was thought that Japan would emerge as a two-party system. However left-right disunity resulted in the fragmentation of the JSP. The militant part of the JSP opposed Japan's 1960 Security Treaty with the U.S. and advocated violence to achieve social causes but the moderates supported non-violent change and a broadening of international relationships within the Security Treaty. This polarization led to the break off of the Democratic Socialist Party in 1960. This inability of the JSP to broaden it's constituency base caused the JSP's support voter base support to decrease from 32.9 percent in 1958 to 17.2 percent in 1986 (Stockwin in Ishida and Krauss, 1989:96). The downward trend changed abruptly in 1989 when the JSP won control of the Upper House but the ability of the JSP to retain its support is questionable.

The Kōmeitō is the third largest party which draws virtually all its support from the "Value Creation Society," a neo-Buddhist lay organization. The Kōmeitō gained membership quickly from 1965 to 1975 but has consistently stayed at ten percent of the votes since that time. The Japanese Communist Party (JCP) support slowly increased from 2.6 percent of the votes in 1958 to a peak of 10.5 percent in 1972. Since that time it has decreased to less than nine percent. The Democratic Socialist Party (DSP) is supported by the second largest labor union federation, the Dōmei (Japan Confederation of Labor). The platform of the DSP supports parliamentary democracy, and is generally pro-Western alliance policies. It has typically ranked as the fifth largest party in Japan winning around seven percent of the votes consistently since its founding (Baerwald,1986:5). There are several minor parties but these five are the main players in Japanese elections.

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SECTION II: THE ELECTORAL SYSTEM OF JAPAN

Japan has a highly unusual electoral system called the Single Non-Transferable
Vote System (SNTV). Spain is the only other country which uses a somewhat
modified version of SNTV in its Upper House. Of the two Houses the Lower
House has constitutional priority over budgets and treaties and can override a
decision by the Upper House over a bill or selection of the prime minister.
Until recently Japan utilized SNTV in its Upper House elections. However in
1982 the Upper House changed to a list PR system for two-fifths of the
members. This analysis focuses exclusively on Japan's Lower House due to its
far more powerful authority.

There has been considerable debate about how to classify SNTV. Some say
it's plurality (Cox) while others say it's modified plurality (Hickman and
Kim) and yet others label it non-proportional representation (Rose). For
those who classify it as proportional representation (Katz) others call it a
semi-proportional type of limited vote (Lijphart). Another view is that
plurality and PR are on a continuum and SNTV is close to the middle
(Taagepera). The difficulty in classification of SNTV stems from its oddball
nature. It resembles plurality in that voters cast their votes for individual
candidates and the candidates who receive the largest numbers of votes are the
winners. In this way the preferences of voters can be registered more clearly
than in a list PR system in which voters cast votes for a party list rather
than individuals. However, while plurality systems can have single or multi-
member districts SNTV requires multi-member districts. Also, under plurality
citizens cast votes for as many seats as are available whereas in SNTV the
citizen has only one vote regardless of how many seats are available. SNTV
resembles PR systems in that it yields more proportional results than
plurality systems. Also, SNTV is similar to PR systems in that it fosters
minority representation. This analysis adopts the definition of Lijphart of
SNTV as a semi-proportional type of limited vote system and the view of
Taagepera of a plurality/PR continuum based upon proportionality of outcomes.

How SNTV Works

Under SNTV the winning candidates are those candidates who receive the highest
number of votes. SNTV is a simplistic system in that is doesn't require any
rules to deal with remainders. For example, the winners of a four member
district are simply those that receive the highest votes. Since votes are
cast in increments of one the system doesn't create any non-whole numbers. In
this way the system saves endless political wrangling (such as in the U.S.)
concerning the built-in biases of the various apportionment rules such as
Jefferson (favors large) or Adam's (favors small). (See Balinski and Young,
1982 for further discussion)

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Theoretically small parties fare well under SNTV. The greater the number of seats the fewer votes one candidate needs to attain to win a seat. This is called the threshold of exclusion and is defined as "the percentage of the vote that will guarantee the winning of a seat even under the most unfavorable circumstances" (Lijphart et. al. in Grofman and Lijphart, 1986: 157). It is calculated by:

$$\frac{number\ of\ votes\ by\ each\ voter}{district\ magnitude\ +\ number\ of\ votes\ each\ voter}$$

Given this calculation the smaller parties benefit the most when the number of votes per voter is small and the district magnitude (number of seats per district) is large. For a four member SNTV district the threshold of exclusion is 20 percent. However, since the threshold of exclusion measures the percentage needed in the most unfavorable circumstance it is entirely possible to win a seat with less than 20 percent.

The threshold of representation presents the optimist side for small parties. It measures the least amount of votes a candidate would have to obtain under the *most* favorable conditions to win a seat. SNTV has a threshold of representation close to zero. For instance in a three member district if 99 percent of the votes go to one candidate and 1 percent goes to two other candidates, then those two candidates could conceivable win with one vote. Therefore both thresholds of exclusion and representation under SNTV can be said to facilitate minority representation.

The trickiest part of SNTV for parties is in deciding how many candidates to run in each district. If the party enters too many candidates and the votes are evenly split between them, then it may not win any seats. Whereas the party can only win as many seats as it has candidates in the election.   In this way parties must concern themselves not only with choosing the correct number of candidates but also with instructing voters to split their votes evenly among the candidates. Any multi-member district system also has the issue of intra-party competition which was discussed above. This tends to personalize the campaign as candidates try to secure the percentage of core voter support that will allow them to win a seat.

One drawback to SNTV is the difficulty for the voter to cast a protest vote. If a voter casts a vote for the DSP in protest of the LDP it may not affect the LDP candidate. If the candidate has a core voter support in excess of the threshold of exclusion then regardless of protest votes s/he will still win a seat. Therefore, even a relatively small block of committed voters can prevent the ousting of a targeted candidate. A candidate may fall from being the number one or two vote-getter but will still win a seat (Pempel in Ishida

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and Krauss, 1989:30).

SNTV in Comparison with Other Systems

If proportionality is used to judge the performance of electoral systems then a comparison with the Single Transferable Vote (STV), utilized in Malta and Ireland, is a likely choice. STV is believed to be the "best" because it ensures that votes are transferred if they are beyond the quota needed to elect one candidate or cannot elect a given candidate. The system ensures that each successful candidate has a unanimous and equal-sized constituency (Taagepera and Shugart, 1989:48). The STV system is quite complicated in that each voter ordinally ranks each candidate. Once the ballots are cast, a quota is calculated to determine how many votes are need to elect any one candidate. The method for calculating the quota in Ireland is the Droop Quota and is calculated by:

$$\frac{\text{total number of valid votes}}{\text{number of seats + 1}} \text{ (rounded up)}$$

(Lakeman in Lijphart and Grofman, 1984:44). The candidates above the quota win seats. The excess votes from the winning candidates are then given to the second ranked candidate marked on the ballots. Simultaneously, the lowest ranking candidate is removed from the running. The process is repeated until all the seats are filled. Lijphart found that when malapportionment and unequal voter turnout are controlled for the Droop quota under STV and the threshold of exclusion under SNTV yield near identical results (Lijphart in Lijphart and Grofman, 1984:209). Lijphart finds SNTV to be as proportional as STV but in terms of simplicity he finds SNTV to actually have a small advantage (Lijphart in Lijphart and Grofman, 1984: 210-211).

A comparison to the opposite extreme is majority rule. In a majority system the winner takes all. Therefore all the voters who voted for the loser are not represented. Also all the parties whose candidates did not attain a majority did not win any seats. The electoral reforms currently being discussed in Japan include switching to single-member districts. If the most recent LDP plan for replacing the 129 multi-member districts with 500 single-member districts would have been imposed on Japan's last election it the LDP would have captured 92.6 percent of the seats as opposed to the 53.7 percent it currently commands (Nihon Keizai Shimbun in Nikkei Weekly, 1992:2). This obviously would not be a better choice in terms of improving proportionality. In conclusion, given that theoretically SNTV fosters minority representation and that it should lead to proportional outcomes, it seems highly unlikely that the electoral system in Japan is the cause of the large party bias.

SECTION III: POTENTIAL SOURCES OF DISPROPORTIONALITY AND VOTER INEQUALITY

In search of other sources for the disproportionality of Japanese elections
and also the persistence of voter inequality the next level of analysis
addresses apportionment issues. First, district magnitude is examined for
potential impact on proportionality. Following is an analysis of the history
of changes in district magnitude and district lines.

District Magnitude

Taagepera states that the impact of district magnitude is the key factor to
proportionality distortion in PR systems (Taagepera in Lijphart and Grofman,
1984: 91). The lower the DM the greater the potential for disproportional
representation. Currently, Japan's Lower House is divided into 130 districts
with DM varying from one to six.[3] Most countries have district magnitudes
between six to twenty. Japan's average DM of four ties with Ireland for
having the lowest DM of all multi-seat systems.

       Taagepera and Shugart (1989) use the term "manufactured" majority when
DM is less than five. The term "manufactured" refers to the increased
incidence of large party overrepresentation at low district magnitude than at
DM greater than four. In a district with two magnitude the only way to yield
a proportional outcome is for the two parties to split the vote evenly.
Hence, if there are additional parties receiving votes then proportional
results are impossible. In three-seat districts the DM is still too low to
yield a proportional outcome in most situations. In the case of Japan which
has two principal parties it is likely that most districts will split 2-1.
The three-seat district is slightly better than the two-seat in that if the
two largest parties split their votes a possibility exists for a third party
to gain a seat. However, three-seat districts still have the likely
possibility of exaggerating the number of seats of the larger parties. Table 2
presents a hypothetical example of district magnitude on seat distributions.[4]
This break down in party vote percentages resembles closely Japan's actual
results for the two largest parties. Note the large drop from DM=4 to DM=5.
According to the analysis of Taagepera and Shugart (1989: 113) the small
district magnitude in Japan gives a definite advantage to the LDP and a lesser
degree to the JSP.

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       [3]The Amami Islands has a plurality system with DM=1 and will be excluded
from the rest of the analysis.

       ⁴The [4]The d'Hondt method ignores any non-whole number remainders. However,
because SNTV deals exclusively with whole numbers the results are applicable.
For further discussion of the relationship between d'Hondt and SNTV see Cox
(1991).

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Taagepera found that "the effective number of parties tends to increase with increasing district magnitude" (Taagepera in Lijphart and Grofman, 1984:98). The district magnitudes, effective number of parties and break-even points for several countries are presented in Table 3. Effective number of parties is calculated by taking the inverse of the *Herfindahl-Hirschman concentration Index.* This index weights each party by the percentage of vote shares it receives. In this way the larger the party the more effective and the smaller the party the less effective. Japan has an effective number of average parties of 3.3. Essentially this means that the LDP and JSP are the most effective parties with minor effectiveness of the Kōmeitō and JCP. The break-even point refers to the point where the average profile curve crosses the perfect PR line. It is interpreted as the percentage of votes necessary to have the percentage of seats equal the percentage of votes. Therefore Japan reaches perfect proportionality at 14 percent of the votes. Those parties above 14 percent receive greater than their share of seats and those parties below receive fewer than their share of seats.

A drawback to increasing DM is the potential for fragmentation of political parties. Taagepera and Shugart state, [i]f there are underlying reasons in the political life of the country to form new parties, the higher [district] M[agnitude] will give more incentive for their creation, and more incentive for voters to vote for them. This, in turn, will increase D[isproportionality] so that proportionality may not be improved as much as intended" (Taagepera and Shugart, 1989:124). In the case of Japan it is possible that increasing the district magnitude would increase the number of parties and thus further fragment the opposition.

History of Apportionment
The Public Officials Election Act of 1950 divided Japan's Lower House into 117 electoral districts with three to five seats each. The computation was made on the basis of 150,000 electors per Representative based upon the 1946 National Census. This made for a total of 466 Representatives (Hata, 1990:158). In three reapportionments additional seats have been added so that the Lower House now has 511 members but voter inequality between districts continues to range from one to three to a high of one to 4.99.[5] The first reapportionment occurred in 1964 when the number of members was increased by nineteen. However according to the 1970 Census the difference between the most and least populous districts was one to 4.99. In 1975 twenty additional seats were added which reduced the disparity to one to 3.7. In both these instances seats were added to the more populated districts but none were taken

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[5]The Upper House has never been reapportioned.

from the declining rural districts. However, in 1983 the Supreme Court
threatened to declare unconstitutional the rules of apportionment revised
according to the 1975 Census. The maximum disparity had reached one to 3.94,
In response the Diet instituted the "eight plus, seven minus" amendment to the
Act (Law No. 67, 1986) in which eight seats were added to the most populated
districts and seven seats were eliminated in the least populated. This
revision in 1986 created four two-member districts and one six-member district
(Hata 1990:159). This last apportionment change illustrates the importance of
enforcement by the Supreme Court.

In spite of tremendous urban migration and population growth
redistricting in Japan has occurred twice since the 1950 Act. The first time
was in 1967 which split high population areas into multiple districts. Tokyo
was split from seven districts into ten and Aichi and Osaka each gained an
extra district. In 1976 Saitama, Chiba, Kanagawa, Osaka and Tokyo received
additional districts. The redistricting in Japan never altered the original
lines; rather it splits and re-splits the most populated districts. Currently
in Japan all constituencies contain farming areas to a greater or lesser
extent. Only 83 seats or 16 percent come from strictly urban areas (Hemmi in
Castle et al. 1982:229). This creates a rural bias which, given the strong
farmer support for the LDP, translates into a bias for the LDP. Any redrawing
of the boundaries to reflect equal populations would decrease the impact of
the rural areas hence decrease one of the LDP advantages.

Conclusions about Voter Inequality and Proportionality
The severe malapportionment[6] in Japan has several implications all of which
benefit the LDP. Part of the failure to correct the voter inequality in Japan
is due to the lack of incentives for both the LDP and to a lesser extent the
JSP. Support for the small opposition parties is concentrated in the
metropolitan areas whereas the JSP and LDP are more strongly represented in
the rural and mixed areas. The current malapportionment between rural and
urban districts gives a substantial advantage to the larger parties. If the
districts were reapportioned to reflect the population migration the rural
bias which gives advantage to the LDP would be erased. The resulting
increased weight of votes from the metropolitan and urban areas might then
cause the smaller opposition parties to gain a greater number of seats. This
change would effectively alter the proportionality profile and decrease the
break-even level; hence, leading to greater proportionality. Therefore,
decreasing voter inequality may actually improve the proportionality of
Japan's electoral process. However, this is not a certain outcome. The LDP

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[6]Malapportionment is used to reflect both district boundaries and
representatives per district.

has substantial voter support and may maintain majority without the rural bias.

SECTION IV: INSTITUTIONS, PROCESSES AND RULES OF ELECTORAL REFORM IN JAPAN

Given the apportionment disincentives, the piecemeal and largely nonexistent action taken by the Diet is not surprising. The obvious question then becomes why is this allowed to continue? What are the laws and where are the courts? Under Japan's Constitution, apportionment and districting are expressly within the discretion of the National Diet. The Constitution provides that "[t]he number of the members of each House shall be fixed by law" (art.43(2)) and the "[e]lectoral districts, method of voting and other matters pertaining to the method of election of members of both Houses shall be fixed by law" (art. 47) (1947 Constitution in Hata, 1990:157-158). The 1950 Public Officials Election Act set schedules for apportionment for both Houses. Schedule I made a special provision for the apportionment of the Lower House, "[i]t is to be made a practice to correct this Schedule in accordance with the results of the most recent National Census every five years from the date of its enforcement" (Law No. 100, 1950 in Hata, 1990:159).

There are problematic issues stemming from the rules governing apportionment in both the Constitution and the Election Act. First, the 1950 Act does not provide for an apportionment process. It merely states that it must be done. Balinski and Young state that any theory of apportionment must deal consistently with changes (Balinski and Young, 1982). However, to deal consistently with changes an accepted methodology is required. This is the most difficult aspect because the various apportionment rules have clearly delineated consequences which create distinct lobbying forces. Also, redistricting has the very real potential of leading to gerrymandering or in this case the term has been coined "gerrymander-san" (Holloway, 1989:22). Given the difficulty of apportionment issues and the benefits enjoyed from malapportionment by the LDP it is little wonder that the Diet continues to avoid it. The 1986 amendment to the 1950 Act passed in response to pressure from the courts failed to institute an accepted methodology. Rather, it merely made a one time policy: eight plus, seven minus (Law No. 67, 1986, in Hata, 1990:160). This quick fix does not provide a legal framework which can be used for subsequent apportionments.

Second, the Constitution states that the electoral districts, method of voting and other matters shall be fixed by law. In this way it is expressly in the realm of the Diet, not the courts. The courts stand firm by the position that elections are a legislative matter, not judiciary. Hence, the Diet makes its laws and then has no external enforcement mechanism for adhering to them. This is a very different approach than in the U.S. where

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the Supreme Court in *Baker* v. Carr *369* U.S. 186 removed the ambiguity between political and justiciable. It ruled in favor of the underrepresented city dwellers of Tennessee thus clearing the way for legal challenges to state apportionment practices based on the equal protection clause of the Fourteenth Amendment (Butler and Cain, 1992:27-28). Japan's Constitution has similar protection in Article 14 which prohibits "discrimination in political, economic, or social relations because of race, creed, sex, social status, or family origin" (Beer in Ishida and Krauss, 1989:75). However, the Court has not viewed voter inequality as a form of discrimination. In general, the Supreme Court has largely supported government polices. In fact, it has mostly overturned anti-governmental cases in the lower courts. Pempel states, "the Supreme Court has been an important, if frequently unrecognized, vehicle for preserving the status quo in Japan and for reducing the capacity of the courts to reverse executive actions" (Pempel, 1982:19,20).

Trying to understand the reluctance of the Court to rule on politically sensitive issues leads to another question: does the Diet or prime minister have control over the judiciary? The postwar Constitution guarantees that "all judges shall be independent in the exercise of their conscience and shall be bound only by the Constitution and the Laws" (Article 76). The only power the prime minister has over the judiciary is in the appointment of justices. Although all of the prime ministers have been LDP members and therefore have been able to appoint justices of similar ideology, if the Japanese Justices are anything like the U.S., the views voiced at the time of appointment do not necessarily carry over to views on the Bench. A point of departure from the United States is that Japan's Supreme Court Justices may be removed from the bench. Removal is possible at the first general election after the justice's appointment and at ten year intervals afterward. This process is through voter referendum and not a decision of the Diet. While this could in some remote way account for the unwillingness of the Supreme Court to rule on political issues, since this option has never been undertaken it is highly doubtful. Hickman and Kim attempt to prove that the politically conservative Court Justices have personal bonds with the LDP and share many of the values and beliefs of the LDP leaders. However, the authors are quick to state that this is merely circumstantial evidence and can't be used to establish Court complicity in maintaining the LDP electoral advantage (Hickman and Kim, 1992:18,21).

If indeed there aren't formal rules blocking the Supreme Court from ruling on apportionment or proof of Court complicity in LDP dominance perhaps it is the case of not wanting to get involved in a very complicated, messy and never ending process. In the Baxter v. *Carr* decision in the U.S., Justice Frankfurter objected to the decision stating that the decision would "catapult the Courts into a mathematical quagmire" (Butler and Cain, 1992:27). And

indeed this is what happened. Apportionment issues are by definition politically charged. But, given the high stakes and the potential for manipulation there is even greater need for a consistent process and enforcement mechanism. The Courts, given their life-time appointments have a greater potential for enforcing fair representation than the elected politicians.

There are signs of movement toward equal representation by the Supreme Court however they are far from encouraging. In 1976 the Supreme Court declared unconstitutional the rules of apportionment for the Lower House at the 1972 general election. The disparity between votes was one to 4.99. However, the Supreme Court failed to invalidate elections which would have forced electoral reform. In 1983 the Supreme Court gave a stronger noodle whip when it threatened to declare unconstitutional, *within a reasonable amount of time,* the rules of apportionment according to the 1975 Census. The maximum disparity had reached the level of one to 3.94 (Hata, 1990). This threat resulted in the eight plus, seven minus action described above. While the Court refused to set the one person, one vote standard there was movement in addressing the issue of inequality. However, the movement did not go in the desired direction. In 1988 the Supreme Court ruled that the 1986 Lower House election was constitutional because the gap was under three (Holloway, 1989:23). With this ruling the Court effectively set the standard of one person, three votes for rural areas and one person, one-third vote for the metropolitan and urban areas.

Is the Diet Capable of Self-Enforcement?
If the Court refuses to force apportionment then the next issue becomes how could the Diet become capable of self-enforcement of apportionment rules. Both the larger parties benefit from the malapportionment and have very little incentive to enforce the 1950 Act. Since it is the smaller parties who are penalized the greatest from malapportionment it appears that they are the likely candidates to force change. One possible way that this could occur is through a coalition which includes the JSP. Even though the JSP benefits from the malapportionment, with the present distribution of votes and political platform, the JSP on its own will not be able to effectively challenge the LDP. Therefore, it. has some incentive for negotiation. The main opposition parties are clustered to the left of the LDP which in some ways presents a greater possibility for coalition than if the LDP were in the center of the parties. However, because of the distinct support bases and platforms of the opposition parties there has been little successful coalition building in the past between the centrists and the reformists.

The largest challenge to this pattern came in the 1989 Upper House election. At this time the general public was reacting against the LDP for

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its involvement in the Recruit scandal and for instituting an unpopular consumption tax (Odawara, 1990). Concurrently the JSP moved its platform closer to the center and tried to expand its support base by attracting lawyers and women, especially women lawyers (Reed, 1991:252). By the JSP winning majority in the Upper House, although it is the weaker body of the Diet, it has been able to effectively shake up LDP hegemony.

However, the 1989 victory was short lived. Only seven months later in the Lower House elections the LDP recovered and maintained its majority. Although there are many factors contributing to this reversal one major factor was the inability of the JSP to form a coalition with the Kōmeitō and Democratic Socialist Party. These two centrist parties could have provided the ideological link to more conservative voters (Takabatake, 1990:149). A coalition also had the possibility of attracting liberal LDP defectors. However the JSP was not willing to soften its long standing advocacy of the renunciation of the U.S.-Japan Security Treaty, abolition of the Self-Defense Forces, and other hard line issues (Odawara, 1990:156). It's unwillingness stems from its own internal ideological left/right split. There was fear that changing positions might cause the disintegration of the JSP. However, this may be necessary to develop the broad support base necessary to challenge the LDP.

CONCLUSION

Corruption may be foremost on the minds of the LDP but it is the issue of fair representation that this analysis finds to be the cause of Japan's electoral ills. While it is not possible to address whether a move to single-member districts will decrease corruption, it is possible to state that it will lead to greater LDP dominance. More importantly, merely changing the method for translating votes into seats will not address the issue of the lack of procedures and enforcement of regular reapportionment. The failure of the Supreme Court to invalidate the elections permits the Diet to continue avoidance of meaningful electoral reform.

In conclusion, from this analysis the most fruitful method of electoral reform would be for Japan to keep SNTV and focus on passing legislation which provides apportionment procedures. The electoral reform choice is between increasing district magnitude and altering district boundaries. There are difficulties and advantages to each path. Increasing district magnitude may improve proportionality but it runs the risk of causing fragmentation in the opposition parties. The advantage of redistricting would be that it could potentially decrease voter inequality and increase proportionality. If the rural bias were removed then the weight of the opposition parties main areas of support, the metropolitan and urban districts, would increase. This in

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turn may cause the opposition parties to win additional seats which increases proportionality. However, redistricting brings with it substantial potential for political manipulation. Gerrymander-san may rule the day.

After the apportionment laws are passed the next issues becomes enforcement. The likelihood of an opposition party coalition appears bleak. Subsequently the likelihood of a challenge to LDP rule appears bleaker. Finally, the likelihood that the Diet will be capable of self-enforcement of the apportionment laws appears bleakest of all. Therefore, the most likely source of both forcing the implementation of electoral reform and its enforcement lies with the Supreme Court. If the Court rules in favor of the one person, one vote standard there could be potential for meaningful electoral reform in Japan. However, in the absence of a major shock to the system, incremental changes similar to those in the past can be expected.

GRAPH 1
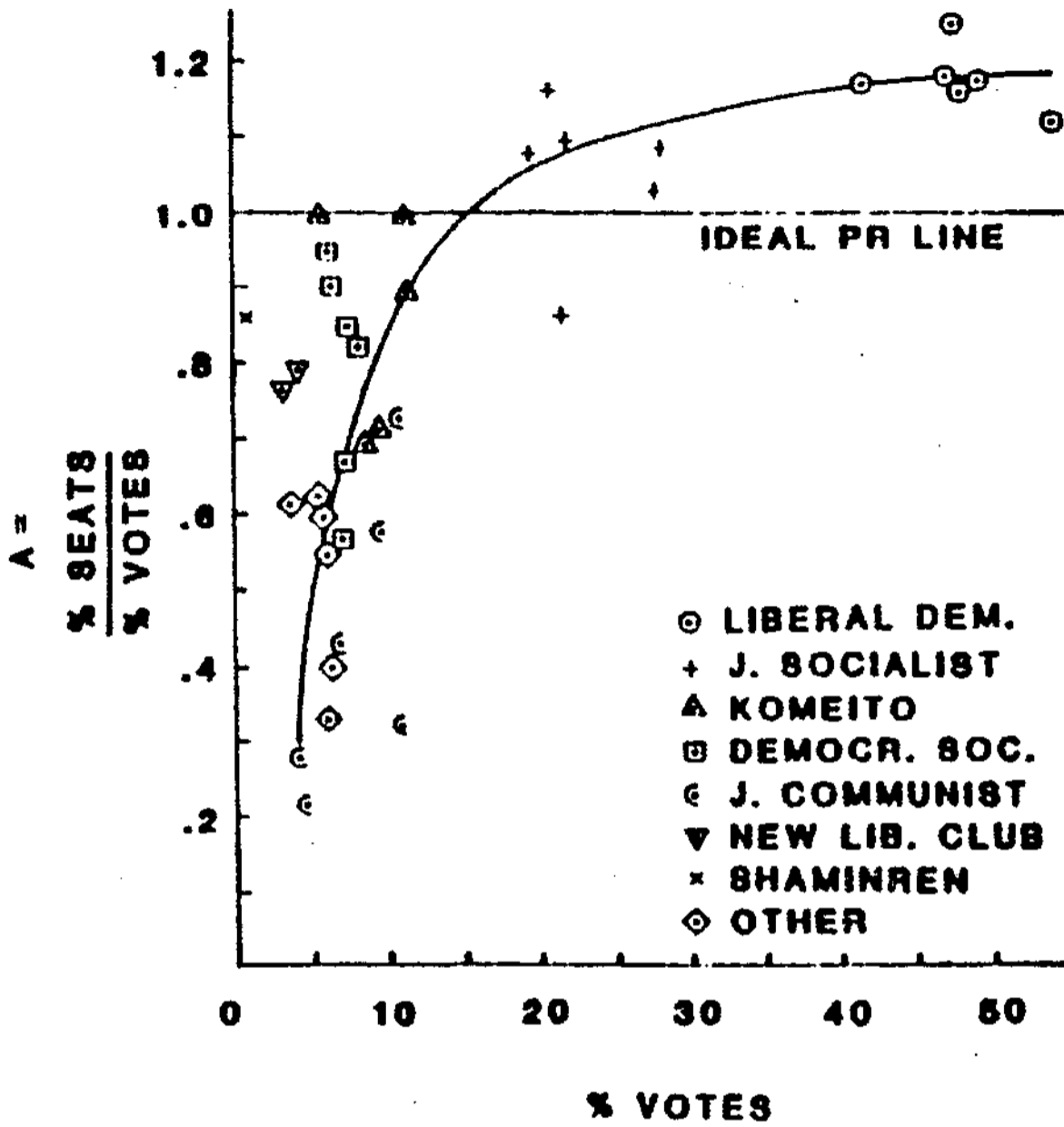
Source: Taagepera and Shugart (1989) p.68.

TABLE 2

Magnitude	Party Votes Percentages and Number of Seats Won				Propor-tionality
	43%	36%	16%	5%	
1	1	0	0	0	57.0%
2	1	1	0	0	21.0%
3	2	1	0	0	23.7%
4	2	2	0	0	21.0%
5	2	2	1	0	8.0%
6	3	2	1	0	7.7%
7	3	3	1	0	6.9%
8	4	3	1	0	8.5%
9	4	4	1	0	9.8%
10	5	4	1	0	11.0%
11	5	4	2	0	5.1%
15	7	6	2	0	7.7%
20	9	7	3	1	2.0%
25	11	9	4	1	1.0%
30	13	11	5	1	2.7%
40	17	15	6	2	1.5%
50	22	18	8	2	1.0%

Effect of District Magnitude on Seat Distribution (by d'Hondt) and Deviation from Proportionality

Source: Taagepera and Shugart, 1989:113.

TABLE 3

Country and Period	District Magnitude	Break-even point	Effective No. of Parties
West Germany 1949-76	1	8	2.9
Prance 1958-81, decisive round	1	23	**3.4**
India 1951-71*	1	26	**4.3**
Canada 1949-80*	1	31	**3.1**
United Kingdom 1900-77*	1	34	2.5
Australia 1919-80	1	41	2.9
New Zealand 1946-84*	1	41	2.9
U.S. House 1910-70*	1	46	2.08
U.S. Senate 1912-70*	1	47	2.15
Ireland 1923-77	3.5	18	**3.1**
Japan 1928-80	4	14	**3.3**
Denmark 1953-77	6	2	**3.8**
Austria 1923-70	7	25	2.4
Venezuela 1947-73	8	15	4.0
Sweden 1970-76	11	4	**3.5**
Luxembourg 1919-79	14	19	**3.5**
Austria 1971-79	20	5	**2.4**
Italy 1946-76	20	**10**	3.5
Israel 1959-77	120	**5**	4.5
Netherlands 1956-77	150	5	5.4

* Plurality systems

Source: Selected date from Tables 8..2 and 12.2 from Taagepera and Shugart (1989).

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