

THE DIMINISHING LEVERAGE OF GOVERNMENT UPON THE ELDERLY

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From a basic perspective of mathematics the government and Judiciary have diminished leverage to control a person's conduct as they get older. The reason is simple. As a person ages, the government has fewer years available of that individual to place in jeopardy.

When a person is 23 years old, government has the ability to ruin their entire life. Setting aside the issue of whether a person is innocent or guilty of an offense charged (since many guilty people go free and many innocent people go to prison), the simple fact is that if a person is found guilty at age 23 of a particular offense, the person will probably lose all or a substantial portion of enjoyment in their life that they otherwise would have had for the next 45 years or so. That's good leverage. Roughly speaking, the government gets about a 2 - 1 payoff on such a prosecution, since the individual loses about 46 years and has lived only 23. That's a 200% return for the prosecution on its investment.

In contrast, if a person is 90 years old and found guilty of an offense, there's really not much the government can do. They can put the person in prison, perhaps beat them or starve them, but the bottom line is they are helpless to ruin the 90 years the person has already lived. Chances are if they're 90 and sent to prison, they'll probably die pretty quickly. Assuming a 90 year old person convicted of an offense dies one year after going to prison, which is a reasonable assumption, that means the government gets a 1- 90 payoff from its prosecution. It's slightly more than a 1% return on the prosecution's investment.

It is thus clear that government has minimal leverage to control the conduct of a 90 year-old person. Of course, an individual's accountability to GOD is a different story. That may result in a person enduring punishment beyond anything the government could conceive of. That aspect however, is beyond the scope of this short article, which focuses only on the practical limitations of the government's ability to control a person's conduct by leveraging the remaining years in their life.

In between the ages of 23 and 80, the government's leverage and thus its ability to control a person's conduct decreases slowly bit by bit each year. Maximum effective leverage exists between the ages of 23 and 50. By the time a person is 50, while they still may have many good years ahead of them, they also have a good bank of years behind them. Therefore, I'd say that's about the breakeven point.

This theory gives rise to several interesting situations. First, as a matter of practicality it creates an exemption for elderly people to violate the law in any manner they please. The reason is simply because there's not much the law can do to get back at them if they're caught. But, on the other hand, it also creates in favor of the government an inordinate ability to unfairly penalize people in their twenties. Practically speaking, it provides governmental power to control virtually every aspect of a young adult's conduct. This leverage allows implementation of the power to control conduct to an unreasonable degree regarding young adults. In contrast to an elderly person who has their bank of years behind them already, young people have too much to risk if they violate the law.

Yet, since individuals in their twenties are embodied with the passion, energy and rebellion that is characteristic of youth, they are more prone to resist governmental control. In contrast, the elderly being understandably more tired from the rigors of life are more prone to submit to governmental control. This may in fact be a coherent result. The reason is that the people most likely to comply with the law (the elderly) are given the greatest opportunity to break the law. In contrast, the people most likely to violate the law (the passionate, energetic, rebellious youth) suffer the greatest penalty for doing so.

The 20s and 30s of a person are age brackets constituting prime years for the government to grab. In contrast, the 70s, 80s and 90s don't provide government officials with nearly as great satisfaction. The bottom line is that by the time you make it to 90, perhaps even only 70, there's not much the government can do to you no matter what law you break. Consequently, if you make it to that age, the positive law of man may fairly be regarded as nullity in regards to regulating your conduct.

There is an old saying that the world is controlled by people over 50, challenged by people between the ages of 25 - 50; and owned by those who are under 25. People over 50 being the ones who control the world function substantively as "trustees" for those who are under 25 and the rightful "owners" of the world. But, the gap between 25 and 50 is so great, that the trustees often do not do what is in the best interests of the rightful owners. When such occurs they are violating their fiduciary duty to the owners. Thus, there is the need for those between the ages of 25 - 50 to help protect the interests of the owners (those under 25) from their own trustees (those over 50) because those trustees often tend to invade trust principal for their personal benefit. Those within the ages of 25 - 50 can protect the rights of the owners (those under 25) by keeping a close tab upon the functions of the trustees. When they do so, those between the ages of 25 - 50 are basically functioning as the auditors of the books of the trustees.

I appear to be on the back end of the "challenging" age bracket, and as a CPA I do have auditing experience, which is why I like the trustee analogy above. On the other hand, I became 50 in June, 2010. So based on average actuarial life expectancies, I'd have to concede the Judiciary still has pretty good leverage over me. But, it sure ain't as much leverage as they had on me when I was 34.