ARIZONA
LAW
REVIEW

VOLUME 51 2009 NUMBER 4

CONTENTS

PAGE

ARTICLES

Past property theft is often a volatile political issue that has threatened to destabilize many nascent democracies. How does a transitional state avoid present-day property-related disobedience when a significant number of people believe that the current property distribution is illegitimate because of past property theft? To explore this question, I first define legitimacy and past property theft by relying on empirical understandings of the concepts. Second, I establish the relationship between property-related disobedience and a highly unequal property distribution that the general population views as illegitimate. Third, I describe the three ways a state can achieve stability when faced with an illegitimate property distribution: by using its coercive powers, by attempting to change people's beliefs about the legitimacy of the property distribution, or by enacting a Legitimacy Enhancing Compensation Program (LECP), which strengthens citizens' belief that they ought to comply with the law. Fourth, I develop a legitimacy deficit model, which is a rational-choice model that suggests when a state should enact an LECP to avoid property-related disobedience. To best promote long-term stability, I argue that states should, at the very least, enact an LECP as the cost of illegitimacy begins to outweigh the cost of compensation. Lastly, since many of the model's relevant costs are subjective, I suggest a process that states should use to determine and weigh the costs. In sum, the Article is intended to spark a debate about how compensation for past property theft can keep things from falling apart.

A powerful coalition has made "Racial Disproportionality" the central issue in child welfare today. It notes that black children represent a larger percentage of the foster care population than they do of the general population. It claims this is caused by racial discrimination and calls for reducing the number of black children removed to foster care. But the central question is whether black children are disproportionately victimized by maltreatment. If so, black children should be removed at rates proportionate to their maltreatment rates, which will necessarily be disproportionate to their population percentage. Racial equity for black children means providing them with protection against maltreatment equivalent to what white children get. The evidence indicates that black children are in fact disproportionately victimized by maltreatment. This is to be expected because

NOTES

ARIZONA CASE NOTES