the weekly
Standard

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FRASER NELSON & IRWIN M. STELZER

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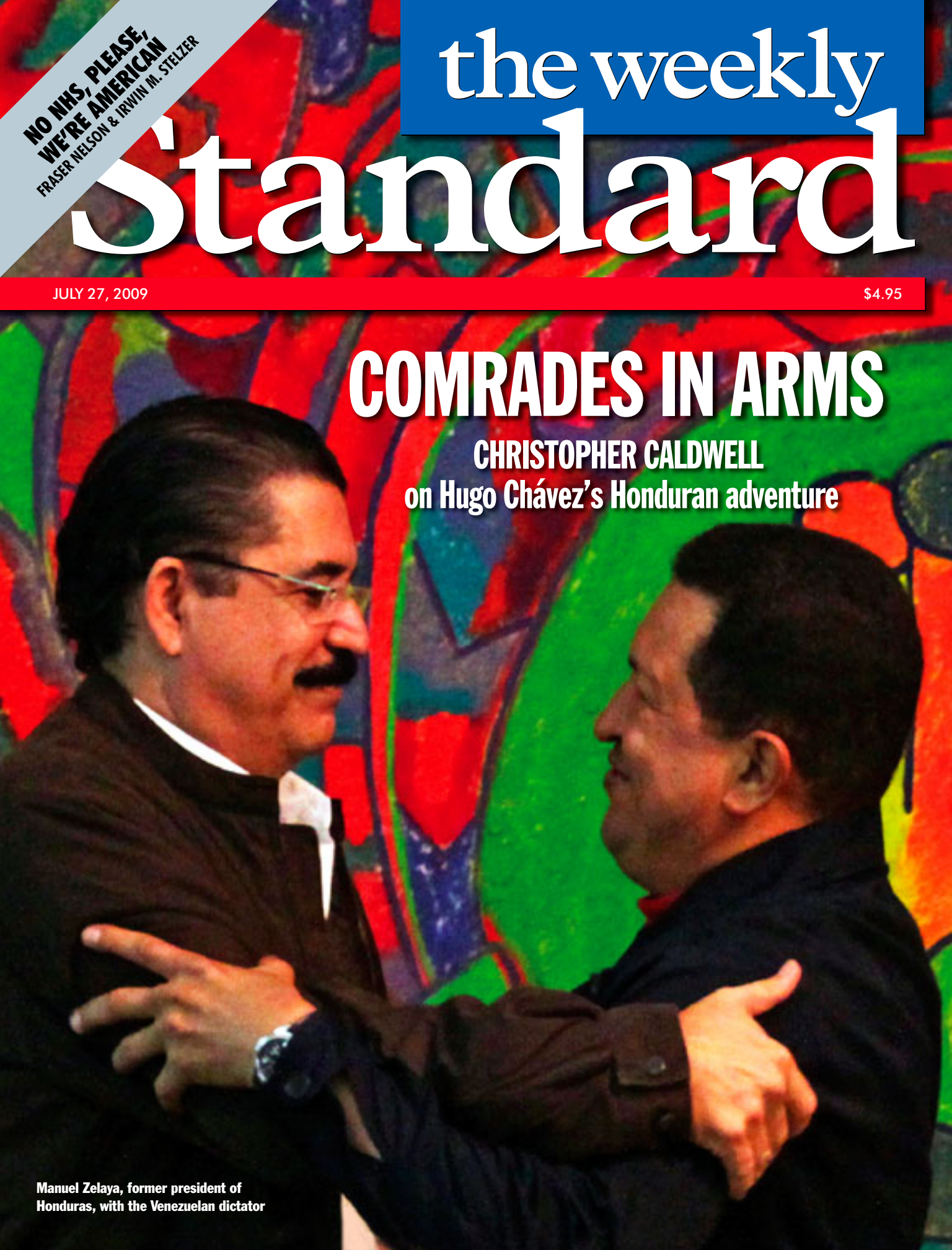
COMRADES IN ARMS

CHRISTOPHER CALDWELL on Hugo Chávez's Honduran adventure



Manuel Zelaya, former president of Honduras, with the Venezuelan dictator

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Out: Beverage Taxes

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American families are watching their budgets this year – doing more with less.

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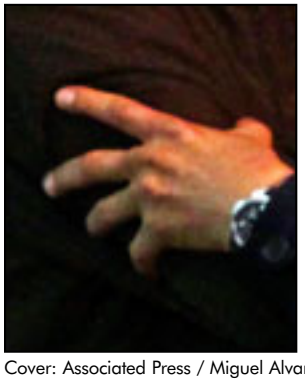

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Features

Books & Arts

the weekly Standard

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BPA INTERNATIONAL

Human Rights Botch

Last week the *Wall Street Journal* published the rather shocking details of a trip to Saudi Arabia by members of Human Rights Watch, an organization that is, by its own account, "dedicated to defending and protecting human rights." But the delegation from HRW was not in Saudi Arabia to lobby on behalf of beheaded adulteresses, executed rape victims, or imprisoned democratic activists. According to David Bernstein, author of the *Journal* op-ed, they were there "to raise money from wealthy Saudis by highlighting HRW's demonization of Israel."

In an exchange with the *Atlantic*'s Jeffrey Goldberg, Kenneth Roth, the executive director of HRW, confirmed the report. Goldberg asked Roth if HRW had attempted "to raise funds in Saudi Arabia by advertising your organization's opposition to the pro-Israel lobby?" The answer from Roth:

> That's certainly part of the story. We report on Israel. Its supporters fight back with lies and deception. It wasn't a pitch against the Israel lobby per se. Our standard spiel is to describe our work in the region. Telling the Israel story—part of that pitch—is in part telling about the lies and obfuscation that are inevitably thrown our way.

This pitch that "wasn't a pitch against the Israel lobby per se," by the way, was made to a Saudi group that included a member of the country's Shura Council—the body that oversees the implementation of sharia law in the Saudi kingdom.

On the other hand, one shouldn't be too shocked. In the late '70s, the man who is now deputy director of HRW's Middle East section, Joe Stork, attended a conference on "Zionism and Racism" in Saddam Hussein's Iraq. There he made a presentation that lamented the "devastating defeat" of the Six Day War, which he attributed to "imperialist collusion that lay behind the Israeli blitzkrieg." A decade later, Stork was still railing against "the pernicious influence of the Zionist lobby." It was Stork's boss, Sarah Leah Whitson, who went to Saudi Arabia to tout HRW's battles with "pro-Israel pressure groups."

When Human Rights Watch was founded more than 30 years ago, it was called Helsinki Watch and it aimed to monitor the Soviet Union's compliance with the 1975 Helsinki Accords just as the organization that inspired its creation, the Moscow Helsinki group, was already doing. The Moscow Helsinki group included a young Soviet dissident named Natan Sharansky. This week the *Jerusalem Post* quoted Sharansky's reaction to the news that Human Rights Watch was raising money in Saudi Arabia:

> Here is an organization created by the goodwill of the free world to fight violations of human rights, which has become a tool in the hands of dictatorial regimes to fight against democracies. It is time to call a spade a spade. The real activity of this organization today is a far cry from what it was set up 30 years ago to do: throw light in dark places where there is really no other way to find out what is happening regarding human rights.

Whitson told the *Jerusalem Post* that critics of HRW were merely "griping and whining because they don't like the fact that we criticize Israel." So Sharansky is now a *whiner*? Shameless. ♦

Book Alert

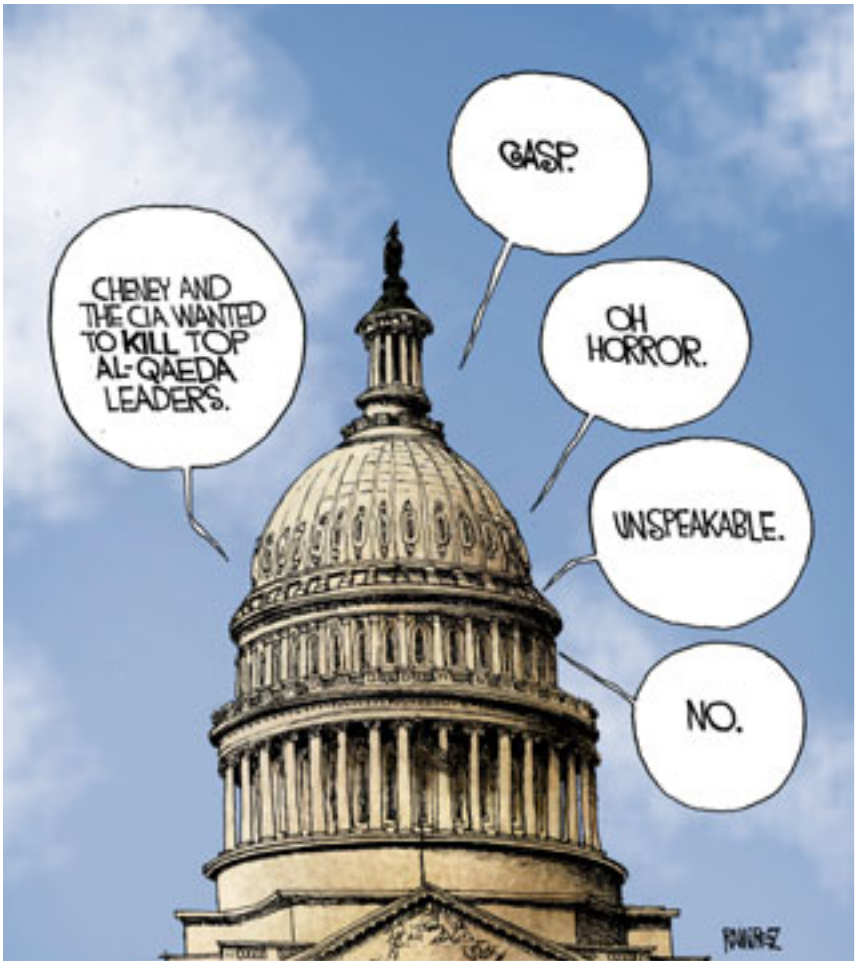
As the once-great American auto-industry goes down the tubes, The Scrapbook has no policy prescription to save the day, but we can recommend a highly effective painkiller: Weekly Standard contributing editor P.J. O'Rourke has just published an anthology of his many hilarious articles on cars. *Driving Like Crazy: Thirty Years of Vehicular Hellbending Celebrating America the Way It's Supposed to Be—With an Oil Well in Every Backyard, a Cadillac Escalade in Every Carport, and the Chairman of the Federal Reserve Mowing Our Lawn* (Atlantic Monthly Press).

The Scrapbook is well known as a pro-P.J. fanatic, so we'll turn the mike over to the *Washington Post*'s disinterested reviewer, Jonathan Yardley: "When O'Rourke is on his game, he's as funny a writer as we have now, and even though many of the tales with which he regales us are certifiable stretchers, what matters is that they're funny, not whether they're true. If they really were true, O'Rourke would have been dead at least a quarter-century ago." Our recommendation: Buy this book. If Yardley is amused, you'll be on the floor holding your side. Buy a copy for your friends in the UAW, too—they can use a little comic relief these days. ♦

No Laughing Matter

On July 9 the government-run website for Federal Business Opportunities—a clearinghouse for contractors looking to grab hold of the government teat—posted a listing for a project called "Humor in the Workplace." It seems that the Treasury Department's Bureau of Public Debt was looking for someone to give presentations on the importance of, well, humor in the workplace. No joke:

> The Contractor shall conduct two, 3-hour, Humor in the Workplace programs that will discuss the power of humor in the workplace, the close



relationship between humor and stress, and why humor is one of the most important ways that we communicate in business and office life. Participants shall experience demonstrations of cartoons being created on the spot. The contractor shall have the ability to create cartoons on the spot about BPD jobs. The presenter shall refrain from using any foul language during the presentation.

Twenty-two vendors registered to get the gig—although two of them seem to be a disgruntled taxpayer who listed his email as "fakeemail@hotmail.com" and his company name as "STOP WASTING TAXPAYER MONEY AND INFLATING THE CURRENCY. Obama wanted $787,000,000,000 for THIS?!"

Alas, a week later the job listing was yanked with the FBO informing contractors that the Bureau of Public Debt no longer needed the presentations. The ad itself must have been funny enough even though it was, in its own way, quite obscene. ♦

Great Moments in Political Correctness

What The Scrapbook likes to call the "unmanning" of the English language (firefighter, not fireman; humankind, not mankind; chair, not chairman; person-in-the-street interview) proceeds apace. It's a trend we condemn, although not without exception. A few years back we were amused to read a puff piece on George Stephanopoulos in which his mother said that the former Bill Clinton sidekick had "always been his own person," eschewing the traditional "his own man."

But we have to say that Senator Patrick Leahy's bit of politically correct verbiage last Wednesday on PBS's *Newshour* was laughable. Host Jim Lehrer asked Chuck Grassley and Leahy if the vote on Supreme Court nominee Sonia Sotomayor wouldn't simply come down to an abortion litmus test—with prochoice senators voting for her and prolife senators against. No, said Leahy, "that's not the issue. . . . There's an awful lot of issues involved besides that. And I think [abortion] becomes a—that becomes almost a straw person."

Straw person? Man, oh man! Or should we say, person, oh person! ♦

Westlake's Last

The late, great Donald Westlake has been amply lauded in these pages (see William Kristol's Casual in the January 19, 2009, issue, and Steven Lenzner's essays of July 2, 2001, and September 1, 2008). So The Scrapbook will spare the superlatives and simply call attention to the (sadly, posthumous) publication of Westlake's final Dortmunder novel, *Get Real*, just out from Grand Central Publishing. In this caper, John Dortmunder and his crew get enmeshed with a TV reality show, with riotous consequences.

Does this last Dortmunder effort have a happier-than-usual ending? Without giving too much away, The Scrapbook merely notes that near the novel's end, Westlake writes of the melancholy and unlucky Dortmunder, "And, for the second time in one day, he smiled." ♦

Casual

Fear of Frying

When KFC announced its latest marketing ploy—grilled chicken—and started calling itself "KGC," two thoughts came to mind. The first was that Kentucky Fried Chicken without the fried is, to paraphrase Sam Kinison, "like Christmas without Christ." Why is there so much shame when it comes to anything fried? Can't Americans simply concentrate on portion control and exercise? Instead, we look for the easy way out, dabbling in diet fads and making laws banning trans fats.

My other thought was, you would never find "KGC" in the Czech Republic. It would have as much success as the McDonald's McLean Deluxe. On a recent visit to Prague (under the auspices of Radio Free Europe/Radio Liberty), I discovered a bastion of fried goodness, where breaded and battered food is still warmly embraced. This naturally horrified the Americans whom I encountered. As one expat complained, "The Czechs have a terrible palate; it's not very broad." I couldn't disagree more. At a café inside Radio Free Europe's headquarters, I noticed a wide variety of entrees, including fried cod, fried chicken schnitzel, fried mushrooms, and fried cheese. What more could you want? (The café, with its low prices, boasts no fewer than three different coffee machines, including a Jacobs and a Nespresso, granting your every wish, from cappuccino to espresso to hot chocolate to a rich blend of hot chocolate and espresso. Radio Free Europe's president, Jeffrey Gedmin, says such creature comforts are a small price to pay to keep his workers happy. Hint, hint.)

Meanwhile, at the Kolkovna Restaurant near the old town square, Czech cuisine can be found in all its glory: roebuck pâté, Moravian sparrow, roast duck, pork knuckle, and pork neck. Kolkovna also serves one of the best beers I've ever tasted: unpasteurized Pilsner Urquell. At Lvi Dvur (the Lion's Court), on the grounds of Prague Castle, you can saddle yourself with a saddle of veal or, if you are feeling truly carnivorous, order a roast suckling pig on a spit. Across the river in Malastrana, I saw a restaurant called Mount Steak, whose banner proclaims, "Welcome to the Empire of the Steak." Sadly, a tight schedule prevented me from accepting this overture.

Breakfast of champions, Czech-style

VICTORINO MATUS

The problem, as one American explains, is that such guilty pleasure foods get old after about four days. But the culinary scene in Prague has improved considerably since the Velvet Revolution. The local food blogger Brewsta (not his real name) points out there is a Buddha Bar in the city and that Gordon Ramsay's Maze was at the Hilton until it recently closed. He also mentions Allegro at the Four Seasons—the only Michelin-starred restaurant currently operating in Eastern or Central Europe. The three- to four-hour degustation menu crafted by Andrea Accordi, widely regarded as the most talented chef in Prague, rivals what you would get at Daniel or Le Bernardin in New York. (For the record, my dinner, which included a cappuccino of asparagus with Fossa pecorino sabayon and steamed John Dory with Pantelleria capers and lemon crisp, was on the house. Not that I view this as unethical—after all, I'm not reviewing the place. Although if I were, I'd give it four stars. Not to be missed!)

On the other hand, says Brewsta, who launched Prague's first English-language food and drink blog, "Czech, Please," "The sushi scene is still expanding. The Chinese food is mostly awful. Pizza is fairly generic with a few exceptions. Three or four places do a good burger. Many do bad ones. A high quality sandwich is very hard to come by." The most common complaint I hear from the expats involves food shopping: not very fresh produce and a limited number of brands at the *potraviny* (grocery store).

There are reasons, of course, for such gastronomic failings: During the Cold War, as David Farley wrote in the *Washington Post*, "Czech law kept a short leash on the development of the country's cuisine by insisting that every new recipe undergo testing at the Ministry of Health before being offered to the public." The Czechs referred to two cookbooks published by the state—one for hot recipes, the other for cold.

Happily, those days of government tyranny are long gone. And there is no reason Prague cannot one day soon become another foodie capital. (Prices have certainly caught up to Western standards: Opening a jar of pistachios in my hotel room would have cost me $17. More disconcerting, Starbucks has arrived.) I only hope that in their quest for better eating, the Czechs do not abandon such traditional fare as the breakfast I once had at Radio Free Europe's café: a fried egg, hash browns, bacon, a tuna salad, and something they called meatloaf, but which bore a greater resemblance to spam. Either way it tasted fine by me—and it probably contained trans fats.

Victorino Matus

the weekly Standard

More Partisan Hackery

Late Friday afternoon, Silvestre Reyes, chairman of the House Intelligence Committee, announced that his panel would be undertaking a formal investigation of the CIA. The ostensible subject of the probe is a highly classified program that targeted al Qaeda leaders for assassination and which CIA director Leon Panetta briefed the committee about on June 24.

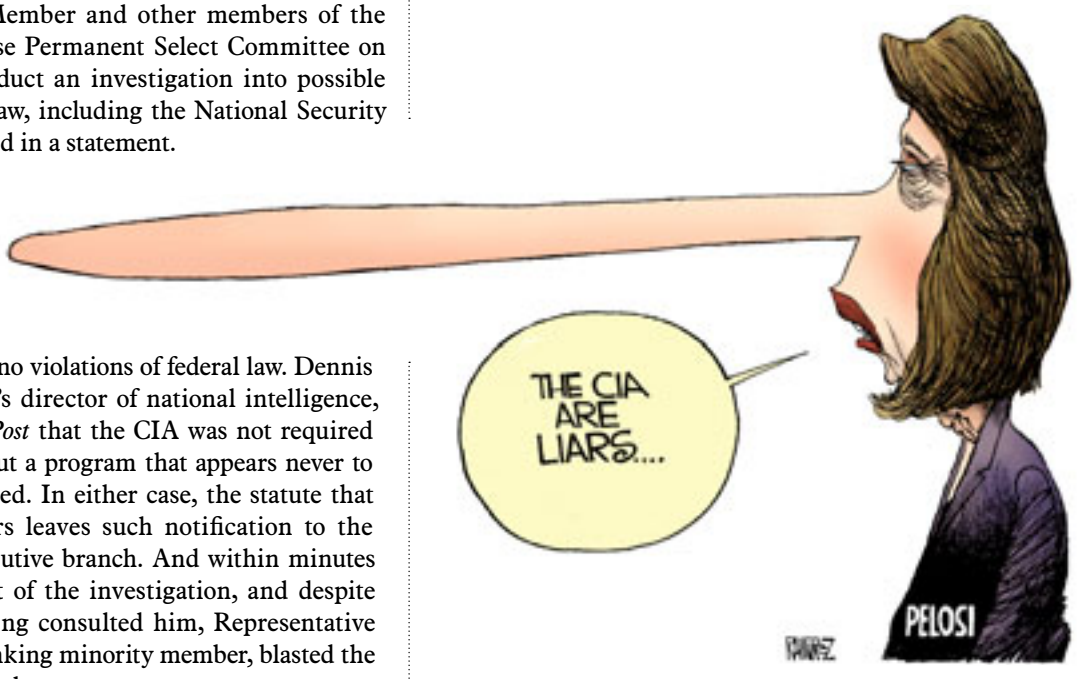
"After careful consideration and consultation with the Ranking Minority Member and other members of the Committee, the House Permanent Select Committee on Intelligence will conduct an investigation into possible violations of federal law, including the National Security Act of 1947," Reyes said in a statement.

Let us offer to save the distinguished chairman some time, and the taxpayers some money: Forget it. There were no violations of federal law. Dennis Blair, Barack Obama's director of national intelligence, told the *Washington Post* that the CIA was not required to brief Congress about a program that appears never to have been implemented. In either case, the statute that governs these matters leaves such notification to the discretion of the executive branch. And within minutes of the announcement of the investigation, and despite Reyes's claim of having consulted him, Representative Pete Hoekstra, the ranking minority member, blasted the probe as "partisan" hackery.

Reyes is undertaking the investigation for two obvious reasons. One, House Democrats believe that exposing details of the planned program will embarrass the Bush administration (and still-serving Republicans). But more important, Democrats want to provide cover for Nancy Pelosi, who made reckless claims about the CIA months ago and has been unable to back them up. In short, it's all political.

First, the program itself: On June 23, officials from the CIA's counterterrorism center told Panetta they wanted to activate a dormant program that was intended to use U.S. assets—including military contractors, sources tell The Weekly Standard—to assassinate al Qaeda leaders. It was the first Panetta had learned of the program. He didn't like it, cancelled it, and hastily arranged to brief Congress.

The next day, Panetta told the House Intelligence Committee that former Vice President Dick Cheney had instructed the CIA not to brief Congress on the program. Sources tell us that Cheney's actual instruction was not to brief Congress on the program until it "crossed a certain threshold"—that is, until it was activated. The program in fact was an "on-again, off-again" plan that received some funding but never became fully operational. "No one ever pulled a trigger," one source explained, so Cheney's threshold was never crossed. Cheney worried about the possibility of leaks—a concern that seems well-founded given the number of details revealed publicly within days of the program being explained by Panetta in a classified session.



Second, the investigation: Nancy Pelosi made her friend Reyes chairman of the House Intelligence panel. She has been battling the CIA for months about whether she was told—in a briefing on September 4, 2002—that the CIA was waterboarding terrorists. Porter Goss, then chairman of the House Intelligence Committee, attended the briefing and confirmed the CIA's account. Indeed, he says Pelosi joined him in asking whether the CIA was doing enough to obtain information from detainees.

Pelosi has repeatedly denied all of this. "We were not—

I repeat—were not told that waterboarding or any of these other enhanced interrogation methods were used," she said in April. The CIA, she claimed, "did not tell us they were using that, flat out. And any, any contention to the contrary is simply not true."

On May 5, in the face of Pelosi's denials, the CIA released a contemporaneous account of the briefing Pelosi attended that directly contradicts her account. "Briefing on EITs [Enhanced Interrogation Techniques] including use of EITs on Abu Zubaydah, background on [legal] authorities, and a description of the particular EITs that had been employed."

On May 14, Pelosi used her weekly press conference to accuse CIA officials of lying. This remarkable claim prompted follow-up questions from reporters unsure whether they'd heard her correctly. They had. "Yes," Pelosi reiterated, "I am saying the CIA was misleading the Congress."

The next day, Panetta decried Pelosi's allegations in a letter to the CIA workforce. "Let me be clear: It is not our policy or practice to mislead Congress. It is against our laws and our values."

The story had largely disappeared from the front pages until early this month, when House Democrats leaked to the press a letter they had written Panetta demanding that the CIA director "correct" his claim—in effect, asking him to acknowledge that the CIA did routinely lie to Congress. On June 26, they wrote:

> Recently you testified that you have determined that top CIA officials have concealed significant actions from all Members of Congress, and misled Members for a number of years from 2001 to this week. This is similar to other deceptions of which we are aware from other recent periods. In light of your testimony, we ask that you publicly correct your statement of May 15, 2009.

The CIA denied that Panetta said any such thing in his testimony, and Panetta, not surprisingly, declined the invitation to insult his agency. "Director Panetta stands by his May 15 statement. It is not the policy or practice of the CIA to mislead Congress," said CIA spokesman George Little.

Some Democrats say that their interest in proving that the CIA misleads Congress is separate and apart from Nancy Pelosi's claim that the CIA misleads Congress. Others are more candid: On Saturday, July 12, *Politico* published an article under the headline: "Jan Schakowsky: Dick Cheney's Program Validates Nancy Pelosi."

"It certainly confirms her characterization of the level of openness the intelligence community and the CIA have given to Congress," said Schakowsky, the Illinois Democrat who chairs the House Intelligence Committee's subcommittee on investigations and oversight and has taken the lead in pressing for the investigation. Asked if the revelation of the program on June 24 validates Pelosi's claim that the CIA misleads Congress, Schakowsky said: "Absolutely."

So what about that June 24 briefing, where Panetta apparently tried to deflect attention from his fight with Pelosi by making an issue of Cheney's reluctance to brief Congress about the planned assassination program? Presumably the administration and congressional Democrats are relieved to be able to unite (more or less—Dennis Blair apparently didn't get the memo) against a man they love to attack.

Some Democrats say that their interest in proving that the CIA misleads Congress is separate from Nancy Pelosi's claim that the CIA misleads Congress. Others are more candid: Politico published an article: 'Jan Schakowsky: Dick Cheney's Program Validates Nancy Pelosi.'

Of course, last time they went after Cheney—in the controversy over the Justice Department memos on enhanced interrogation techniques—Cheney fought back effectively. He demanded the release of CIA memos which he said would show that the techniques worked. Similarly House Republicans have asked for all documentation related to Pelosi's briefings on enhanced interrogation techniques (which are said to include a slide show presented to her on September 4, 2002). The Obama administration, the self-proclaimed "most-transparent administration in history," continues to stonewall on the release of the Cheney memos and the Pelosi documents.

So the Democrats' position seems to be:

One: We in the Obama administration get to choose to release only what is politically opportune to release.

Two: We in Congress investigate only what and when it's politically opportune to investigate.

Three: As a matter of policy, we apparently shouldn't try too hard to kill al Qaeda leaders (except if it can be done by aerial attacks).

And four: We in Congress don't need to keep classified programs secret once we're briefed on them.

In the forthcoming debate between President Obama and the Democratic Congress, on the one hand, and Dick Cheney on the other, we'll be betting again on Cheney.

—Stephen F. Hayes and William Kristol

Politicized Capitalism

Boss Obama takes charge of the economy.

by Fred Barnes

President Obama is ushering in an era of politicized capitalism. Since he took office, corporate heads and business executives more and more look to Washington as the wellspring of financial success. And politicians and government officials have much to offer them: grants, loans, loan guarantees, subsidies, contracts, tax credits, regulatory and legal advantages of one kind or another over competitors, even guaranteed profits. Tempting stuff, for sure, and businesses are increasingly unable to resist. This is not a healthy trend.

The distinction here is with America's traditional system of market capitalism, which requires companies and entrepreneurs to compete in the marketplace. Except with President Franklin Roosevelt's New Deal in the 1930s and during wartime—when government officials intervened aggressively in the economy—this has been the dominant form of capitalism in America. It's allowed Americans to become the most prosperous people in the world.

The two types of capitalism exist in stark contrast in the American auto industry. General Motors and Chrysler have survived thanks to billions from the Obama administration and forgiveness of billions more in loans and other obligations. GM and Chrysler are now wards of the federal government, which picks their CEOs, names their boards, and can tell them which cars to manufacture.

Then there's Ford, also a money loser in recent years. It turned down a government bailout and now must pay back its loans in full. Ford decided to compete in the marketplace for the preference of consumers, not in Washington for donations from government. It has one advantage: It's a private corporation free of government control.

Politicized capitalism comes in many forms. The Troubled Asset Relief Program (TARP) has spent hundreds of billions to stabilize banks, including some that didn't need to be bailed out. TARP funds have also gone to insurance, finance, loan, and auto companies, among others. The Federal Reserve and the FDIC, while nominally independent, have followed Obama's lead and backed hundreds of billions in home loans and debt issuance. All this money—and the deference to Washington that comes with it—has reached deeply into the economy.

And Obama is eager to bring still more of the private sector under the government safety net. Big banks have paid back billions in TARP loans they received last year, but the administration has decided against using that money to reduce the deficit. Obama would rather spend it.

This was the headline of a *Washington Post* story on July 11: "White House Eyes Bailout Funds to Aid Small Firms." No doubt many firms would like cheap, subsidized loans from Washington, and they've begun pressing members of Congress for help in getting them. But a program of aid

GARY LOCKE

Fred Barnes is executive editor of The Weekly Standard.

to small business would be a significant departure from TARP's original mandate of rescuing shaky banks.

Politicized capitalism inevitably leads to crony capitalism, the rewarding of friends and supporters with economic favors. The bailout of GM and Chrysler was a boon to the United Auto Workers, which contributed lavishly to Obama's presidential campaign. His cap and trade energy program, which has passed the House, would reward favorites of the administration and congressional Democrats with valuable allowances to emit greenhouse gases.

Another beneficiary is Goldman Sachs, the Wall Street financial giant with allies, former (and probably future) employees, and protégés in key positions in Washington. Goldman was instantly converted into a bank holding company last fall—pre-Obama—and thus eligible for TARP funds. It gained from the bailout of AIG. The insurance company quickly paid back $13 billion it owed Goldman, and last week Goldman posted record profits.

What's wrong with all this? A lot. Market competition produces innovation and inventions. In the 1980s and 1990s, the greatest breakthroughs occurred in technology, the sector least regulated and favored by Washington—that is, the sector most resembling pure market capitalism. "Political capitalism," in contrast, simply "inhibits the ability of companies to operate as market entrepreneurs," says Burton W. Folsom, an economic historian at Hillsdale College in Michigan.

And since politicized capitalism includes efforts to redistribute income—this is especially true with Obama—it necessarily impedes a rise in the standard of living by stifling investment. It also leads, because politicians are involved, to class warfare. We see this today in the ugly disputes over bonuses at TARP-funded companies.

And there's something worse. "A little bit of political capitalism begets more," Folsom says. When government subsidizes businesses, "that's when it becomes harder to become a market entrepreneur." And the economy suffers. Obama doesn't appear to understand this.

He shares the worst economic instincts of his political hero, FDR. Like Roosevelt, he's had little practical experience in the private sector. Once the free market appears to have failed, today as in the Depression, government alone is seen as the answer. "With the private sector so weakened by this recession, the federal government is the only entity left with the resources to jolt our economy back into life," Obama said in February. And he thinks government is efficient. He suggested private insurers could learn from a government-run insurance program.

Politicized capitalism or market capitalism? Obama doesn't recognize a difference. He said "more than 90 percent of the jobs created by [the economic stimulus] will be in the private sector." True, but they'll be created and funded entirely by government.

Obama explained to a group of visitors recently why he doesn't favor tax cuts to promote private investment, growth, and jobs. Such incentives aren't needed, he said. By creating millions of jobs in a "green economy," his administration—government—will lead the way. Government investment in green technology is the "game changer," according to Obama. Private investors will see the light and follow by investing in this new economy.

Obama may not understand his own vision. It's bigger than anything FDR dreamed of. It is the triumph of politicized capitalism. ♦

Sotomayor v. Obama

A pseudo confirmation conversion.

BY TERRY EASTLAND

On the first day of the confirmation hearings for Judge Sonia Sotomayor, the *Washington Post* led with a story about how the hearings were "not just about" the nominee and the Senate's response to her. They were also about the struggle between the two parties over the direction of our courts. Liberals, reported the article, "hope an overwhelming vote for confirmation will encourage Obama to consider even more progressive [judicial] nominees in the future."

But then the hearings began, and something occurred that neither the *Post* nor any other news organization had anticipated: Sotomayor dissented from her sponsor's view of what a judge should be.

Over the years Obama has made clear his view that there is a small number of cases—5 percent, he has pegged it at—in which "legal process alone will not lead" a judge to a decision. Instead, to decide those few but clearly important cases—involving affirmative action, abortion, and other highly controversial matters—a judge must rely on his "deepest values," which are "supplied by what is in the judge's heart." Accordingly, "empathy," of a certain unspecified "depth and breadth" though clearly favoring progressive causes, is what Obama has said he wants in a judge. Indeed, in 2005, while still just a senator, Obama voted against the nomination of John Roberts precisely because, as he saw it, the nominee came up short on the empathy measure.

In her opening statement to the Senate Judiciary Committee, Sotomayor described her judicial philoso-

Terry Eastland is the publisher of THE WEEKLY STANDARD.

phy as "simple: fidelity to the law." She noted that her personal and professional experiences help her "listen and understand," but that the law commands the result "in every case." Not, you will note, in most cases. In her first exchange with a committee member—Chairman Patrick Leahy—Sotomayor observed that whether she herself finds a party "sympathetic or not," she does "what the law requires."

At this early point in hearings that would last four days, Sotomayor was already separating herself from Obama on the matter of empathy. Inevitably, the difference became explicit. Asked by Republican Jon Kyl whether she agreed with the president on the necessity of empathy—"what is in the judge's heart"—in deciding cases, Sotomayor said she didn't agree, adding that "he has to explain what he meant," but as for herself, "I can only explain what I think judges should do, which is [that] judges can't rely on what's in their heart. . . . The job of a judge is to apply the law. And so it's not the heart that compels conclusions in cases. It's the law."

Sotomayor would not have made her disagreement with Obama's jurisprudence of empathy so clear without the acquiescence of her White House handlers. In retrospect, it's apparent that Obama and his aides must have decided some weeks ago that his frequent talk of empathy was politically problematic, vulnerable as it has been to obvious and biting criticism. In announcing Sotomayor as his nominee on May 26, Obama did not use the word "empathy" even once, though he did say that in deciding some cases a judge needed "something more" than the law.

While it passed mostly unnoticed in press accounts of the hearings, the Judiciary Committee Democrats went happily along with Sotomayor's rejection of empathy jurisprudence. Where four years ago they were frustrated by Roberts's unwillingness to "go beyond the process of law," as Senator Richard Durbin asked him to do, or disclose his values and even "feelings," as Senator Dianne Feinstein implored him to do, this time the Democrats effectively celebrated the Roberts position.

"Your fidelity is first and foremost to the rule of law," Chuck Schumer told Sotomayor, "because, as you know, in the courtroom of a judge who ruled based on empathy, not law, one would expect that the most sympathetic plaintiffs would always win, but that's clearly not the case in your courtroom." Schumer then proceeded to discuss a series of cases in which Sotomayor had held against parties who had "clearly suffered a profound personal loss and tragedy and were looking to" her for justice. "In your courtroom," he gushed, "the rule of law always triumphs."

Sotomayor not only rejected empathy-based judging, she rejected any judging not based on the law—just as Roberts had. Thus, in an exchange with Republican senator Charles Grassley, Sotomayor said judges should not let "their personal feelings, beliefs, or value systems" influence their judging.

Republicans were frustrated with Sotomayor inasmuch as they agreed with her rhetoric about judging but worried whether she actually believed what she was saying.

Republicans were frustrated with Sotomayor inasmuch as they agreed with her rhetoric about judging but worried whether she actually believed what she was saying. They were mostly unable to find cases in which she had participated during her 17-year tenure as a federal judge that might call into question her declared approach to judging. One case they did query her on, persistently, was *Ricci* v. *DeStefano*, the now well-known New Haven case in which the city, acting on the basis of race, threw out test results that had they been certified would have led to promotions for high-scoring firefighters all but one of whom are white. Sotomayor sat on the three-judge panel that upheld the district court's summary judgment for the city, but the Supreme Court (just three weeks ago) reversed the panel, finding New Haven in violation of federal antidiscrimination law. If Sotomayor was siding with the city for reasons other than what she thought was a correct reading of the law, however, the Republicans could not prove that. They concluded that her record as a judge was "in the mainstream" (Senator John Cornyn) or at least "not . . . radical" (Senator Lindsey Graham).

A problem for Republican senators was that there seem to be two Sotomayors—not just the judge, but also a writer and speechmaker. And her writings and speeches, as Kyl put it, "appear to fit into what the president has described as this group of cases in which the legal process or the law simply doesn't give you the answer," and other grounds for decision may be used. When Republicans pressed Sotomayor about some of her off-the-bench statements, invariably she directed them back to her judicial record as the evidence showing she based her decisions only on the law.

The statement that most concerned Republicans was one she made not just once but on numerous occasions, in varying formulations. Here is how she put it in a 2001 lecture at the University of California Law School: "I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life." Within days of her nomination Sotomayor's advocates, including President Obama, were saying that it was "a poor choice of words." It was inevitable that Sotomayor, who spent 12 years on the board of the Puerto Rican Legal Defense and Educational Fund, would have to address that remark during the hearings. And she did, calling it "a rhetorical flourish that fell flat," a "play" on words that failed, and just plain "bad." Bad, she said; "it left an impression that I believed life experiences commanded a result in a case, but that's clearly not what I do as a judge."

It also left another impression, which she sought to erase in an exchange with Senator Leahy: "I want to state up front, unequivocally, and without

doubt, I do not believe that any ethnic, racial, or gender group has an advantage in sound judging," adding, "I do believe that every person has an equal opportunity to be a good and wise judge regardless of their background or life experiences."

By the end of the hearings, though, it was apparent that Sotomayor remains committed to the advancement of certain groups. Rejecting "identity politics" as a description of some of her activities off the bench, she said her speeches have "embrace[d] the concept" of helping to promote the "interests" of certain groups (most of all, females and Americans of Puerto Rican descent). Here, in exchanges with Senator Graham, Sotomayor was conceding her own political involvements, which, not surprisingly—she is a Democrat after all—are to the left. She maintained that her work as a judge was different, a point that Graham accepted. "I thank you," she told Graham, "for recognizing that my decisions have not shown me to be an advocate on behalf of any group. That's a . . . a dramatically different question [from] whether I follow the law."

Doubtless the Senate will confirm Sotomayor. She is the first nominee of a popular president in his first year on the job, and the Senate is overwhelmingly of the president's party. These are optimal conditions for Senate approval. On the Court, she will join its liberal wing, but because she is replacing one of the liberals she will not change the Court's ideological composition. And the questions largely unprobed in the hearings—just what she understands law to be; how the Constitution is to be interpreted and applied; what, if any, role legislative history should have in the interpretation of statutes—will be answered case by case.

Judging by not just her hearings but her years on the lower courts and her often confounding speeches and writings, it doesn't appear that Sotomayor will be a compelling exponent of judicial liberalism. A vote for it certainly, but nothing more. Meanwhile, the Sotomayor hearings have made it politically harder for Obama to advance via his nominees a judicial philosophy that goes "beyond the process of law" and embraces some new "constitutional vision," one that seeks to address what he described during his campaign as the country's "empathy [that word again] deficit." However wise it was tactically to pick Sotomayor—the first or second Hispanic named to the Court, depending on how you regard Benjamin Cardozo—the choice weakens Obama's ability to select "even more progressive" nominees. A small consolation for conservatives, I know, but, in this era of united Democratic government, one to be taken nonetheless. ♦

The Empire Strikes Back

China tries to suppress its minority problem.

BY ROSS TERRILL

A mob of Han Chinese attack a lone Uighur man in Urumqi.

NEWSCOM / AFP PHOTO / AFPTV / SAM BEATTIE

While the Chinese state often appears masterful in its dealings with the non-Chinese areas of the People's Republic of China (PRC) like Xinjiang and Tibet, it also seems alarmed at the volatility of its vast semi-empire.

Two weeks ago a false rumor about the rape of two Chinese (Han) women by Muslim Uighurs in a toy factory in the southern city of Shaoguan hit the Internet. In the resulting fights several Uighurs, who had been lured like many thousands to the non-Muslim south by work at high wages, were killed. Soon Xinjiang, the homeland of the Uighurs, which borders eight nations and is 2,000 miles from Shaoguan, was in turmoil. Hundreds were

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dead, and thousands of lives were derailed. President Hu Jintao rushed back from the G-8 summit in Rome to assert his authority.

In Urumqi, the capital of Xinjiang, Han bystanders said they were attacked without provocation by Uighurs. Han groups retaliated. Both sides received scraps of information from the toy factory by cell phone and email (until Beijing cut off all such communications). Events spun out of control when People's Armed Police fired on protesters, and rioters torched cars and shops. Predictably, troublemakers jumped in, police were attacked, and age-old resentments flared.

One cannot fault the Chinese police's actions in Xinjiang. Mostly they tried to keep order between Han and Uighur in a parlous situation. Given the passions on both sides, it may have been impossible for security forces to avoid deaths. We can, however, fault the underlying approach of Beijing to Xinjiang, its largest autonomous region.

None of the western half of the PRC—Inner Mongolia in the north, Tibet in the south, and Xinjiang between them—was historically Chinese. The Chinese dynasties always had trouble dealing with Muslim areas, more even than with Tibet. The emperors were unfamiliar with Islam. An emperor could not enter a mosque since he wasn't a Muslim. Islam implies a realm hidden from the state's gaze, a worry for the emperors as it today is for Hu Jintao.

Xinjiang is larger than the United Kingdom, France, Spain, and Italy put together. As recently as 1944 it was the separate state of East Turkistan. This desert land of mosques and oil is as different from east China as Japan is from Bangladesh. Thanks to Stalin, in 1949 it became part of Mao's new Chinese empire: secular Han ruling Uighurs and other Muslims.

Cecil Rhodes once remarked that to avoid civil war, you must have empire. This is China's approach in Xinjiang (and Tibet). Han wear the uniforms and give the orders, minority languages have been phased out of schools, and mosques are treated as hostile zones.

Zhao Ziyang, the number two figure in the Chinese Communist government in the 1980s—he fell from power during the Tiananmen crisis of 1989—once asked Deng Xiaoping's son: "How come when we're so nice to those intellectuals, they turn round and oppose us?" Beijing today can't understand why affirmative action and the many concessions given to Uighurs bring only further defiance. But Muslims in western China want something hard for Beijing to give: space to be themselves, to disappear into a mosque for the hour of Friday prayers, to write a nihilistic poem or an essay that says Marxism is mistaken.

While the development of the west has never matched the speed and success of that in the coastal areas, Xinjiang has advanced economically. The government says GDP in Xinjiang leaped from $28 billion in 2004 to $60 billion in 2008, and that life expectancy has doubled over the 60 years of the PRC. The trouble is that Xinjiang society is Chinese-style apartheid. The pain of Han-Uighur tension outweighs the pleasure of rising incomes. Economic success recasts but does not remove empire.

We can begin to understand Beijing's imperial cast of mind by considering that Chinese school children are told Xinjiang has been part of China for two millennia since the Han Dynasty (false: only the Qing Dynasty, 1644-1911, incorporated Xinjiang into China). In one spectacle at the Beijing Olympics, "minority children" were dressed in the costumes of Xinjiang, Mongolia, Tibet, and so on, but every child was Han.

On two trips to Xinjiang in recent years, I found a tense and strident atmosphere. Radio and newspapers spoke of Mao Zedong Thought, class struggle, and the danger of enemies undermining the unity of the PRC. One day in the oasis city of Turfan I heard a radio message in Mandarin Chinese: "Every friend of ours in religious circles [i.e. restive Muslims] should recognize that only the Chinese Communist party represents the interests of the people of all ethnic groups."

Deng once said in a moment of insight: "The loudest thunder comes from dead silence. We are not afraid of the masses speaking up; what we do fear is ten thousand horses standing mute." The sullen silence of repressed Uighurs can mislead. Deng knew it, Hu knows it.

When I went to cross the western border of Xinjiang into Kazakhstan, every inch of my luggage, papers, clothes, and toilet gear was inspected by Chinese immigration officials. In triumph one declared, "You have taken our local newspapers!" He pulled out from the rubble of my luggage newspapers from Xian and Shanghai. "You should know with your experience that it is illegal to take local [non-Beijing] papers out of China." He folded the two newspapers under his arm, my passport inside them, and disappeared for an hour. The train had to wait. A rule from the Mao era, long disregarded in eastern China, was being used against me. Mother China watches especially closely in Xinjiang.

The present crisis began, not with demonstrations against the government, but with Uighur and Han trashing each other. Social group came up against social group. "They don't speak Chinese!" Han cried of Uighur "rapists" in the south. "They steal!"

The Chinese government quickly publicized the Urumqi riots, contrary to its longstanding practice, believing that pictures of the confrontation and carnage would arouse Han feeling on the government side. True enough, racial emotions surfaced. Uighur "are all terrorists," some Han shouted. "They're spoiled like pandas," said a woman irritated with the preferential treatment that Uighurs have received from Beijing.

The Han and Uighur truly dislike each other. Emotions run deeper than between Han and Tibetan or between Han and Mongol and argue against any hope that economic development will work its magic.

But there's larger trouble for Beijing. Turkey, Saudi Arabia, Kazakhstan, and other Muslim countries have been displaying sympathy for their brothers in Xinjiang and being rebuked by Beijing

as a result. Last week Turkish prime minister Tayyip Erdogan said, "The incidents in China are, simply put, a genocide. There's no point in interpreting this otherwise."

On top of this, there may be different views in the politburo about how to handle ethnic unrest. President Hu's career was shaped in non-Han areas, and his sensitivity to minority issues helps explain his unprecedented departure from an international summit to handle a domestic crisis. Under Hu, national security white papers from the military openly mention independence for Xinjiang and Tibet as threats to China. But his recipe for "stability"—guns plus propaganda—is not necessarily shared by every senior colleague. Some of the Communist rising stars below the politburo wonder if a non-Han empire is a liability to China's modern image and smiling international stance.

Still, without a major international dispute or a party split, Hu may well pull off the Communist melting pot strategy in Xinjiang (and Tibet). Muslims may be softened by growing prosperity and Xinjiang integrated internationally by the new rail, road, and pipeline links. Modernization may overcome apartheid.

Yet even so, at some point the new China must throw up a political system that allows minorities more latitude. The PRC is more populous than Europe and South and North America put together. In the United States, Mormon, Puerto Rican, Wall Street titan, Southern Baptist, Hawaiian hippie, Harvard professor, Amish grandma, Californian anarchist—thousands of such varied types coexist decade after decade. All are peas in a pod at election time or before a judge; each person is merely, and proudly, a citizen in the United States of America. The diversity is not lethal; in fact each election with the result accepted by all parties cements a unity deeper than the diversity. America's cacophony and fundamental stability are both missing in Xinjiang. Federalism is what China needs to gain true unity and stability. But it cannot come until the rule of law arrives first. ♦

Veiled Threat

France against the burqa.

BY OLIVIER GUITTA

In his speech in Cairo, President Obama mentioned no less than three times the headscarf sometimes worn by Muslim women. Each time, his purpose was to stress "the right of women and girls to wear the *hijab*"—but never their right not to wear it. It was as if it had never occurred to the president that this sartorial practice could be anything but wholly voluntary.

The French, whose 2004 ban on the *hijab* and other religious attire in public schools Obama was indirectly criticizing, are more attuned to the use of the headscarf as an instrument of domination by religious extremists. It was Muslim women seeking relief from pressure to cover themselves whose complaints led ultimately to the French ban. Now the issue has cropped up again in the form of a call, endorsed by French president Nicolas Sarkozy, to ban the total veiling of the face.

It all started in mid-June when André Gérin, the Communist mayor of Vénissieux, a suburb of Lyon, who is also a member of the National Assembly, proposed a parliamentary commission to investigate the *burqa* (an outer garment covering a woman from head to toe) and the *niqab* (which veils the whole face except the eyes) as oppressive to women. His resolution stated:

> A woman wearing a *burqa* or a *niqab* is in a state of unbearable isolation, exclusion, and humiliation. Her very existence is denied. The sight of these imprisoned women is intolerable when it comes to us from Iran, Afghanistan, Saudi Arabia, or other Arab countries. It is totally unacceptable on the soil of the French Republic.

A few days later, in a historic address to parliament, Sarkozy said the *burqa* is not "welcome in France." This "is not a religious issue," the president said, "but rather a question of freedom and of women's dignity."

Neither the *burqa* nor the *niqab* is common in France, but their precise incidence is unknown. According to Gérin, more than 100 women in Vénissieux (which has a population of 60,000) wear the *burqa*. About a dozen of the 200 or so marriages solemnized each year at the town hall are problematic for officials because the husband refuses to allow his wife to remove her covering. One local official recounted that a man covered his wife's picture on her ID because he did not want the clerk to see her face.

According to Abdelali Mamoun, an imam in Guyancourt, near Paris, the number of "ninja women"—the slang term for women in *burqas* or *niqabs*—is growing exponentially. Of the Islamists who are behind this trend he said, "Even if they are not jihadists, they hate the West, they spit on the *kuffars*, the infidels, but they take advantage of all the French social services instead of settling in a Muslim land as dictated by their doctrine. Their duplicity hurts French Muslims."

Not everyone agrees. A young Moroccan woman named Faiza, who had moved to France in 2000 with her new husband and who wears a *niqab*, became something of a celebrity in June 2008, when the authorities refused to grant her French citizenship. The reason: Her "radical practice of her religion" produces "behavior incompatible with the

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essential values of the French community, especially the principle of equality of the sexes." Interestingly, Faiza does not come from a highly religious family; she adopted an Islamist way of life only after arriving in France. Still, her husband couldn't see what was so shocking about the *niqab*. "We, too, are shocked by certain things," he said, "fags living together openly, couples that don't get married, half-naked women in the streets." He and Faiza tried to emigrate to their dream country, Saudi Arabia, but gave up in the face of bureaucratic complications. Still, they keep in touch with a Saudi "religious adviser" who gives them guidance for everyday life.

Fadela Amara, secretary of state for urban policies and former president of a feminist organization defending Muslim women, *Ni Putes Ni Soumises* (Neither whores, nor submissives), has urged the banning of the *burqa*. Said Amara, herself a Muslim, "The *burqa* confiscates a woman's existence. By and large, those who wear it are victims. . . . I favor banning this coffin for women's basic liberties. . . . The *burqa* is proof of the presence of Muslim fundamentalists on our soil and of the politicization of Islam."

Some women on the left, whether Greens or Socialists, respond that a ban would solve nothing and would result in some Muslim women's being totally sequestered in their homes. To which Amara responds, "Freedom is not negotiable. I would ask those who oppose the proposal to try wearing a *burqa*." Because of her outspoken position, Amara has received death threats, and two men have been arrested.

Les Demoiselles de Marseille

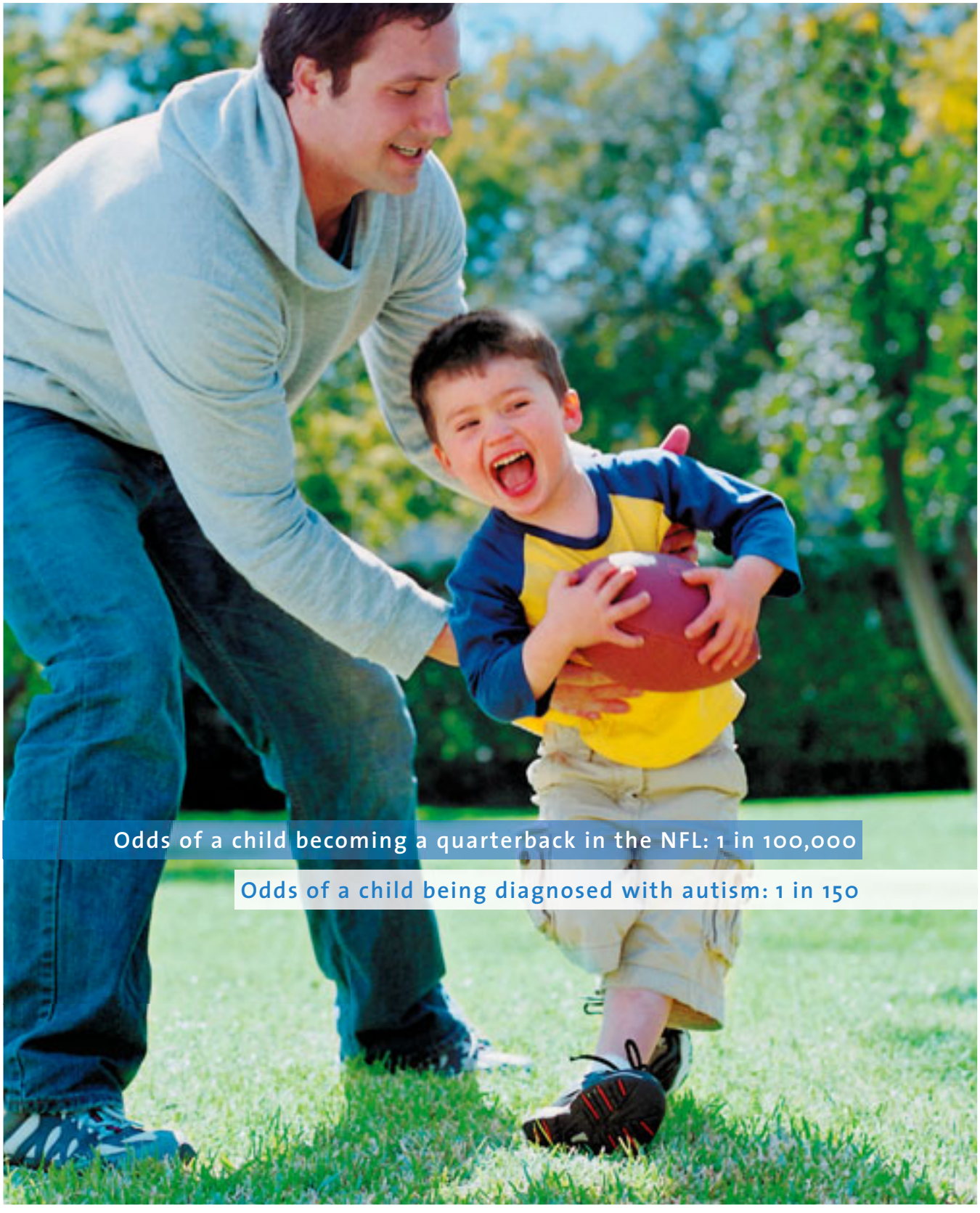
ASSOCIATED PRESS / CLAUDE PARIS

Indeed, even conservative Muslims are not exempt from the wrath of the extremists. One imam close to the French branch of the Muslim Brotherhood, the UOIF (*Union des Organisations Islamiques de France*), was recently assaulted by two radicals for failing to defend Muslims with sufficient vigor on a TV talk show. The imam had clearly stated he opposed banning the *burqa* and had sharply criticized secularism. But that was not enough for his assailants, who insisted he should have actually endorsed the *burqa*.

Of the major Muslim organizations in France, the UOIF comes closest to doing so: It acknowledges that some religious leaders call for the wearing of the *burqa*. While other groups note that such covering is not required by the Koran, none goes so far as to condemn the *burqa*. Interestingly, all the Muslim organizations agree that the state should not get involved in the issue. The president of the French Muslim Council said he was shocked by the debate, which he regarded as stigmatizing Islam. As for French Muslims generally, a large majority of them are secular and therefore are not represented by the organizations participating in the French Muslim Council. Most do not expect women to wear even the *hijab*, much less to cover their faces.

For now, the matter is in the hands of the 32-member parliamentary commission created by Gérin's resolution, which is due to report its findings on the *burqa* and the *niqab* in January 2010. It is surprising that the issue has generated so much controversy, considering that others in Europe have paved the way. In Holland, face coverings are forbidden in schools and public transportation; in Sweden, Italy, Luxembourg, and some Belgian cities, the *burqa* is banned.

The Arab media, especially the Saudi press, have provided obsessive daily coverage of these developments. Every commentator concludes that France is a dreadful, bigoted place. One column in *Al Riyadh* depicted France as a land of Crusaders propagating an ideology of racism and hatred of Islam and the Koran. To prove his point, the columnist noted that the French government had been harassing "its good citizen" Roger Garaudy, an infamous Holocaust denier who converted to Islam. The writer took comfort only in the thought that this France won't be around much longer, since it will have a Muslim majority by 2050. ♦



Some signs to look for:

No big smiles or other joyful expressions by 6 months.

No babbling by 12 months.

No words by 16 months.

To learn more of the signs of autism, visit autismspeaks.org

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Comrades in Arms

The Honduran 'coup' is a victory for constitutionalism and a setback for Venezuelan dictator Hugo Chávez.

By Christopher Caldwell

Tegucigalpa

The streets of Honduras's capital have been filled with two groups of marchers and protesters in the weeks since June 28. That was the day that president José Manuel "Mel" Zelaya Rosales was removed from power by an order of the supreme court, arrested by the army, and sent into exile in Costa Rica. The national congress later voted almost unanimously to accept Zelaya's resignation, a resignation Zelaya denies having signed. On most days now, there are demonstrations on behalf of "civil society." Businessmen, women's groups, and church groups assemble, dressed in white. They call for "democracy and peace" and praise their country's institutions for having stood up to a democratically elected president who tried to destroy the constitution and set himself up as a strongman.

Manuel Zelaya, the ousted president of Honduras

ASSOCIATED PRESS / ESTEBAN FELIX

There are also demonstrations by the Melistas. These are a combination of trade unionists, young political activists, and poor people. In these protests, most of the participants wear red and excoriate the new government for having plotted a *golpe*, or coup d'état. The white marches tend to be better attended than the red ones—when he was ousted, Zelaya was the least popular leader in Latin America—but the red marches are having more effect. They are meant to block main roads into the city for hours at a time. They result sometimes in a lot of smashed glass and always in a spectacular efflorescence of graffiti. There are insults to the cardinal, the head of the army, and the current president, Roberto Micheletti, the former president of the congress, whom the red protesters call (following a joke by the Venezuelan strongman Hugo Chávez) "*Goriletti*" or "*Pinocheletti*." There are elaborate stenciled caricatures and simple statements like: "*Golpistas* out!"

Written in big letters on the national stadium on the edge of downtown Tegucigalpa last week was a red slogan that summed up the stakes of the controversy: *Nuestro Norte es en el Sur*, "Our north is in the south." *El Norte* has generally meant the United States, the economic, military and social behemoth of the hemisphere. Zelaya's people now look south to Hugo Chávez's Venezuela as their preferred hegemon and model. Chávez, who staged a bloody failed coup in Caracas in 1992, took power democratically in 1998. Through a series of referenda and enabling acts, and the crafty use of Venezuela's oil revenues, he has managed to dismantle the country's democracy from within and alter the constitution in such a way that he can rule until the decade after next.

Chávez has acted abroad with similar resourcefulness. When he arrived in power, he was Fidel Castro's lone declared ally in Latin America. Now he stands at the head of a "Bolivarian" bloc called ALBA, which includes the

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Cuba's vice president Jose Machado, Daniel Ortega of Nicaragua, Hugo Chávez, Evo Morales of Bolivia, and Manuel Zelaya in Caracas

REUTERS / HO-MIRAFLORES PALACE

Bolivia of Evo Morales, the Ecuador of Rafael Correa, the Nicaragua of Daniel Ortega, the Cuba of Raúl Castro, and—from last summer until a few weeks ago—the Honduras of Mel Zelaya. It was the belief that Zelaya was in the course of following Chávez's antidemocratic model, summoning mobs into the streets and trying to hold an illegal election, that prompted the legislature to call for his arrest. Zelaya has not renounced power. His aides have threatened to fight if negotiations do not succeed in regaining the presidency for him. Chávez has mentioned invading Honduras. What is discomfiting to Hondurans—a plurality of whom favor Zelaya's ouster—is that the United Nations, the Organization of American States, the European Union, and the United States all have taken the side of Chávez.

Zelaya comes from a prominent cattle-ranching family in the rural state of Olancho. His father has the reputation of having been a brute during the Honduran dictatorships of the 1970s. When Zelaya came to power, he was considered a sort of Central American George W. Bush. He affects cowboy hats and is reckless, simpático, and homespun. Tegucigalpa, like Washington, favors politicians who are *listo*—witty, brilliant, quick on their feet—and he is nothing of the sort. He is easily underestimated. "How is it," says one former U.S. diplomat in the region, "that this guy who's not so smart has, even as a lame duck, dominated political discourse, scared the hell out of the economic establishment, and spooked out the whole middle class?"

Political parties are not very ideological in Honduras. Zelaya came to power as a centrist member of the Liberal party, which has dominated Honduran politics since the end of the Cold War. Zelaya had always been preoccupied with the poor, who are numerous in Honduras, and had done a lot of good things for them. As head of the government social-services agency under two Liberal governments, he built latrines, health centers, and schools, not to mention a network of enthusiasts. By the time he got to power he was skilled at setting up town hall meetings in local villages and using local radio effectively. He made school lunch programs and mobile clinics a priority. He raised the minimum wage from $170 to $270 a month. (Which probably drove up unemployment, but that is a different argument.)

His government was also credibly alleged to be corrupt. The national budget was supposed to be passed by September 2008, but that never happened. So the Zelaya government has worked in cash. Starting in 2007, certain federal aid to municipalities—including millions meant to be channeled through a national program called the Reduction of Poverty Strategy—stopped coming, according to Mayor Manuel Torres of Valle de Angeles. Since Zelaya's departure, the new government has released bank videotapes showing his top aide, Enrique Flores Lanza, removing money, allegedly 40 million lempiras ($2 million), from the Central Bank on a little rolling cart. Transparency International ranks Honduras 126th of 180 countries on its Corruption Perception Index.

Although some diplomats were alarmed at Zelaya's

seeming obsession with getting the United States to vacate its air base at Palmerola (an obsession he shared with Hugo Chávez), no one paid much attention to him for his first two years in power. But in 2007 he suddenly, as one Honduran journalist put it, became the president "of some, not all, Hondurans." He began to attack the rich, the Organization of American States, and the "Empire" to the north. Most people attributed his new stridency to the sway of two people. First was Patricia Rodas Baca, the brilliant and beautiful leftist adviser whom Zelaya would make his foreign minister. Rodas, the daughter of a revered Liberal statesman, had spent much of her youth in Sandinista Nicaragua and part of her education in Cuba. She helped draw Zelaya into a closer attachment to his second big influence, Hugo Chávez.

In the spring of 2008, Zelaya brought Honduras into PetroCaribe, a deal whereby Chávez offers deep discounts and generous financing for the oil and gas Venezuela exports. That was Chávez's foot in the door, and his influence grew preponderant almost overnight. Venezuela now holds more than a third of Honduras's foreign debt. In August 2008, Zelaya proposed bringing Honduras into ALBA, Chávez's "alternative" to U.S. trade pacts. What is curious about this is that Honduras was able to negotiate and sign this agreement without ever being worried that its trade relations with the United States under the Central American Free Trade Agreement would be jeopardized. Apparently the Bush administration was done by that point with demanding answers to the question of whether you're with us or against us.

The fidelista Chávez understood something truly new: He could take power through the democratic order in which he didn't believe, under its own rules, by means of a plebiscite.

ALBA is a highly ideological organization. "It wasn't a free-trade agreement, with norms and that sort of thing," one Tegucigalpa businesswoman told me. "It was a devil's pact with Venezuela." A lot of strange stuff came up in negotiations that Hondurans did not understand—mentions of military cooperation, for instance, although that part was not ratified. Unease over the agreement led the National party, Honduras's main opposition party, to boycott the vote on ratifying the ALBA treaty. But the Liberals managed to squeak it through. They were led by Micheletti, who—just to let you see how complicated the political arrangements are—was one of Zelaya's close political allies at the time. Martha Lorena Casco, a Liberal who had campaigned with Zelaya in 2005 and is now a member of Micheletti's government, was the only member of her party to vote against it. She said, "ALBA is Chávez and Chávez is ALBA."

Chávez came to Honduras for the signing of the ALBA treaty. He accused Honduran businessmen of selling out their country, and called them "*piti-yanquis*," which is apparently some kind of insult if you're Venezuelan. Zelaya said, "Honduras did not ask permission from any imperialist country to join ALBA." Back in the late 1980s, international opinion counted it a big threat to Honduras's national autonomy when U.S. military aid rose to $77 million at the end of Ronald Reagan's first term. Recently the think tank CIECA, based in the Dominican Republic, estimated that Venezuela had spent $624 million in public funds in Honduras in the last year and a half. Yet one hears surprisingly few complaints about a foreign power using its wealth to bend a small and vulnerable Central American state to its will.

Except, of course, in Honduras itself. There, Zelaya grew steadily less popular. His approval ratings fell well below 30 percent. Despite that, in March he called for a referendum on holding a constitutional convention, a tactic straight out of the Venezuelan playbook. As the Mexican historian Enrique Krauze puts it in his authoritative book on Chávez, *The Power and the Delirium*, this playbook means achieving revolutionary ends through nonrevolutionary means:

> The *fidelista* Chávez understood (or was made to understand) something truly new: He could take power through the democratic order in which he didn't believe, under its own rules, by means of a plebiscite, in order to then eviscerate it, dominate it, and build—once and for all—a revolutionary order.

The plebiscitary route would conceivably permit Zelaya to stay in office longer than the four months he had left to him. This, indeed, was what most Hondurans expected, should the vote pass. Zelaya's planned referendum was unconstitutional. So he renamed it a "poll." But that did not solve the constitutional problem. For a president to reopen constitutional questions this way is the Honduran equivalent of what in America would be called a high crime. This is perhaps the least understood part of the episode, and a bit of constitutional background is necessary.

Honduras has had 17 constitutions. The present one, written in 1982, has lasted longer than any of the others. Like the German Basic Law of 1949, it was written in the wake of a catastrophic episode of authoritarianism (in Honduras the

episode was a series of military coups), and it contains a lot of inefficient-looking checks designed to make a repetition of that catastrophe impossible. One of these checks is term limits. Another is a clear placing of authority to alter the constitution with the legislative branch. And there are a handful of "*articulos petreos*"—articles of the constitution that are deemed written in stone. Even to propose altering them can be grounds for removal from office.

The supreme court twice declared the planned referendum or poll unconstitutional and illegal. Zelaya ordered television stations to continue to run public service announcements and ads for it anyway, assuring them that "he" (the government? Chávez?) would pay their fines. When the ballots, which were printed in Venezuela, arrived in the country, the court ordered them confiscated. They were held on a military base at the airport. Zelaya fired the commander in chief of the armed forces who had obeyed the court order. The court ruled this act unconstitutional, too. Zelaya gathered a mob of 300 people, led them into the base, loaded thousands of the ballots onto a truck, and drove them away. The supreme court ordered Zelaya arrested. The armed forces carried out the arrest on the morning the poll was to take place and flew Zelaya to Costa Rica. Then the legislature voted to oust him.

Was this a coup? It certainly had some of the elements of a coup—the decision to expatriate Zelaya rather than taking him to jail has been criticized even by supporters of the Micheletti government. In the days after the arrest, an 11 P.M.-4 A.M. curfew was imposed, and there was a blackout of some news media on the following Sunday, when Zelaya attempted (and failed) to reenter the country by plane. But otherwise, his removal was carried out quite constitutionally. Although it doesn't affect the rightness or wrongness of his removal, it is worth noting that, until a very late stage, Hondurans were uncertain whether the army would obey the supreme court's orders or defy the court by backing Zelaya. A case can be made, of course, that it was Zelaya who was attempting a coup of the sort, familiar through Latin American history, in which a president converts himself into a president-for-life. The constitutional articles Zelaya fell afoul of were the very ones meant to impede coups.

What makes the "international community" deaf to this narrative? A couple of things. One is that Latin American constitutions are not big on process. The Honduran constitution is democratic, it specifies a separation of powers (which stood up impressively to a headstrong executive), and for 27 years it has effectively prevented coups in one of the most coup-prone corners of the planet. But it does not have an impeachment process, and this made it seem natural to send the army to do a policeman's job. This is a flaw. But when I mentioned it to Henry Merriam, the former mayor of Tegucigalpa and a leader of the Civic Democratic Union (the white-shirted demonstrators), he replied, "We made one mistake. Now the rest of the world is going to make us pay with our freedom."

Another source of disrespect for the constitutional case against Zelaya is that the constitution has often been honored in the breach. Defenders of Zelaya say that his opponents have become constitutionalists only out of convenience. One top official in his government made a point similar to the one Merriam made: "This is the people who own the country taking advantage of a mistake to remove a democratically elected president they didn't like."

Both sides also draw precedents from other countries to justify their positions. Zelaya's opponents note that when Jorge Serrano was removed under similar circumstances in Guatemala in 1993, or when Lucio Gutiérrez was ousted from Ecuador in 2002, there were no outcries from the world's bien-pensants, possibly because neither Serrano nor Gutiérrez was a tribune of leftist revolution. Zelaya's defenders say that the United States ought not take the case against him too seriously, since in 2004 it winked at a similar amendment of the constitution to avoid term limits by Álvaro Uribe of Colombia.

A good case can be made that it was Zelaya who was attempting a coup of the kind, familiar through Latin American history, in which a president converts himself into a president-for-life.

A plurality of Hondurans (41 percent) are happy about the ousting of Zelaya, according to a local poll, while a quarter (28 percent) oppose it. The cardinal of Tegucigalpa, Óscar Andrés Rodríguez Maradiaga (who has been rumored a likely pope), has called on Zelaya not to come back, for fear of sparking a "bloodbath." Ramón Custodio López, a leftist from the days of the contras who has been Honduras's human rights commissioner for many years, doesn't think he should come back either.

Honduras, which is (after Nicaragua) the second-poorest country in Central America, is not out of the woods. It is about to come under serious economic pressure. Chávez has shut off the oil he had been sending. Honduras can survive that. It can probably survive the decrease in remittances from the global economic downturn, too, even though these have come to make up 30 percent of its GNP in recent years. What it

Zelaya supporters clash with soldiers near the presidential residence, June 29

ASSOCIATED PRESS / ESTEBAN FELIX

cannot survive is isolation from its main trading partners, starting with the United States.

Understanding this weakness, Chávez has sought to bring the United States into a more active role on his side. He began by openly urging President Obama to do something, a bizarre role for a critic of U.S. imperialism. In recent days, he has said, "It was the Department of State that did this coup, I don't have the slightest doubt." Given that the U.S. ambassador in Honduras provided security for Zelaya's family in the days after the coup, this would seem an unlikely accusation. According to one report late this week, Chávez believes the State Department did its supposed dirty work without informing Barack Obama.

Zelaya and his supporters are now pursuing, rhetorically at least, a two-track strategy: They will return either as the darlings of the "pro-democracy" movement or through violence. Zelaya continues negotiating in Costa Rica with that country's ex-president, the Nobel Peace laureate Oscar Arias. According to Arias, "the reestablishment of constitutional order passes through the restitution of President José Manuel Zelaya." If the talks don't work, Zelaya says, "we will proceed with other methods." He notes that the Honduran constitution contains a "right to rebellion." Rodas in Bolivia on Thursday said Zelaya was on his way back into Honduras, where he would set up a rallying point for the "final battle." It sounds like a kind of Central American Republic of Salò.

It is hard to resist the sense that this international-norms-of-democracy rhetoric is turning into the great tool for democracy's overthrow. In the case of Honduras, people crow about the rule of law but start from the assumption that only one of the country's branches—the executive, the *caudillo*—has any democratic legitimacy. The other branches—the supreme court, the congress—are assumed to have only a banana-republic simulacrum of legitimacy. The present Honduran government is making every effort to explain itself transparently to the international community. The Zelaya government-in-exile is trying to bully the international community into bringing it back to power.

Zelaya adopted unpopular policies, threatened the interests of the powerful, and shaded the truth. All politicians do those things. They are not grounds for removal. But Zelaya was not removed for doing those things. He was removed for violating the constitution—not accidentally but out of a willful desire to subvert it. Imagine a two-term American president sending mobs to confiscate ballots for a national "opinion poll" on the 22nd Amendment—the one that limits presidents to two terms—that he had personally decided to hold and that the supreme court had declared illegal. What civilized government would permit such behavior from its head of state? The democracy that Zelaya's partisans are asking the world to restore is not "democracy" in any sense that people would have considered worthy of the name before Hugo Chávez arrived on the scene. ♦

No NHS, Please, We're American

The computerization of Britain's National Health Service has been an expensive fiasco. Why does Obama want to emulate it?

By Fraser Nelson & Irwin M. Stelzer

Liberals like big systems: mass transit, yes; the individual motor car, no. A massive electric grid, yes; regional electric grids relying on informal arrangements among companies, no. A massive government health care insurer, yes; individual customers using competing insurers, no. It has to do with control. Use your car and you can go where and when you please. Use mass transit and you get on and off at stations selected by central planners at times their models tell them are optimal. Allow local control of electric grids, and individuals will decide on standards, construction needs and the like; replace them with a national grid, and those jobs and decisions move to Washington, to a Department of Energy that has never successfully completed an assigned task.

Worst of all from the liberal point of view, let control of the health care system slip from the grasp of the central government and consumers will be confused by competing insurance offers, have to deal with doctors who might not recommend a one-size-fits-all course of treatment, or who just might order that extra life-saving test that bureaucrats relying on statistical averages deem too costly. The same sort of people who thought they could model financial risk and develop techniques to eliminate it, the people who confidently predicted that the president's stimulus package would hold the unemployment rate to 8 percent, now have a way for us to save billions on health care: an Electronic Health Information Technology System. "Barack Obama and Joe Biden will invest $10 billion a year over the next five years to move the U.S. health care system to broad adoption of standards-based electronic health information systems, including electronic health records." So says "Organizing for America"—the reincarnation of the "Obama for America" campaign organization. If Messrs. Obama and Biden have that kind of cash to invest, more power to them. Unfortunately, they don't.

So it's to be taxpayer money, "the necessary federal resources to make it happen," which is a somewhat different thing. Private investors would have an incentive to drop this massive project if it turned out that it was costing more than planned; government bureaucrats' sole incentive would be to plunge on—to them, money is free, and job preservation, rather than efficiency-maximization, is the bottom line. Doubt that, and consider the unhappy facts of Britain's National Health Service.

The goal of all this is scarier than the hubristic notion that construction of such a massive system is within the reach of even the most talented individuals. When up and running the IT system, we're told, will reduce hospital stays, avoid unnecessary testing, require more appropriate drug utilization, and garner other efficiencies. But no "system" can do that. All it can do is provide central controllers with the information to enable them, instead of your doctor, to decide just how long you should be allowed to recover after surgery, whether you might be permitted to have the tests needed to make that decision other than by using broad statistical averages that ignore individual patient differences, and which medications are appropriate for you.

Sound extreme? Consider this further promise of the Obama organization: "Barack Obama and Joe Biden will require that [disease management] plans that participate in the new public plan . . . utilize proven disease management programs." Patients suffering from diabetes, heart disease, high blood pressure, and other chronic conditions will do it the Obama-Biden way or else be excluded from insurance coverage. And decisions about whether this is good medicine or not will be facilitated by the IT system, which, in

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the unlikely event that it works, would enable your doctor—and the system's managers—to find out all about you by pushing a button. The judgment as to what to do by way of treatment will, alas, be made by people you have never met but who nonetheless can decide whether what your doctor recommends should be covered by insurance or is wasteful or contradicts the findings in the latest statistical study, perhaps reflecting the results of a small statistical sample of patients in Norway.

Obama has made much of the fact that we spend a much larger portion of our GDP on health care than do countries such as Great Britain, which have a state-provided system covering all citizens (and noncitizens who are taken ill in Britain, including illegal immigrants). Leave aside the question of whether a richer country such as ours, which has more completely met basic food, housing, and other needs (not to mention desires), should not properly spend more on health care than a poorer country. Consider only the fact that the method used to keep health care costs lower in Britain, Canada, and other countries in which the government controls the system, is a simple one: rationing.

In Britain until very recently an expensive medication designed to arrest macular degeneration could not be administered until the patient was completely blind in one eye. Cancer patients who decided to use their own money to pay for life-prolonging drugs not covered by the National Health Service (NHS) have been denied access to any treatment by the NHS, even treatment to which they were otherwise entitled. In order to get the National Institute for Health and Clinical Excellence (NICE) to allow the NHS to make the breast cancer therapy Herceptin available, a number of patients had to take their primary care providers to court. The rationing system is quite simple: It is based on QALY, or quality-adjusted life year. As one expert student of the British system, actuary Joanne Buckle, put it, "New treatments that have a very high cost per QALY are not likely to be approved for payment because the health budget is limited." Adding to your life span won't get the product approved for payment—the committee has to deem that extra time of good "quality," a decision made by people who likely have never met the physician who wants to administer the drug to an individual patient and who have not even a passing acquaintance with any individual patient.

In the event that Obama has his way with Congress and gets his health care plan and associated taxes passed, work will begin on the IT system—unless someone in the administration has the good sense to pop over to England and learn about the experience the government has had in getting a similar program up and running.

In June 2002, when England launched plans to computerize all medical records, it was hailed as a move that would set an example for the world. Many governments may dream of such a project, but Tony Blair had the apparatus to accomplish it. Britain has the National Health Service, a fully socialized health care system that pays 30,000 doctors to look after the country's 50 million patients. It should have been straightforward.

Seven years later and the plans for the "NHS supercomputer"—as it has become mockingly known—have become a national joke. The project was due to be completed next year but the deadline is now 2015, and slipping. The original £6.2 billion (almost $10 billion at current exchange rates) cost of the project looks more like £20 billion (over $30 billion)—some now say it will mount to £50 billion ($80 billion), eight times the original estimate. And what few computer systems have been introduced have often served to bring yet more chaos to the NHS, not least in the form of the 8,000 computer viruses that were introduced into English hospitals last year.

It is easy to understand Blair's motives. The NHS system was in urgent need of modernization, with about 660 million pieces of paper circulating in the system, many of them typed two or three times. Patients would sometimes die from wrong diagnoses, owing to missing or illegible paperwork. Blair argued then—as Barack Obama does now—that a new massive computer system would not just save money but save lives.

A memorial to possible victims of NHS malpractice who died at a hospital in Stafford, England

CHRISTOPHER FURLONG / GETTY IMAGES

Fatally, Blair's analysis did not go beyond that. Instead of a rigorous cost-benefit analysis, there were just statistics, many the same sort used in a RAND report on which Obama relies for his estimate of the savings waiting to be had. In a typical week, NHS doctors see 6 million patients, administer 360,000 X-rays, and dispense 13.7 million drugs. Surely computerization would yield handsome savings. This was as far as the logic ran. Ministers wanted to do this *because they could*. So alongside those digital patient records there would be a "spine" linking the various parts of the NHS system closer together than they had been at any time since nationalization in 1948.

This massive network soon became the flagship procurement project of the Blair government. Richard Granger, a former management consultant, was brought on board and made the highest-paid man in the British government ($400,000 a year)—more than twice that of the prime minister. Ministers were determined to sidestep the perils of central government computer procurement. This was one project, they said, that would not go over budget or deadline.

Granger certainly moved fast. Within a year he drew up and awarded contracts for what was (and remains) the largest civilian IT contract on the planet and produced four main winners from 160 bidders. Their prices—on average, half of their opening bid—were laughably optimistic. As work began, it became clear that they had no hope of meeting either the deadline or the budget. They wanted to renegotiate—and Granger played hardball. He lost.

The NHS turned out to be far more disparate than ministers imagined. Doctors and clinics come in all shapes and sizes, with different needs and priorities. Even in this socialized system, one size did not fit all—as the purveyors of this new computer system found to their sorrow.

Accenture walked away from its £2 billion contract three years ago, declaring a £260 million write-off. Last year, Fujitsu followed suit. Quietly, Granger quit too. His plan had failed. The British government is now reliant on just two companies for what is still the largest civilian IT contract in the world—BT Global Services and CSC of Virginia.

This left BT with the whip hand: If it were to drop out, then Britain's entire NHS program would be run from the Falls Church, Va., headquarters of CSC. So BT has been able to negotiate far better deals, such as a new £500 million contract to pick up the work which Fujitsu left behind. This is in spite of BT's being four years behind its own deadlines for installing computer systems in various London hospitals. Desperate overtures are being made to new bidders who might be able to get the program moving again. Costs are slipping out of control.

Meanwhile, the doctors and nurses are bitterly complaining that their shiny new software is no good, that it is designed for American hospitals, which bill patients whereas the NHS does not. The conceit of central government is again at fault: Little time, if any, was spent asking the people who would be using the systems what they want. As one doctor told lawmakers in Westminster, computerization of medical records is like "a juggernaut lorry going up the motorway—it didn't really matter where you went as long as you arrived somewhere on time."

While the records may still be years away, there have been achievements: digital archiving of X-ray scans, for example, and a new NHS email directory featuring 500,000 of its 1.3 million employees (more users than any email system in the nonmilitary world save Walmart and the Indian state railway). But few think this is worth the $7.4 billion already spent—especially as havoc has accompanied the introduction of the new system. One hospital manager is threatening to sue the government for the disruption the new records system has caused.

The NHS medical records program is now the subject of ridicule and embarrassment in Westminster, with aspects of its unintended consequences filling newspaper pages and television documentaries. Recently declassified documents show that Blair's officials had warned about the inability to predict the costs of this starry-eyed procurement scheme. It was then, and is now, too big to succeed. Even for a supposedly homogenized medical system like Britain's NHS, there are too many variables.

The Conservatives, likely to win power in an election next year, are of a mind to scrap as much of this system as they can—and then give hospitals freedom to choose whatever records system is best for them. This includes patient-owned records like the free-to-use Google Health.

Officially BT and CSC have been given until November to make progress on the patient record system—before being threatened with what the Department of Health calls a "new plan." It is a threat unlikely to carry much weight. There is, of course, no new plan. The awful truth is that there was never a properly thought-out plan to begin with. Just a soundbite, a wing, a prayer, and an awful lot of wasted money that British taxpayers will never see again. The only promise kept is that the system does, in fact, contain a lesson for the world: Abandon hope all ye who enter here.

Development and implementation of a scheme appropriate for America would, of course, be enormously more complicated than any that would work in Britain's highly centralized, single-payer health care system. Which just might be why the president finds the British model so attractive and wants to turn the U.S. health care system over to the tender mercies of the bureaucrats who will tell your doctor just what he may do to cure whatever ails you. ♦

A surfer heads back from the beach in Tel Aviv, March 2009

JIM HOLLANDER / EPA / CORBIS

The Med's Best-Kept Secret

Had a Thai herbal massage in Israel lately?

By Willy Stern

Rosh Pina, Israel

Perhaps nowhere else on the globe does there exist a greater discrepancy between perception and reality than Israel. The press portrays the country as a savage land racked by war and terrorism, and many outsiders have the impression that Israelis live their daily lives cowering amongst endless cycles of violence. The reality, though, is a country of 7.4 million people whose stock market and economy are humming along quite nicely (at least in contrast to the rest of the globe) and whose citizens revel in their chic Mediterranean lifestyle.

Anita Blum can't remember the last time her deluxe 100-room resort wasn't fully booked for the weekend. The Hotel Mizpe Hayamim is a well-appointed spa in the Galilee, two hours north of Tel Aviv, and suites go for $500-plus-a-night. Blum charges extra for the therapies—a Thai herbal massage runs $100—and enjoys a 75 percent occupancy rate year-round unchanged by the recent hostilities in Gaza and the world economic crisis.

As you wander around the luxurious grounds and drop $75 on a lunch of beef carpaccio and veal entrecôte with organic vegetables, it's hard to think of Israel as a nation at war. And the guests aren't just the latest batch of Israeli high-tech millionaires. While Blum sees her share of the

Willy Stern, a Nashville-based writer, has reported from six continents.

The internationally renowned Israeli swimwear company Gottex shows its 2009 line in Tel Aviv.

BAZ RATNER / REUTERS / CORBIS

very rich—she has a helicopter pad, after all—she counts soldiers, schoolteachers, and university students, among her legions of happy clients.

In Israel, life goes on. The Western newspapers just don't notice. They follow instead on a few hackneyed storylines:

- Policemen dragging unwilling Israeli settlers out of their homes.
- Hamas (or Hezbollah) terrorists in menacing black scarves waving machine guns, a subset to the lingering "Palestinian issue."
- Yet another rocket landing near a primary school in Sderot.
- Noisy—and often corrupt—politicians trying to form a coalition amidst a dysfunctional, if vibrantly democratic, government system.

These narratives are real, important, and poignant, but they are only part of the story of a country that has seen 20 years of uninterrupted economic expansion. (Well, mostly uninterrupted. The 2001-02 Intifada and the current economic meltdown took their toll.)

Israel, of course, faces tremendous obstacles. It's tiny, surrounded by enemies, and lacking in natural resources. It has a growing and undereducated Arab population of some 1.45 million whose meager earnings add little to Israel's annual GDP of $199 billion. (Even with its mostly unskilled Arab workforce, Israel's per capita income is around $27,000, on par with those of New Zealand and South Korea.) And there are the 700,000 or so in the ultra-orthodox Jewish community who generally don't pay much in taxes or serve in the army but shamelessly mooch off government welfare. Then there are Israel's major trade partners, who have taken a beating in the global economic crisis, exacerbating Israel's chronic trade deficit. There's also been a notable slowing in Israel's high-tech sector in the last two years. And, with Iran threatening to go nuclear, Israelis fret about their very existence.

But these stories miss the bigger point: Israel today has become a vibrant, functioning jewel of a nation tucked into the eastern flank of the Mediterranean. Tel Aviv looks more like San Diego or Barcelona than Baghdad or Kabul. On a recent five-mile run along Tel Aviv's Gordon Beach, I saw Israeli yuppies cycling the boardwalk on $1,500 Italian mountain bikes, teenagers in full-body wetsuits surfing the breakers, a deep-cleavaged Russian model (nobody seemed to know her name) doing a photo shoot in a skimpy bikini whilst middle-aged Israeli men with potbellies and hairy chests shamelessly gawked, rows of high-priced yachts docked at the Tel Aviv marina, an endless stream of private planes on final approach to small Sde Dov Airport, and two Israeli soldiers in drab green uniforms making out in the sand and drinking Heineken. A nation at war? It seemed more like high season at Coney Island.

"Some first-time visitors are certainly surprised when they don't find tanks and camels in the streets," reports Hanna Munitz, general director of the Israeli Opera. Israel has a world class cultural scene. Want to see Franco Zeffirelli and Daniel Barenboim? No problem. The Alvin Ailey Dance Company visits. The opera plays to audiences at 97 percent capacity. "Just once, another opera manager told me she wouldn't bring her company to Israel

The Western press overlooks the bigger point: Israel today has become a vibrant, functioning jewel of a nation tucked into the eastern flank of the Mediterranean.

because we were 'babykillers' or some nonsense," says Munitz, "but, even at lower pay, we attract the best talents from around the globe. They love coming here!"

It's not only culture. Israel enjoys top universities, upscale restaurants, million-dollar homes, hoity-toity architecture, and the like. Take the economy. In the fourth quarter last year, when the global economy went all to hell, Israel's annual, quarter-over-quarter rate of GDP was only off 0.5 percent, the best figure in the industrialized world. (The United States was off 6.3 percent and Japan 12.1 percent.) "Think about the resistance of our economy in recent times," suggests Zvi Eckstein, deputy governor of the Bank of Israel. "Our prime minister [has a stroke]. The war in Gaza. The war in Lebanon. The government gets replaced. But we've maintained a stable macroeconomic structure and a strong high-tech sector."

What's the secret? Ayelet Nir, chief economist at IBI, an Israeli investment firm, lists six major reasons Israel's economy has done well of late:

- A very conservative banking system—without most of the complex and problematic financial instruments found in the United States.
- No mortgage crisis in a country where putting 50 percent down isn't unusual, and banks often ask for guarantors.
- A current account surplus since 2003.
- Negligible inflation.
- Prudent governmental fiscal policy.
- Healthy integration into the world economy.

Last year, 483 Israeli high-tech companies raised a whopping $2.08 billion from local and foreign venture capital investors. (Only U.S. companies raised more.) All the major tech players—Google, Microsoft, IBM—have large research centers in Israel. They go where the talent is.

Take the case of Isaac Berzin, an Israeli inventor and chemical engineer named by *Time* magazine last year as one of the world's 100 most influential people. He's an MIT-affiliated scientist who discovered a process to extract renewable energy from seaweed and could live anywhere in the world. He and his wife, along with their three daughters, chose Jerusalem. Berzin still has to do his annual stint in the army reserves—where, he complains, he knows the "smell of every dirty sock" in his unit. But Berzin thinks the mandatory military service is very positive for Israel. Virtually every high school senior in Israel takes a battery of tests before being assigned to a military unit. Israel's best and brightest are tapped at this early stage and sent to elite units. Alumni from these elite units form a natural pipeline into Israeli high-tech firms. Think of it as a mixture of Harvard Business School and the Marine Corps.

"Everybody knows everybody else's business," explains Elisha Yanay, the cigar-chomping president of Motorola in Israel. "That leaves no room for B.S. Résumés mean very little in our country. In a few phone calls, you can strip anybody bare—how they did in kindergarten, their military service, whatever. Pretending in our country is just not possible." Israel is today "the third-hottest spot [after Silicon Valley and Boston] for high-tech venture capital in the world," adds Yanay. "We have only 7 million people but make enough noise for 70 million."

Not all of Israel is noisy. The Tel Aviv stock market, in particular, seems one of the world's best-kept secrets. In the last 12 months, amidst the global meltdown, the Tel Aviv-100 has slumped only 15 percent. (By contrast, the U.K.'s FTSE 100 Index is down 24 percent, Japan's Nikkei 225 is off 28 percent, and the S&P 500 Index is down 31 percent.) Some of the Israeli market's resiliency is certainly driven by the continued success of Teva Pharmaceuticals, the massive Israeli generic drug firm, market cap near $42 billion. (Teva's former CFO Dan Suesskind jokingly refers to what he calls the "regret curve"—that is, people who look at the chart of Teva's share price over time and regret not buying the stock.) "Most countries I know would be happy to trade positions with us, at least on the economic front," reports Ben-Zion Zilberfarb, professor of economics at Bar-Ilan University. "Our recession ought to be milder."

And it's not just Israelis who are taking advantage of the boom. A year ago, Carlos Arroyo was whipping passes to Dwight Howard and leading the Orlando Magic into the NBA playoffs. Now it's approaching midnight on a Monday night; Arroyo is just off a nifty 17-point, 4-rebound, 4-assist outing. He's chatting in the bowels of the Nokia Arena about his new life. He's glad to be out of Orlando. "What I really like about this place is the chic, cosmopolitan lifestyle. You go the supermarket, you find amazing food." What city is he talking about? Los Angeles? Toronto? Try Tel Aviv.

Last year, Arroyo accepted a multimillion-dollar offer to play for Israel's best basketball team, Maccabi Tel Aviv,

Israeli technology has been a big part of the Internet age. The cell phone? Developed in Israel. Ditto for most of the Windows NT operating system and for voice mail technology. AOL Instant Messenger? Developed in Israel.

when he could have been suiting up against LeBron and Kobe. Earlier in the year, he told a visiting reporter, "The restaurants [in Israel] are fantastic. There is this one particular Italian restaurant my wife really likes." (Much as he likes Tel Aviv, Arroyo will probably be moving on during the offseason as he and the Maccabi coach didn't mesh.)

Chloelys Restaurant in Tel Aviv is typical of the culinary boom Arroyo's wife so admires. The restaurant's wood flooring is imported from Brazil, its bricks from Belgium, and chef Victor Gloger keeps 7,000 bottles of wine in his cellar. The businessman's special (gilt-head bream fillet on grape leaves with Bulgarian cheese filling) runs $32. On a Monday, the place was jam-packed with wheeler-dealers in open-necked shirts, staid Brooks Brothers-clad business types, college students apparently fortified with Daddy's credit card, and the wife of the Belgian ambassador.

As religious Jews congregate in and around Jerusalem, hip Israelis flock to Tel Aviv. They joke that it's "the new city that never sleeps." Just ask Baltimore-born black rapper Joel Covington, a self-professed Jew—go figure—who performs under the stage name Rebel Sun: "I can take you out on Monday night at 8 P.M., bring you home at 8 A.M., and you'll never see a dull moment. If you want to party in Tel Aviv, just bring a toothbrush and an extra pair of underwear—you never know what you'll find."

One thing that Tel Aviv residents can't find is a cheap place to live. Forget about popping over to Israel to find a bargain apartment. There aren't any. A 3–bedroom flat in a classy high-rise like the Alrov Tower in Tel Aviv will set you back $2 million. What's the asking price for a 1,200-square-foot villa, with pool, on nearby Rehov David Smilansky—roughly akin to Bethesda, but with a shorter commute downtown? Try $4 million. The upside, of course: Buy the villa, and you can walk to the Gucci and Armani shops on nearby Kikar Hamedina Square. Israeli residential real estate prices are off a modest 5-10 percent since the global downturn hit, reports Adina Haham, CEO of Anglo-Saxon Real Estate in Tel Aviv. And prices are already inching back up.

High-tech millionaires own a lot of these homes. "The Israelis you find on the slopes of Aspen, those are mostly high-tech guys," explains Bar-Ilan University's Zilberfarb. How has Israel managed to do so well in high-tech? Every Israeli high-tech player can recite the national data like a bleacher bum spitting out baseball statistics:

- Israel produces more science papers per capita than any other country.
- Israel lags behind only the United States in number of companies listed on NASDAQ.
- Twenty-four percent of Israel's workforce has a university degree; only the United States and Holland have a higher number.
- Israel leads the world in scientists and technicians per capita.

Why has this produced a tech boom? There are as many theories as there are Israelis, it seems, but the most cogent is put forward by Haim Harari, retired president of the Weizmann Institute of Science:

> If the science Olympics were held in Europe, we'd be second to none. I claim our success has to do with the national character of Israelis. The Israeli—or Jewish—character—is ambitious, chaotic, undisciplined, unorganized (we don't have a pope), often brilliant, and we think we know better than everybody else all the answers. These are the exact same skills you need in a high-tech start-up, but, of course, we have none of the skills to run a big company.

An alternative theory, espoused by many serious Israelis, is that the prototypical pushy Jewish mother is driving the high-tech boom. Study hard! Make something of your life!

Israeli technology has certainly been a big part of the Internet age. The cell phone? Developed in Israel. Ditto for most of the Windows NT operating system and for voice mail technology. Pentium MMX Chip technology? Designed in Israel. AOL Instant Messenger? Developed in Israel. The list goes on. Firewall security software originated in Israel. The latest breakthrough is the "PillCam," a video camera that can be swallowed and aids physicians in diagnosing intestinal cancer.

"There was a suicide bomber in this very café during the Intifada," says Jonathan Medved over thick coffee at Caffit Café in Jerusalem. He's a transplanted American, prone to loud Hawaiian shirts, and one of Israel's leading venture capitalists. "They managed to get him over there, across the street, and he didn't detonate. That's how we live. And here we are today. Improvisation is our national plan. We are a

Israelis enjoy the amenities of the Mizpe Hayamim spa and hotel in the Galilee.

SHAUL SCHWARZ / GATTY IMAGES

nation of risk takers." Successful risk takers, by and large, and not just in high-tech.

Take the case of Eli Ben-Zaken. Twenty years ago, he was a smalltime farmer in charge of a chicken shed. He dabbled in wine, then risked all. Today, he's the proud owner of Domaine du Castel, a winery nestled on a gorgeous mountaintop in the rolling Judean Hills. His wine is sold from Hong Kong to Brazil. Walk into Zachys in Scarsdale and a bottle of his 2006 Grand Vin Kosher will set you back $89.99. "I always say, thank God for the snobs," says the understated Ben-Zaken. "They started drinking wine for the wrong reasons, but stayed because they learned to appreciate good wine."

Some Israelis point to the country's unresolved tensions with its Arab neighbors as a factor in its success. "Conflict is also a very strong source of artistic creation," reports Hanan Pomagrin, a well-regarded Israeli architect. "An area in conflict is not always negative; it keeps people alert. I'm not saying that I would not want to see resolution to this conflict, but it also contributes to the huge energy felt when visiting Israel."

That self-same energy has pushed Israelis of all stripes onto the world stage. One is Bar Rafaeli, the shapely Israeli model who appeared on the cover of the latest *Sports Illustrated* swimsuit issue and who's been romantically linked to Leonardo DiCaprio. Another is Michael Arad, a former soldier in the elite Golani Brigade; in 2004, he won the design competition for the World Trade Center Memorial. And there's Ronen Chen, the Tel Aviv-based designer, whose high-end women's clothes at prices secretaries can afford are found in chic boutiques all around the United States. Then there's the Batsheva Dance Company, an Israeli cultural icon that performs to packed audiences around the globe. And you can't wander into the faculty lounge at an Ivy League school without bumping into a transplanted Israeli.

But Israelis love their home, and with good reason. "You try to find someplace in Tuscany that's as nice as the Galilee," says the Bank of Israel's Eckstein. Wake up in Tel Aviv, and you can be skiing down the slopes at Mt. Hermon after a lovely, if winding, three-hour drive. That's a far sight easier than the haul from the Upper West Side to Stowe. Finish the workday in Jerusalem, and you can be scuba diving in Eilat, on the Red Sea, after a quick flight.

Of course, not all Israelis can afford weekend getaways. There are sordid slums in the country. Among those still struggling mightily: Palestinians and the recent waves of immigrants from Russia and Ethiopia. Even successful Israelis have their issues. Forget about a service industry; Israelis proudly jest that their nation produced the cell phone but not a single decent waiter. It's a nation where rudeness, reckless driving, cheating on your tax returns, and cutting in line are national art forms.

Yet none of this is evident at the beautiful spa at Mizpe Hayamim. The resort may have no bigger fan than Dita Kohl-Roman, who's been vacationing there for more than two decades—since her mother-in-law first took her. "My daughter—a student in physics and Latin at Hebrew University—continues the tradition today," says Kohl-Roman, a director of resource development at Kishorit, a community for those with special needs. "She goes with her boyfriend!"

Anita Blum, the ever-gracious spa owner, is vigilant about the confidentiality of her guests, but her employees can't help but boast about two of the many goats at Blum's magnificent organic farm. One is named "Sharon." The other is named "Stone." Yes, it seems the other Israel—the land not of terrorists but of milk and honey and goats—may finally be being discovered. ♦

Richard Nixon, Barry Goldwater, 1960

Moderation Is No Vice

And extremism is no virtue in politics.

BY PETER BERKOWITZ

Moderation has acquired a bad name in certain prominent conservative precincts, which is unfortunate since it is an essential political virtue and a quintessentially conservative virtue.

In a May interview, talk show host Scott Hennen asked Dick Cheney whether Arlen Specter's defection to the Democrats proved that Colin Powell was correct, that "the Republican party needs to moderate." Cheney opined that "it would be a mistake for us to moderate," tantamount to betraying fundamental conservative commitment to "the Constitution and constitutional principles" and a craven embrace of Democratic positions and ideas. Pressed to clarify his remarks a few days later by *Face the Nation* host Bob Schieffer, Cheney declared that he preferred Rush Limbaugh to represent the GOP over Powell. After all, he pungently noted, Powell endorsed Barack Obama for president.

Liberty and Tyranny
A Conservative Manifesto
by Mark R. Levin
Simon and Schuster, 256 pp., $25

On his own program the next day, Limbaugh amplified Cheney's critique of moderation. Arguing that conservatives can "only win when we are conservatives and have a conservative candidate to offer, and principles," Limbaugh went so far as to denounce moderation itself, invoking Cheney's authority for a family of extreme propositions: "people in the middle of the road get run over," "there really is no such thing as a centrist," and "there's really no such thing as a moderate."

In response to such broadsides, Powell went on *Face the Nation* two weeks later to insist on his conservative convictions and Republican bona

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fides and the importance, to both, of moderation. The moderation he commended was inclusiveness, or openness to a range of policy positions resting, presumably, on a shared sensibility and core convictions. But he also made a point about electoral politics: Without a determined effort to reach out to independents, conservatives and Republicans are doomed to long-term minority status because the number of those identifying as Republicans has plunged while the number of those identifying as independents has surged.

Given his rejection last year of Republican John McCain, one of the Senate's most moderate members, and his endorsement of Democrat Barack Obama, one of the Senate's most progressive members, Powell may seem an unlikely source of counsel to Republicans on questions of moderation. His points, nonetheless, are well taken. Political moderation, which involves controlling passion so that reason can give proper weight to competing partisan claims, most of which contain some element of truth and some element of falsehood, is always valuable. In Cheney's and Limbaugh's repudiation of moderation one can hear echoes of Barry Goldwater's 1964 rallying cry: "Extremism in the defense of liberty is no vice . . . and . . . moderation in the pursuit of justice is no virtue."

It is an inducement to moderation to recall that Goldwater's dramatic repudiation of moderation preceded one of the most lopsided drubbings in American presidential elections. At the same time, it is an inducement to moderation in praise of moderation to recognize that passion and partisanship have their place in democratic politics: Goldwater's 1964 defeat helped lay the groundwork for the Reagan Revolution which, in the 1980s, produced two, perhaps three, historic landslide victories.

All in all, the conservative case for moderation is more compelling than the case against it. And Mark Levin's bestseller, a fierce polemic on behalf of liberty and tradition against what he regards as the implacable menace emanating from the left, provides, if not a case for moderation, then a central argument that bolsters the case for it.

A lawyer, president of the Landmark Legal Foundation, and a leading national radio talk show host, Levin has written a book that combines vehemence and vituperation with a penetrating analysis of the extremes toward which progressives are drawn. In a critical respect, it follows Goldwater's 1960 bestseller, *Conscience of a Conservative.* Like Goldwater's, Levin's conservatism puts liberty first while respecting the claims of faith and traditional morality. Like Goldwater's, Levin argues that liberty and tradition are mutually supportive: Faith and traditional morality educate citizens for liberty, and liberty provides the best protection for faith and traditional morality against the major threat to them, encroaching government power. And like Goldwater, Levin greatly understates the conflict between liberty and tradition: Freedom encourages impatience with (and skepticism of) inherited authority and custom; tradition generates impatience with (and skepticism of) innovation, novelty, and diversity.

His failure to address that conflict prevents Levin from giving moderation its due. Yet by insisting on the centrality of both liberty and tradition to modern conservatism, *Liberty and Tyranny* dramatizes the need for reasonable accommodations between them, or the indispensability of moderation to conservative hopes.

You cannot, however, call the organizing contrast, or contest, of Levin's book moderate. On one side stands the Conservative, the champion of liberty and tradition. On the other side stands the Modern Liberal who, by seeking a comprehensive government-enforced equality in all spheres, will, if not stopped, erect a tyranny that wipes out liberty and tradition. The fight, as Levin promotes it, is not a fair one because he brings an idealized version of conservatism to do battle with a liberalism, or a progressive side of the liberal tradition, that he reduces to its ugliest and most perfidious tendencies.

"Conservatism," Levin generously explains, is "a way of understanding life, society, and governance." That understanding is deeply indebted to the larger liberal tradition, particularly John Locke, Adam Smith, Montesquieu, and Edmund Burke. It appreciates the "interconnection of liberty, free markets, religion, tradition, and authority." It grounds human dignity in "God-given natural rights." It discerns in society a "harmony of interests" and "rules of cooperation that have developed through generations of human experience and collective reasoning that promote the betterment of the individual and society." It recognizes each individual as "a *unique, spiritual being* with a soul and conscience." It teaches respect for others' rights and respect for custom and tradition. It emphasizes the individual's "right to acquire and possess property, which represents the fruits of his own intellectual and/or physical labor," without which the individual becomes dependent on others and the state. And it honors the rule of law as a cornerstone of legitimate government.

The Modern Liberal, in Levin's harsh depiction, is not the Conservative's rival within a common governing framework but an adversary of the governing framework to which the Conservative is devoted:

> The Modern Liberal believes in the supremacy of the state, thereby rejecting the principles of the Declaration and the order of the civil society, in whole or part. For the Modern Liberal, the individual's imperfection and personal pursuits impede the objective of a utopian state. In this, Modern Liberalism promotes what French historian Alexis de Tocqueville describes as a *soft tyranny*, which becomes increasingly more oppressive, potentially leading to a hard tyranny (some form of totalitarianism). As the word *"liberal"* is, in its classical meaning, the opposite of authoritarian, it is more accurate, therefore, to characterize the Modern Liberal as a *Statist.*

Whereas America's Founders created a limited government of enumer-

ated and dispersed powers because they "understood that the greatest threat to liberty is an all-powerful central government, where the few dictate to the many," the Statist relentlessly seeks to expand government's power to secure ever more comprehensive forms of uniformity.

The American counterrevolution called the New Deal, according to Levin, "radically and fundamentally altered the nature of American society." It "breached the Constitution's firewalls" by multiplying entitlements, proliferating administrative agencies, and promiscuously using "taxation not merely to fund constitutionally legitimate governmental activities, but also to redistribute wealth, finance welfare programs, set prices and production limits, create huge public works programs, and establish pension and unemployment programs." It built a massive, unaccountable, and constantly expanding government. It nurtured "a culture of conformity and dependency" that undermines "initiative, self-reliance, and independence." And it appealed to a core constituency of the "angry, resentful, petulant, and jealous."

Nor are Statists, argues Levin, confined to the Democratic party and the political left. Some "claim the mantle of conservatism but are, in truth, neo-Statists, who would have the Conservative abandon the high ground of the founding principles for the quicksand of a soft tyranny." *Washington Post* columnist and former George W. Bush speechwriter Michael Gerson is a neo-Statist because he champions a compassionate conservatism that recognizes a role for the federal government in addressing the needs of the poor, the sick, and the elderly. So, too, are William Kristol and David Brooks who, in the 1990s, championed in the pages of this magazine a "national-greatness conservatism" that eschewed hatred of government in favor of leaner, more effective government.

Levin takes umbrage at the neo-Statist—or neoconservative—reproach. The Conservative, he insists, hates not government but tyranny. That may be. But Levin's Conservative sees in government's assumption since the 1930s of expanded responsibility for regulating the economy and providing a social welfare net not merely excess and waste but hateful tyranny. And he wants to end it. In contrast to the neo-Statist, who seeks to "further empower an already enormous federal government beyond its constitutional limits," the Conservative, never forgetting the New Deal's essential illegitimacy, seeks to return America to its "founding principles" by shrinking government to its proper founding era proportions.

Mark R. Levin

Notwithstanding this radical aim, Levin rightly extols moderation's close cousin, prudence. Invoking Burke and the Founders, he stresses that prudent change is a crucial means by which states conserve themselves. Whereas imprudent change puts "at risk the very principles the Conservative holds dear," prudent or salutary change reforms existing practices and institutions to enable them, in evolving circumstances, to preserve Constitutional principles. Indeed, prudence is "*the highest virtue for it is judgment drawn on wisdom.*" Prudent change "should be informed by the experience, knowledge, and traditions of society, tailored for a specific purpose, and accomplished through a constitutional construct that ensures thoughtful deliberation by the community." It rejects mechanical attachment to the status quo and appreciates the weight of inherited circumstances.

Mark Levin certainly does not display a mechanical attachment to the status quo, but he cannot be credited with doing justice to the full weight of our moral and political inheritance, which contains a large progressive component. He refers to the need to "slow" and "contain" government's growth, but that's just for the short term. The ultimate aim of prudent reform, in his view, is nothing less than the overthrow of the New Deal.

But it is hard to square that revolutionary ambition with prudence, as he has defined it. For reversing and ultimately eliminating the New Deal would require the dismissal of society's accumulated experience, knowledge, and traditions over the course of 80 years, during which the federal government, at least partly in response to profound 20th century changes in social and commercial life (and with the persistent support of substantial majorities) assumed substantially greater responsibilities for caring for the vulnerable and regulating an increasingly complex economy.

To which concern Levin replies that, if the majority supports big government, then the Conservative should take his stand against the people and with first principles, "because governing without advancing first principles is a hollow victory indeed." Indeed, "its imprudence is self-evident." And it "is not the way of the Conservative; it is the

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way of the neo-Statist—subservient to a 'reality' created by the Statist rather than the reality of unalienable rights granted by the Creator."

These are fighting words. But Levin's resort to scare quotes to imply that it is unconservative to regard the welfare state as a reality rooted, in part, in shared American values provides cause to wonder just who is courting hollow victory and just who is captive to self-evident imprudence.

Like it or not, the New Deal is here to stay. It has been incorporated into constitutional law and woven into the fabric of the American sensibility and American society. The utopian dream of cutting government down to 18th-century size can only derail conservatism's core and continuing mission of slowing and containing government's growth, keeping it within reasonable boundaries, and where possible reducing its reach.

Indeed, one could scarcely devise a better example of the imprudence that Burke dedicated his *Reflections on the Revolution in France* to exposing and combating than Levin's direct appeal to abstract notions of natural right to justify a radical reversal of today's commonly held convictions about the federal government's basic responsibilities.

Notwithstanding his ultimate convictions about the illegitimacy of much of contemporary government, the 10-point Conservative Manifesto with which Levin concludes advances significant policy reforms that operate within the welfare and regulatory state's framework.

The manifesto urges conservatives to eliminate the progressive income tax and replace it with a flat tax or national sales tax; eliminate government support for environmental groups and government use of environmental standards to set industrial policy; reduce the power of the federal judiciary by establishing a congressional veto over Supreme Court decisions and abolishing lifetime tenure for judges; reduce the number and authority of federal agencies; reduce government's dominance in K-12 education, eliminate tenure for professors at public universities, and strip the public school curriculum (grade school, high school, and college) of its progressive agenda; gain control over immigration policy, secure the nation's borders, and end bilingual education; teach the next generation that entitlements—Social Security, Medicare, and Medicaid—are going bankrupt because they are inherently corrupting, and vigorously oppose health care nationalization; ensure that America remains the world's superpower and that America's military decisions advance the nation's best interests; respect religion, which not only grounds our natural rights but also cultivates the morality on which liberty and civil society depend; and defend constitutional principles, exercising special vigilance to protect the freedom to support political candidates and to otherwise freely express political opinions.

Like it or not, the New Deal is here to stay. It has been incorporated into constitutional law and woven into the fabric of the American sensibility and American society.

This represents a good starting point for serious discussion about renovating conservative public policy thinking. But conservatives must go beyond saying what government must not do; if they fail also to contribute policy proposals—respectful of government's limits and devoted to enlisting private initiative and the power of the market—for dealing with the challenges of health care, energy, education, the assimilation of immigrants, and more, they will not attract, or deserve to attract, majority support.

Nor will they attract, or deserve to attract, majority support if they fail to understand that the very logic of modern conservatism provides a lesson of moderation. To be sure, there is a vital place in democratic politics for passionate partisans like Levin who rouse the base and adopt a take-no-prisoners approach to political argument. And better to have your enthusiasts on the airwaves where their principal job is to entertain than in the universities, which (officially, at least) remain devoted to dispassionate intellectual inquiry.

But rightwing talk show hosts' extremism on behalf of liberty and tradition should not be allowed to set the tone for officeholders and party leaders. Nor should their immoderation slide over into an attack on moderation itself, especially since a delicate balancing act sustains their core conservative commitments.

Consider, for example, Levin's discussion of capitalism. The Conservative celebrates the free market as

> the only economic system that produces on a sustainable basis, and for the overwhelming majority of Americans, an abundance of food, housing, energy, and medicine—the staples of human survival; it creates an astonishing array of consumer goods that add comfort, value, and security to the quality of life; and the free market recognizes that it is in man's DNA to take risks, to innovate, to achieve, to compete, and to acquire—to not only survive but also improve his circumstance.

Furthermore, "the individual knows better how to make and spend that which he has earned from his own labor and provide for his family than do large bureaucracies populated by strangers who see classes of people rather than individual human beings."

There is more to the story, however. As Levin himself observes, the market generates what Joseph Schumpeter called "creative destruction," the process by which capitalism's endless innovation and entrepreneurship con-

stantly give birth to new products and companies and render others obsolete and ruin them. But Levin only brings up the market's destabilizing power to criticize efforts by the left to eliminate through law the uncertainty and hardship inherent in capitalism.

As Irving Kristol, Daniel Bell, and George Will (among others) have pointed out, capitalism also creates significant problems for conservatism. Its churning change erodes the traditional beliefs, practices, and institutions that the conservative rightly sees as essential to moral education in a free society. Because both liberty and tradition are good, because each provides the other crucial support, and because at the same time they often reflect opposing impulses and issue contradictory demands, the conservative, who cherishes both, is constantly called upon to strike a prudent balance between them, or exercise moderation.

One who took seriously the lesson of moderation inscribed in modern conservatism would be less inclined than Mark Levin to relentlessly portray his political opponents in the worst light. He would recognize that America's founding principles give rise to both conservative and progressive interpretations. And he would attend more robustly to the complex balance in the thought of Alexis de Tocqueville, whose authority Levin invokes—as did Barry Goldwater almost 50 years before—to warn against the soft tyranny threatened by centralizing and expanding government.

But the great French student of American democracy also taught that the democratic or egalitarian revolution—the defining development of political modernity—is, despite the debilitating reliance on the state that it encourages, both inevitable and just. It can and must be checked and contained. But it must also be given its due.

Moderation is not, as Dick Cheney and Rush Limbaugh have recently characterized it, incompatible with conservative principles. On the contrary, moderation is an imperative flowing from conservative principles. ♦

B&A

Ladies Please

All women writers are equal in the eyes of academic enthusiasts. **BY ELIZABETH POWERS**

ASSOCIATED PRESS

Margaret Mitchell, ca. 1936

Elaine Showalter is a somewhat anomalous feminist.

She enjoys venerable status as a pioneer for establishing one of the country's first women's studies programs and for writing a founding document of feminist literary studies, *A Literature of Their Own: British Women Novelists From Brontë to Lessing* (1978). Along the way to Princeton, she also wrote for *Vogue* and *People*.

She has not been on "The View" (as far as I know) but she likes to mix things up. *Hystories* (1997) managed to offend her feminist sisters—as well as sufferers of multiple personality disorder, recovered memory, chronic fatigue syndrome, and Agent Orange. She claimed in that book that these are psychological epidemics exacerbated by the media and by "well-meaning crusaders" including, apparently, feminist theorists. Besides enjoying department stores and shopping (as she confessed in an article in *Vogue*), she is also a happily married woman with grown children.

A Jury of Her Peers
American Women Writers from Anne Bradstreet to Annie Proulx
by Elaine Showalter
Knopf, 608 pp., $30

Even before *Hystories* appeared (the title plays on the theories of hysteria of Charcot and Freud), Showalter's brand of feminism and Showalter herself came under attack for what was called her "traditional bourgeois humanism of a liberal-individualist kind" and her lack of interest in "the necessity of combating capitalism and fascism" (this from a critic who enjoys a tenured chair at Duke). Her crime was to assert, in *A Literature of Their Own*, that there exists a "female tradition" of writing that can

Elizabeth Powers blogs at http://goethetc.blogspot.com.

be studied historically and that is different from writing by men. According to her critics, such "gynocentrism" (Showalter's term) is "essentialist," based on the supposedly natural categories of "male" and "female." In the meantime, we have moved beyond all that to "gender"; i.e., society has made or unmade us, but we can create ourselves, too.

Arriving now with much fanfare from its publisher and advance praise from the usual, and some surprising, suspects (Joyce Carol Oates and Erica Jong but also A. S. Byatt and the editor of *The Columbia Literary History of the United States*) is *A Jury of Her Peers*. Calling it a literary history and the first of its kind, Showalter ignores her critics and returns to the "female tradition of writing," unearthing the lives, careers, and "lost works" (lost because now unread) of dozens upon dozens (250 according to the publisher) of writers.

"Why don't Americans know about such landmark books as Julia Ward Howe's *Passion Flowers* (1854), Pauline Hopkins's *Of One Blood* (1903), or Nella Larsen's *Quicksand* (1928)?" she asks in the introduction. Why, indeed? According to Showalter, it wasn't because they were too sentimental or too radical, or too narrow or intense, but because such writers "needed a critical jury of their peers to discuss their work, to explicate its symbols and meanings, and to demonstrate its continuing relevance to all readers." Moreover, she will show, as with "male" literary history, "the links in the chain that bound one generation to the next."

Yet there is a major problem with this restoration project: It is not a *literary* history at all.

First, a little background. The lives of artists, literary or otherwise, are often colorful and offer fascinating insights into the creative life; but they are tangential to art's true history, the evolution or development of specifically artistic forms. The blindness of Milton is an interesting fact, but what is crucial to literary history is that *Paradise Lost* represents a stage in the evolution of the epic, a specific literary genre extending back in time through Ariosto and Dante and Virgil to Homer. There is something oddly biological about the process of literary evolution, for just as individuals resemble their parents, so, too, do literature and the other arts recycle features of artistic predecessors.

Milton's blindness, like Edna St. Vincent Millay's alcoholism and multiple abortions, is not a *literary* fact, but it is of interest to feminists for revealing Milton's dependence on his daughters who, unencumbered by their father and the patriarchy generally, might have enjoyed (so feminists imagine) literary careers of their own.

True, until the early modern period, most writers were men, and histories of literature have been heavily weighted toward male writers. To late 20th-century American feminists, beneficiaries of historically unprecedented material prosperity and equality, it was obvious that men had been keeping all the goods to themselves, including the canon. To remedy the omission of women from the history of literature, feminists produced anthologies of female writers, which had the effect of separating women from the literary tradition altogether, from the transmission of literature as something specifically literary.

Thus, in the *Norton Anthology of Literature by Women*, edited by two feminist workhorses, Susan Gubar and Sandra M. Gilbert, we find that Fanny Burney, an English novelist, precedes Phillis Wheatley, an African-American poet, while Sojourner Truth follows Mary Shelley. Though they share practically identical life dates, aside from being female, they have nothing in common literarily. In other words, there is no obvious "tradition" of literature written by women, in the sense of representing the transmission of literary values.

Instead, the ascendance of women as writers, beginning in the 19th century, coincided with the growth of publishing, and women, with important exceptions, have written for popular tastes, without much regard for the canon, for high literary values, or for posterity.

Elaine Showalter gets this, so she redefines tradition. In her view, "the female tradition in American literature is not the result of biology, anatomy, or psychology. It comes from women's relation to the literary marketplace."

Thus, *A Jury of Her Peers* is a history "of women who wrote for publication," and their writings, whether they were imitations of an English product (*Jane Eyre*) or of *Little Women*, are as ephemeral as it took the reading public to tire of them. (Not even Louisa May Alcott could replicate her success, though she wrote another dozen novels.) As with works written by many men, these products kept bread on the table for the women and often for their families. With the passage of time their *oeuvres* (and some were considerable in size) passed into oblivion as quickly as have the bestsellers of 25 years ago. As a feminist, Showalter naturally thinks this is unfair.

If anything, the evidence she assembles indicates that America is a great commercial nation that quickly makes room for new female talent, though it might not be for the ages. Grace Metalious has a place in this history, as does Mrs. E. D. E. N. Southworth (1819-1899), "the most prolific and popular of the Southern novelists of the 1850s." Showalter's true subject, however, is the progress of feminist self-awareness, and her favored subjects concern women who have broken taboos against "sexual double standards."

To read Showalter's account is to discover that articulate American women have been complaining for a very long time, whether it be Fanny Fern (pen name of Sarah Payson Willis Parton 1811-1872), "a subversive journalist and novelist, who had no patience with organized religion, middle-class piety, or romantic ideas of marriage"; or Elizabeth Stoddard (1823-1902), whose "images of the empty room and the ancient loom . . . suggest her sense of frustration and limitation within the sterile confines of traditional women's poetry." I was particularly taken with the moral of Helen Hunt Jackson's story, "The Prince's Little Sweetheart" (1885):

"Girls may be seduced by fairy tales and promises of luxury and adoration; but in the end, marriage is about killing spiders every day of your life." To give so much importance to the disordered life is not a *literary* valuation, but an extension of Romantic biography.

It strikes me that what Showalter portrays as the progress of self-awareness owes much to the growth of the American economy throughout the 19th and 20th centuries, which increasingly changed the nature of domestic life, especially for educated women, alienating them from traditional expectations. Without being Frankfurt School about it, one could write a history of the way that the American ethos of liberty and individual rights is constantly renewed for succeeding generations by commerce, including publishing and the media generally, which feed on dissatisfaction with limitations of race, gender, and class. Like many people who have it too good, feminists are ungrateful for this benefit of capitalism.

America is a land bearing in its capacious heart two conflicting human desires, one yearning for freedom and self-creation and an equally human longing for all that is encapsulated in that word "tradition": home, family, continuity, connectedness. Indeed, it may be that this is what the Western literary canon comes down to, not the victim story of the moment, but rather writing that mediates between the two, between inheritance, what has been given to us, and what we strive to be.

The work of a handful of writers in this volume fits this bill: Emily Dickinson, Willa Cather, Edith Wharton, the Puritan poet Anne Bradstreet. It does no service to Bradstreet, however, to lump her (as does Showalter) with her near contemporary Mary Rowlandson, who wrote a memoir of her abduction by Indians in 1676, an account Showalter elevates by calling it a "a captivity narrative." (I don't think she is comparing it to the Israelites in Egypt.) From *A Jury of Her Peers* one would not know of the role Margaret Fuller played as a literary mediator who, among other things, introduced Goethe to the Transcendentalists with her translations of the German poet.

What distinguishes these women from 240 other writers in *A Jury of Her Peers* is their engagement with the larger literary tradition. There are, of course, important works by women—Louisa May Alcott's *Little Women*, Harriet Beecher Stowe's *Uncle Tom's Cabin*, perhaps Margaret Mitchell's *Gone With the Wind*—that have iconic status in our national self-image. Aside from a specialist, however, who would want to read (as Showalter suggests we should) the numerous 19th-century imitations of *Uncle Tom's Cabin*?

This equal opportunity approach is matched by the pedestrian writing, which is not simply a function of squeezing 250 writers into 500 pages of text. A "peer," it turns out, is "a reader who is willing to understand the codes and contexts of literary writing." If Showalter identifies the central character of Susan Sontag's *The Volcano Lover* (Emma Hamilton) as a person who didn't even have a walk-on part—the "nineteenth-century intellectual heroine Eleonora de Fonseca"—one wonders about the accuracy of these potted accounts. She not only misattributes the quote about the education of Phillis Wheatley, the first black woman to publish a book of poetry (the source is not John Wheatley, who bought Phillis at the slave market in Boston, but a later biographer), but she also repeats the unsupported claim made by Henry Louis Gates Jr. that Phillis was "cross-examined" by Thomas Hutchinson, royal governor of Massachusetts, and John Hancock, concerning the authorship of her poems.

One would imagine that these Massachusetts eminences had other things on their minds in October 1772. Alas, like Henry Louis Gates's fantastic scenario, however, *A Jury of Her Peers* will no doubt enter into what passes for "literary history" in the academy. ♦

P&A

Ordinary Art

A new appreciation for the maestro of the commonplace.

BY MAUREEN MULLARKEY

Still life bloomed late among art historical categories. Depictions of prosaic objects have been with us since antiquity, but rarely for their own sake. They served votive purposes or figure compositions submissive to higher themes. Foodstuffs and tableware entered as props for a Last Supper, an edifying banquet, or some festal spread catered by the gods and laced with allegory. Not until the 17th century could the naked facts of a herring, a wine bottle, and a scattering of onions be presented without apology.

Luis Meléndez
Master of the Spanish Still Life
National Gallery of Art
through August 23

What we moderns take for granted as *still life* lacked even a term for itself until the mid-1600s when *stilleven*, a matter-of-fact descriptive, started showing up in Dutch inventories. It took another hundred years before the French coined *nature morte*, a chilly classifier. Spaniards settled upon the homely *bodegón*, a nod to edible things and the abiding primacy of the kitchen.

Luis Meléndez (1715-1780), one of Spain's greatest still life painters, was the accidental practitioner of a genre just beginning to speak its name. His *bodegones*, not well known in the

Maureen Mullarkey writes about art for the New Criterion *and other publications.*

United States, are debuting in a traveling exhibition at the National Gallery in Washington. On view are 30 breathtaking transfigurations of the mundane, each one a tribute to the splendor of the overlooked.

The artist's training began in his father's studio. The elder Meléndez, a distinguished painter in the household of Philip V, produced miniature portraits of the royal family for distribution as diplomatic gifts. In addition, he designed illuminated certificates of nobility. (Then, as now, papers mattered.) These were as elaborate as full-sized oil paintings and often combined with religious imagery. Command of the human figure, the capstone of artistic training, was crucial.

The younger Meléndez was among the first to enroll in Philip's fledgling royal academy. Expectations were high for the young artist admitted with the highest marks. His confidence declares itself in the masterful 1746 self-portrait that prefaces the exhibition. Painted in the year of his admittance to the inaugural class, it presents him as a self-possessed *caballero*. Elegantly dressed, he carries the attributes of a student: a chalk holder (still in use today) and a folio sheet bearing a virtuoso oil rendering of a chalk drawing of a male nude. This drawing-within-the-portrait restates his aptitude for the figure and affirms an equal facility for *trompe l'oeil*, still life's ancient traveling partner.

His early prospects, intimately aligned with his father's, ran aground on missteps, personality clashes, and plain bad luck. The biographical record, spotty as it is, tells of a proud, ambitious artist gifted in everything but the temperament for advancement within a centralized patronage system. His father, the academy's director of painting, seems to have been a prickly model. Both father and son were soon expelled from the institution, crippling young Meléndez's opportunities for the major figurative projects his talent promised.

Unbowed, the artist reinvented himself as a still life painter. And what a stunning job he made of it. His singular mastery of a minor genre became the vehicle for his eventual breakthrough into court patronage under the prince of Asturias, later Charles IV. In 1771, the prince invited Meléndez to produce an encyclopedic collection of paintings of seasonal foods produced on Spanish soil—a natural history of agricultural Spain.

Meléndez combined rigorous structural design, thematic wit, and a quiet yielding to the facts of a meal. For all their ecstatic detail and horticultural veracity, these works are more than close-range quotations from the world. They are also exquisite enactments of a compelling artistic conscience. Meléndez's orchestrations of kitchen produce, executed in loving fidelity to naturalist concerns, are woven with cues that lend resonance to verisimilitude.

At a glance, *Still Life with Game* (c. 1770) is a straightforward tabletop piece. Two dead pigeons lie in front of the copper kettle that waits to braise them. But the turn of their bodies, entwined with unnatural delicacy, telegraphs extra-culinary intention. The downy head of one bird rests sweetly, as if in caress, within the soft hollow of its companion's upturned neck. The staging suggests a tragic couple. (Meléndez's audience would have known the legendary doomed lovers of Teruel, Spain's own Tristan and Iseult.)

To emphasize the poignance, two spice packets lie chastely side by side in the foreground, each twisted at the ends to suggest heads and feet. Or tail feathers. One lifeless pairing echoes another. On one level, *Still Life with Fish, Bread, and a Knife* (c. 1772) is a plainspoken inventory of the ingredients for a meatless Lenten meal. But in the land of Cervantes, luxuriantly devoted to soldiering, the position of that shining sea bream insinuates a fallen *guerrero.* Propped improbably on its tail, atop a knife and slumped against an overturned soup pot, the fish—mailed in lustrous scales—impersonates a wounded knight. The knife handle is visible on the fish's left; the blade shows on the right, a charade of impalement. A pink fin, dark red in shadow, mimics a bloody gash. The ensemble is a teasing blend of cultural emblem with genuine feeling for the thing-in-itself.

The *vanitas* theme threads through the exhibition just as it does through the history of still life. Meléndez's work

'Still Life with Figs,' ca. 1773

REUNION DEES MUSEES NATIONAUX / ART RESOURCE, NY

is a theater of delight in organic form—that heart-stopping cauliflower! a bliss of figs!—but the shadow of *memento mori* passes over it nonetheless. References to mortality peek from behind the veil of natural description. What is that shattered watermelon, glistening red flesh spilling onto the ground of a darkling landscape, if not an intimation of death on the run? Elsewhere, decay is not far off in bruised, overripe apples and pears. The pity of maturation.

Sly tension between depiction and suggestion exists in several end-of-dinner motifs that include narrow boxes of sweets. Pictorially, these rectangular forms register lighting effects and provide counterpoint to rounded volumes. They also function metaphorically: Made of rough scrap wood, they resemble stacks of coffins. Visible at the corner of one is a bit of wrapper. A hint of winding cloth? Instead of the customary skull, worm, or hourglass, Meléndez features—in miniature—the plain pine box that beckons us all.

Viewed from the narrow angle of our own era, Luis Meléndez exhibits certain pictorial concerns similar to modernist ones. Here are those spatial ambiguities that our own eyes are conditioned to admire. (Is there really room for that bulk on such a narrow shelf?) Eager to show Meléndez in a modern light, the exhibition catalogue flourishes a Morandi still life for comparison. Yet it is precisely Meléndez's distance from modernity that is arresting. His sensibility thrived on the continuity of cultural memory. He worked, as did his contemporaries, in anticipation of discernible meaning and trustful of its reception. His produce medleys are loyal to the seasons; and his unifying theme of the four elements (earth, air, fire, water) assumes an audience whose cultural field extended back, however fitfully, to Empedocles.

Meléndez's repertory of enduring forms—the spoon, jar, bowl, and beaker, together with pantry stuffs—is still with us, triumphant over generational time. In the rhythms and transmitted rituals of meal preparation lies the divide between brute existence and civilized life. So much depends on fresh cauliflower and a loaf of bread. ♦

BCA

Harvard Fare

The author, Radcliffe '49, enjoys the late show.

BY CYNTHIA GRENIER

Harvard reunion, 1968

Cambridge, Mass.

It was only a few minutes after arriving at Currier House in the Radcliffe Quadrangle for my 60th class reunion last month that I realized things really had changed. The bathroom facilities in the dormitories—shared now during the academic year by males and females alike—carried little stickers on each toilet door to the effect: "You Are Not Alone. If You Have Been Forced Into Sexual Activity Against Your Will, There Are Many People at Harvard Who Can Help."

Then followed a list of five possibilities, concluding with "Call the Harvard Police."

Altogether some 39 members of the Class of 1949 made it to Cambridge, most from the environs, their voices still reflecting the Boston accents of my childhood, although two flew in from California and one from Florida. As one woman observed wryly, looking around the dinner table, "We've all become generic." We were not the only reunion convening at Harvard this year: Representatives from 1939, 1944, 1954, 1959, 1964, 1974, 1979, 1984, 1989, 1994, 1999, and 2004 were on hand as well.

The next morning we were driven in vans over to Harvard Yard to listen to a symposium on the arts—or so it was identified in the program. It turned out to be a fairly tedious discourse on Shakespeare with Professor Stephen (*Will in the World*) Greenblatt getting one of his pupils to recite a passage of Queen Gertrude from *Hamlet* addressing Laertes, illustrat-

TIME & LIFE PICTURES / GETTY IMAGES

Cynthia Grenier is a writer in Washington.

ing how we could recognize the queen was lying.

Nicely enough executed, but relevant to our day and age? No. The Class of 1954 at least had symposia on "The Future of the Global Economy" and "Understanding America and the World." Who knows how interesting they were, but at least they were of our time.

Actually what may have been the most interesting day in Reunion Week was the discussion that took place among some 30 members of the Class of 1949. So many shared experiences: so many widows, so many living in assisted living facilities or contemplating such a move. Many like Raya Dreben, in the second class to include women who graduated from Harvard Law School, who is technically retired but working harder than ever as a consultant. A surprising number of Radcliffe women who had married on graduation had produced four children and now spoke of grandchildren—and even an occasional great-grand offspring.

Among all of these women who may not have known one another circa 1949, they clearly felt a kind of primordial bond—not a sentimental attachment but one that is genuinely moving on a fairly deep level. Somehow, something over the years had been learned.

It was also interesting to hear the number of women who complained how they had felt shut out, scorned by the Harvard professors, in their day. Our class was the first to share all courses with our Harvard classmates. Maybe it's because I grew up with a brother 18 years my senior, but I always felt comfortable with men at Harvard and never hesitated going around to ask questions or get to know the professors. I recollect talking a professor of Milton into raising my grade from B to B-plus because I had never had a B and his grade would ruin my record. He bought it!

This year's commencement took place in what was referred to as the Tercentenary Theatre, although it is not a theater per se but the area between the Memorial Church and Widener Library, decked out with three huge crimson Harvard banners. Flying overhead were the bright standards of the 13 undergraduate houses, occupied these years, of course, by both sexes.

Tall men in full morning dress, complete with cream-colored double-breasted waistcoats and black cardboard top hats—Harvard, hit by the recession, apparently was unable to afford the rental charge for silk toppers—directed the masses of classes swirling around Harvard Yard. The senior reunion classes were ordered to march into the theater between the rows of the graduating class of 2009, who cheered and applauded us on our way.

Maybe it's because I grew up with a brother 18 years my senior, but I always felt comfortable with men at Harvard and never hesitated going around to ask questions or get to know the professors.

Yes, they all looked very terrifyingly young.

The commencement addresses were, on the whole, what you would expect—that is to say, high-minded banalities—although Secretary of Energy Steven Chu mercifully lightened his discourse with glints of wit and a welcome keen intelligence. The day before, the Harvard members of ROTC had received their commissions from General David Petraeus. In a video sent afterwards to all alumni, however, all mention of ROTC or General Petraeus was omitted.

Honorary degrees had a definite flavor of political correctness. Pedro Almodóvar, the Spanish film director, was awarded one for his "colorful, campy" film work. Joan Didion, of whom I wrote in these pages on November 21, 2005, and not in complimentary terms, was another recipient. Wynton Marsalis trumpeted us all out of the Yard to "When the Saints Come Marching In."

(I checked later with the Commencement Office and, as far as the staffer there knew, no other movie director had ever received an honorary degree from Harvard University. I guess the works of Ingmar Bergman, Federico Fellini, and Luis Buñuel—not to mention John Ford or Frank Capra—weren't colorful or campy enough to meet Harvard's standards.)

Political correctness also triumphed when it was announced that a chair had been established for the study of homosexuality. Its name? The F.O. Matthiessen Visiting Professorship of Gender and Sexuality. I happen to have taken Matthiessen's course in American literature, and one of his landmark works, *American Renaissance* (1941), still sits on my shelves. But F.O. Matthiessen (1902-1950) was the quietest, most discreet, deepest-in-the-closet of gentlemen, and I have to wonder what he would think of his eponymous chair.

The last day ended with a series of awards to assorted Radcliffe worthies over the generations, and discussions of the influence (or lack of influence) of the Radcliffe curriculum throughout their careers. Seated next to me in the front row was a small, elegant woman who entered leaning on a cane. I could see that she was definitely senior to me, but was taken aback to learn that she was a member of the Class of 1930: Frances Addelson, 100.

"I'm blind as a bat, dear," she said to me, tapping her glasses. "And hearing?" She touched her hearing aide. So what do you say to someone who is a century old? I asked how she liked being at Radcliffe/Harvard again: "I love it," she said. "Everyone wants to interview me, all those journalists. It's great."

I wished her another hundred years as we said goodbye. "And you too, my dear," she replied. ♦

Tanz Macabre

Pina Bausch, the German dancer-choreographer 'who launched a thousand imitators.' **BY NATALIE AXTON**

Pina Bausch, the legendary *tanztheater* director, died last month in Wuppertal, Germany. She was 68 and had appeared onstage with her company, Tanztheater Wuppertal, just the week before. A diminutive, soft-spoken master of her craft, Bausch was, to many American dancers and choreographers, the most important artist of the 20th century. She had come to symbolize everything European and avant garde: the expressionist to Balanchine's classicist, the *kultur* to Michael Jackson's pop. In this hemisphere her only equal was Merce Cunningham.

Bausch was born in Solingen. Her parents, who operated a café she would later immortalize with her signature role in *Café Müller* (1978), sent her for training to the Folkwang Academy in Essen. This was the academy run by Kurt Jooss, the German expressionist and choreographer of the antiwar ballet *The Green Table*, and Jooss would become her mentor. In 1960 she came to New York on a one-year scholarship to Juilliard. The New York dance scene of the early '60s was particularly rich, but Germany was where Bausch always wanted to be. She returned to Jooss's company in 1962, assuming artistic directorship in 1969.

Dancing 'Café Müller,' 1997

Despite her impeccable credentials, Bausch's arrival in Wuppertal was not appreciated. In 1972 the Wuppertal Opera Ballet was yet another standard-issue German municipal ballet troupe. But Bausch had different ideas, and it became Tanztheater Wuppertal Pina Bausch soon after she was hired to direct it. The closest thing to ballet her new company ever performed was Agnes de Mille's *Rodeo* (1973). With Bausch's own work it was all alienation, battles of the sexes, and improvisation—Brecht meets voyeurism in bare feet. Arlene Croce once described Bausch as a "victim artist," complicit with her audience. That was in 1994, after she had become an international star. The burghers of Wuppertal were initially less amused, and for years they let her know it.

Starting in the 1980s she brought her company to the Brooklyn Academy of Music's Next Wave Festival. American audiences have always been divided by the surreal stage images her works comprise: There is the doomed field of carnations in *Nelken*, the hippo in *Arien*, the enormous wall in *Palermo Palermo*. Dance audiences here are unused to such spectacle: For some it makes up for the absence of "real" dancing in the work; for others it is pure gimmick. Bausch once said, "I keep making, time and again, desperate efforts to dance." Her dancers walk about, encountering one another and their environments through repetitious gestures and bits of dialogue. This disconnection between men and women and their objects is the heart of her work, making her seem more painter than choreographer.

For me, no other modern dance performance can compare to the experience of Tanztheater Wuppertal in *The Rite of Spring* (1975). It is her masterpiece. An exquisite primitivist interpretation of Stravinsky's score, it contains the most "dancing" in her *oeuvre* and proves she is a choreographer of the highest caliber—and a consummate showman as well. It's performed as the second part of Tanztheater's *Café Müller/das Frühlingsopfer* concert, the company's bread and butter. Intermission tends to run long while stagehands rake out thousands of pounds of peat to convert the stage into an enormous pitch. Few moments in the theater include that sense of anticipation: No one's ever late for *Rite*. The house begins to reek of earth, and the smell becomes a logical setting for the brutal dance drama that follows. At *Rite*'s conclusion the performers are filthy with it.

Pina Bausch's death is an immense loss to the German cultural landscape, which had come to embrace her aesthetic. She had launched a thousand imitators. It was a particular shock that she died relatively young, and so quickly, just five days after a cancer diagnosis. But as any photograph reveals, Bausch was not a woman who took care of herself: She worked incessantly and subsisted on cigarettes. Her family had to remind her to eat.

It's especially tragic that Bausch died just as she was becoming enshrined in the cultural stratosphere: Pedro Almodóvar and Wim Wenders were recording her work. It's always nice to have good recordings of dance works, and Bausch's vision lent itself particularly well to cinema. But where these collaborations might have led we will never know. Pina Bausch called her work *tanztheater* for a reason: It was in the theater that she thrived; in the world she will be missed. ♦

NEWSCOM

Natalie Axton writes about dance in New York.

Morality Play

Two reasons to be glad it isn't 1979.

BY JOHN PODHORETZ

It is axiomatic to many people that the movies, to take one medium, are more questionable today than ever; that they feature more sex and violence than ever before, and that the values they preach are not values at all, but narcissistic hedonism in disguise.

But is it true that things are worse than ever? Consider this: We are celebrating the 30th anniversary of 1979, the disastrous twelve-month when everything seemed to go wrong at once—Iran and Nicaragua fell, American diplomats were taken hostage in Tehran, and the Soviets invaded Afghanistan, just to name a few of the horrors of the year. In the fall of that year, United Artists, then the most prestigious studio in Hollywood, released two films. Both are about the habits and misbehavior of high-toned and well-to-do New Yorkers. One is considered a classic; one has fallen into obscurity. They are both works of evil, and I use the word advisedly. And hardly anyone at the time seemed to recognize it.

BRIAN HAMILL / GETTY IMAGES

The false classic is Woody Allen's *Manhattan*, a movie about a comedy writer named Ike who lives in a grand Fifth Avenue apartment. He spends his evenings with intellectual friends at Elaine's. He is 42 years old. And he is sleeping with a 17-year-old girl named Tracy.

John Podhoretz, editor of Commentary, *is* THE WEEKLY STANDARD*'s movie critic.*

Tracy is a senior in high school. We see him lurking across the street from the Dalton School as he waits for her to emerge at 3:00 P.M. She joins him at dinner with his intellectual friends, and they do not bat an eye. Rather, they praise her, and, by inference, Ike for choosing her.

It is clear from the context of *Manhattan* that we are never to question Ike's character. In fact, the movie suggests he is a person of vastly better character than his friend Yale, because later on in the movie, after Ike has dumped Tracy and broken her heart, Yale steals a girlfriend from him. "You think you're God," Yale says when Ike upbraids him. "Well," says Ike, "I've got to model myself after somebody."

In the end, Ike returns to Tracy. He is upset that she is going to Paris for a few weeks. She tells him not to worry, she will be true: "You have to have a little faith in people."

It is inconceivable that such a movie could be made today, in which a middle-aged man commits statutory rape—and is considered a moral exemplar to boot. And yet there was not a peep in 1979.

Rich Kids is perhaps an even more interesting case. It is a movie about divorce, in which the parents behave in ludicrous, embarrassing, and appalling ways—and leave their confused children to their own devices. Having lived through many such divorces with New York kids exactly like these, I can testify to the brilliance of the movie's depiction of them.

But *Rich Kids* is, like *Manhattan*, evil. The movie climaxes, sorry to say, with the consummation of a sexual relationship between its two 12-year-old protagonists—an act that is greeted with horror by the parents, who, the movie makes clear, have no standing whatever to judge the lovely, innocent, and altogether delightful behavior of their children. In the words of Steven Bach, the studio executive who supervised the film, it was

> a story of teenage [sic] needs, affection, self-determination and sexuality. *Expressed.* Off camera and discreetly, written with delicacy and wit, but, no doubt about it, those kids actually *do* it! . . . And aren't harmed by it. And the sexual episode brings everything to a blithely happy conclusion.

According to Bach, only one official at United Artists objected—its head of distribution, a man named Al Fitter. In his classic Hollywood memoir, *Final Cut*, Bach writes:

> Fitter was horrified. He saw the national membership of the parent-teacher associations storming [United Artists's offices] to tear it apart brick by brick. We countered that we weren't making it for the PTA or for his neighbors in Old Greenwich, Connecticut. As it turned out, we weren't making it for much of anyone. The picture never found an audience.

The fact that it never found an audience would really seem to be beside the point. The point is that $2.5 million was spent by a major American cultural producer on a piece of entertainment that glorified a sexual encounter between two barely pubescent children.

It was an example of how degraded the culture had become by 1979: that there was only one person at a major Hollywood studio to object to this astonishing moral lapse—and that person was, in Bach's words, "forever after viewed as subliterate" for speaking up.

Whatever we are today, we are not this. Whatever Hollywood is today, it is not as it was in 1979. And thank God. ♦

"Her writings have often offered a granular analysis of every piece of evidence....'It seems an odd use of judicial time to spend endless hours delving into the minutiae of the record,' said Arthur Hellman, a University of Pittsburgh law professor.... Hellman ... called Sotomayor's approach 'a kind of carpet-bombing, a relentless mustering of facts. She goes well beyond what is necessary for the case and is determined not to just defeat the other side, but to annihilate it.'"

—Washington Post, *July 9, 2009.*

UNITED STATES COURT OF APPEALS SECOND CIRCUIT

SOTOMAYOR, Circuit Judge

KATHLEEN MADALINE JARVIS, Plaintiff-Appellant, vs. FORD MOTOR COMPANY, Defendant-Appellee.	Docket No. 99-9405(L)

ORDER

While this court's ruling in this case centers on procedural matters and an arcane legal distinction, my own examination of the evidence and reading of 27,813 pages of testimony from the jury trial uncovered a web of details immaterial to the outcome of the trial, irrelevant to the work of an appellate court, and yet compelling in their own right.

For example, Ford maintains that the plaintiff inadvertently pressed the accelerator rather than the brake, and yet my own microscopic analysis of the brake pedal reveals fibers of leather embedded within its grooves at a depth of .013 cm. My reenactment of the accident on a Hollywood-type set (that I had constructed to match the scene) left only surface traces of leather microfiber on the brake pedal during a standard Ford Aerostar ignition sequence. Yet the plaintiff's own outsole embedded the fibers much deeper.

Furthermore, the plaintiff testified that she had purchased the shoes—a pair of faux Salvatore Ferragamo peep-toe pumps with half bow Vara ornament, "cage" heel and platform—the previous day, during which she drove the indigo blue Mini Cooper with the white and black checkered roof, not the Ford Aerostar. As most appellate judges know, that particular Ferragamo shoe features an 11 cm heel. Calculating the angle of incidence and the apex indicates that the longitudinal axis of the peep-toe pump's sole would permit Jarvis to apply roughly 78.47 kg of force to the brake pedal, based on her documented leg-press performance on page 13,239 [paragraph B.7.f] of the transcript. Combining this with observational acceleration data should produce skid marks approximately 7.344 meters long at intervals of about 1.378 meters, with a rubber depth in the ballpark of .3048 cm. Yet no skid marks appeared at the scene.

All of this led me to consider the inertial forces exerted by bituminous surface treatment (BST) of the type found on Jarvis's driveway, upon all-weather radial tires produced from Brazilian latex in Mexican factories. Taking into account the temperature, which the National Weather Service recorded at a station just 3.658 km north-northeast of the Jarvis driveway at the time of the accident as