
The Civil Rights Quarterly
PERSPECTIVES
SPRING 1982
Still a Grimm Tale
Sexual Harassment on the Job
The Constitution:
Facing Its Biggest Assault
Since the Civil War
'Supercripple' Mountaineers
Find Pitfalls at Sea Level
Interview with Thomas Atkins,
NAACP's Feisty Chief Lawyer

Guest Editorial

American Indian Religious Freedom: Another Hollow Promise

by Suzan Shown Harjo

For roughly 200 years, the United States banned a number of Indian religious ceremonies, ruined many sites sacred to Indians and allowed a variety of non-Indian missionary groups to have the run of Federal Indian boarding schools to convert children who were isolated from their family, language and religious ties.

Exposure to proselytizing was a new experience for Indians. Indian religions—there are many and they vary a great deal from each other—are not conversionary. Many, in fact, are exclusionary, requiring a lifelong adherence to traditional proscriptions. Some have an extraordinarily stringent birth or deed requirement for entry into particular clans or societies.

While Indian religions are not popularly understood, there is a great premium on the objects of Indian worship. These sacred objects are so highly prized as museum pieces and collectors' items that Indian holy grounds and graves are frequently raided for pots, jewelry, clothes, shoes and bones. In addition to those with scientific license, some of those who rob the burial and worship sites are so specialized that law enforcement officials and collectors have coined a term for them: pot-hunters.

To halt the desecration of Indian religions and the sites and objects intrinsic to many of those religions, Congress passed the American Indian Religious Freedom Act of 1978 which grants American Indians, Alaska Natives, and Native Hawaiian people the right "to believe, express, and exercise the traditional religions...including but not limited to access to sites, use and possession of sacred objects, and the freedom of worship through ceremonial and traditional rites."

Pursuant to the Act, an executive branch report delivered to Congress on August 1979 promised regulations, legislative proposals and executive orders designed to make the promise of the Act a reality. So far, there has been no action. The Federal bureaucracy has gone back to business as usual. And the practice of pot-hunting remains a lucrative business, thriving on the willingness of collectors and curators to look the other way and to pay well.

Despite the guarantee of the religious freedom clause in the First Amendment of the Constitution and the mandate of the American Indian Religious Freedom Act, Indian people are still denied access to key items and places of worship, and Federal agencies still allow commercialization and destruction of sacred sites. If government, by both its actions and failure to act, prohibits the free exercise of Indian religion, it may be naively optimistic to look forward to a time when the general population could accept—and cease interfering with—this basic right of Native American peoples. ◆

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PERSPECTIVES

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FEATURES

DEPARTMENTS

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Up Front

Edited by F. Peter Model

Do As We Do, Not As We Say

Washington, D.C.'s Cleveland Park neighborhood is one of the more affluent pockets of intellectual and political ferment in the country. It probably contains the nation's highest per-capita number of social activists, lawyers, reporters and other "opinion molders" within a mile-square area.

One would think, therefore, that the Joseph P. Kennedy Jr. Institute for the mentally-retarded would have had no problem there opening up one of its "halfway" houses. The place was to house eight women then living in one of the District of Columbia's worst high-crime areas—"a lovely group of ladies with no behavior problems," according to Jan Eichhorn, chief of Washington's Community Services Bureau.

"All of a sudden you wake up one morning," a fellow social worker (who lives in Cleveland Park) fumed to the Washington *Post,* "and you hear that eight retarded people are moving onto your street!" She was joined in her protests by (1) a former city attorney who had been instrumental in getting Washington, D.C. to move such people out of institutions and into private homes, (2) a former New Yorker known as a pioneer in the use of community-based rehabilitation homes, and (3) a psychiatrist long committed to the halfway house concept.

While some neighbors complained that the city was paying "excessive rent" on the house, and/or that they "weren't properly notified," City Councilmember Polly Shackleton saw it for what it was: rank hypocrisy and bias. "Everybody is very sympathetic about getting people out of those institutions, but 'not in my neighborhood.'"

In Cleveland Park, it's love-thy-neighbor, but only if the IQ level goes above 100.

The Last Roundup on Rodeo Drive?

The old Metro-Goldwyn-Mayer lot on which they burned Atlanta during the making of *Gone With the Wind* is gone now. But apparently Tara, its pre-Civil War system of slavery intact, still exists in the hearts and minds of some of the more affluent souls who make their homes in Beverly Hills. According to agents of the FBI and INS, these folks have solved the perennial problem of finding good household help: they buy *slaves.*

It's no secret that the wages being paid to some domestic workers, notably illegals from Mexico and Central America, are tantamount to those that used to be paid to Scarlett O'Hara's retinue. But

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what nobody expected was to find Indonesians brought over here on visas obtained for them "under false pretenses" and then *sold*—that's right, *sold*—for $1,500 to $3,000 each.

The deal, if one can call it that in 1982, was for these slaves to work for their "owners" for two years, doing domestic or gardening chores, or even working in their business establishments, for no pay save room and board. Furthermore, according to the FBI, at the end of the work day these "helpers" would be kept under close scrutiny to prevent their escape.

FBI agent Mike Dillon, a member of the raiding party that swooped down on various affluent homes in Los Angeles and Beverly Hills, said that none of the "owners" was a celebrity household name.

When last seen, the emancipated slaves had been taken into INS custody. Not so their former owners.

Landlord Scores Test Case And Loses Points All The Way

Some landlords tend to regard civil rights "testers"—people sent out to check on reports of bias in tight rental markets—as necessary nuisances. Some willingly pay the fines, figuring they are a small price for what the Government could throw at them under various Federal, state and city fair housing laws.

Imagine, therefore, the consternation of Havens Realty Corp. of Richmond, Va., when both a black and a white "tester" working for HOME (Housing Opportunities Made Equal) successfully sued and won under the broad terms of the 1968 Fair Housing Act.

The landlord appealed the case (*Havens Realty Corp* v. *Coleman*) to the U.S. Court of Appeals for the 4th Circuit, which upheld the lower court finding for the plaintiffs. (HOME had sent out a black woman to answer an ad for an apartment who was told she was too late: they had all been rented. Later, HOME dispatched one of its white male volunteers who was told he had his choice.)

In taking the case to the Supreme Court, Havens argued that no one had really gotten hurt, certainly not hurt in the way a genuine applicant might have been hurt under similar circumstances. Nonsense, said Associate Justice William J. Brennan Jr., speaking for the entire Court. The Fair Housing Act, he wrote, forbids a landlord from informing anyone, regardless of race, color, religion, sex, or national origin that any dwelling is unavailable when, in fact, it is.

> "A tester who has been the object of a misrepresentation made unlawfully has suffered injury in precisely the form the statute was intended to guard against, and therefore has standing to maintain a claim for damages under the Act's provisions. That the tester may have approached the real estate agent fully expecting that he would receive false information, and without any intention of buying or renting a home, does not negate the simple fact of injury."

The High Court not only found both testers could sue for damages (on ground that Havens had deprived them both of the opportunity to live in an integrated community) but that HOME, the civil rights group that had sent out the testers, also had standing to sue.

Caveat vendor.

Shaved In The Nick Of Time

When the California Department of Occupational Safety & Health (CALOSHA) late last year discovered unacceptably high levels of ammonium phosphate at SimCal, a chemical plant in Helm, west of Fresno, workers were ordered to don face mask respirators.

The CALOSHA order apparently was seized upon by SimCal management as a way to get plant employees to shave off their beards. All but two workers complied—two of the 12 Sikhs working at SimCal.

According to the Fresno *Bee,* the two respectfully declined to "look sharp" because, they said, Sikhs are forbidden to cut their beards. They were supported by International Chemical Workers Union Local 97's president, Robert Dominick, who told management the CALOSHA order should apply only to that part of the plant where the mildly toxic and acidic ammonium phosphate levels were found high.

At last report, the two recalcitrant Sikhs were holding out. One of their fellow co-religionists who shaved his beard

because of fears for his job, now has guilt feelings. "When I go to church," says Gurbinder Dhaliwal, "they will say I dropped out for money and I will look bad."

(Contributed by Wayne A. Davis, Squaw Valley, Calif.)

The Constitutional Trade-off

What price security?

If it came down to it, would you willingly place the U.S. Constitution in hock to gain safe streets and secure homes?

There's a feeling down in crime-ridden Miami that perhaps we have too many civil rights and liberties, and that the bad guys are taking advantage of them.

Miami *Herald* columnist Charles Whiten reports that some, in the city the FBI now ranks as having the nation's highest crime rate, are ready to cut off the hands of armed robbers. Some of his readers submit other suggestions, such as denial of bail, removing the "shackles" from the police to enter and seize without a warrant, subjecting judges to periodic judicial review boards and removing those found to be "too soft" on criminals.

Miami Police Chief Kenneth Harms has a suggestion, as well: to do away with the requirement that juries reach unanimous verdicts. Split decisions don't just result in "hung juries" which, in turn, force judges to dismiss; they also lead to compromise in the jury room that result in the same thing: exoneration or minimum sentencing with early parole.

The fact that Miamians are scared, and justifiably so (crime now victimizes one out of every 10 citizens in that city) has prompted two University of Miami sociologists to find out just how many constitutional rights people are willing to hock or swap for a more secure environment.

The study, which is currently going on, will also examine the other, more mundane ways in which Miamians keep safe: installing burglar alarms, converting their homes into castles (complete with bars and a ferocious dog), learning self-defense, and so on.

Melvin L. DeFleur and Geoffrey Alpert hope to have the results this fall. Already they detect ominous vibrations, a more vocal support of vigilantism. LeFleur is reminded of what happened in 1933 after citizens of the Weimar Republic sought to put an end to political turmoil by voting in a party pledged to restore law and order.

"I'm not suggesting we could get another Adolf Hitler, but I can see a tendency in that direction...."

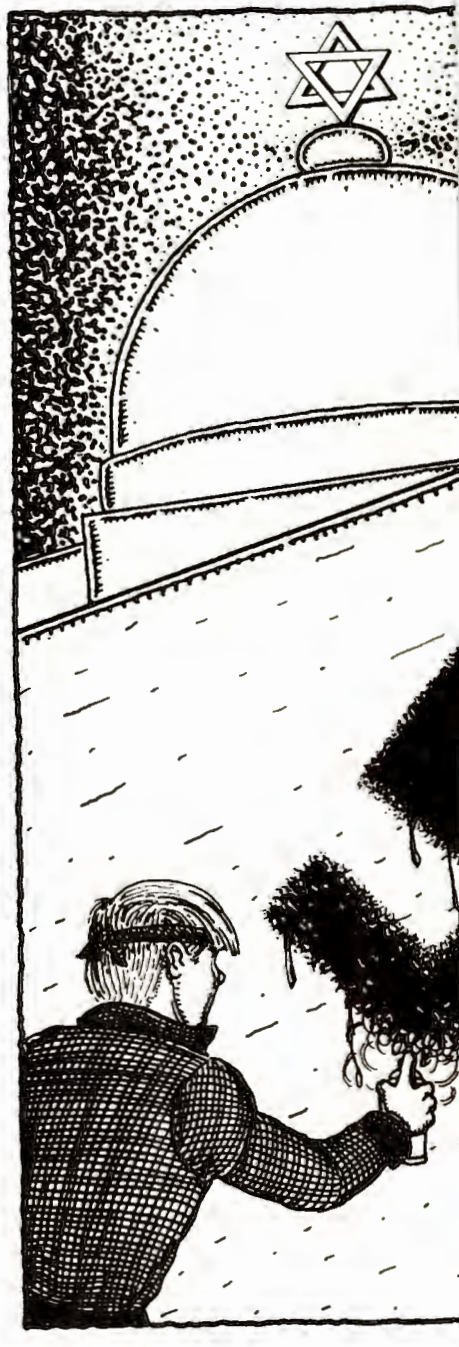
(Contributed by Ronnie Lovler, Washington, D.C.)

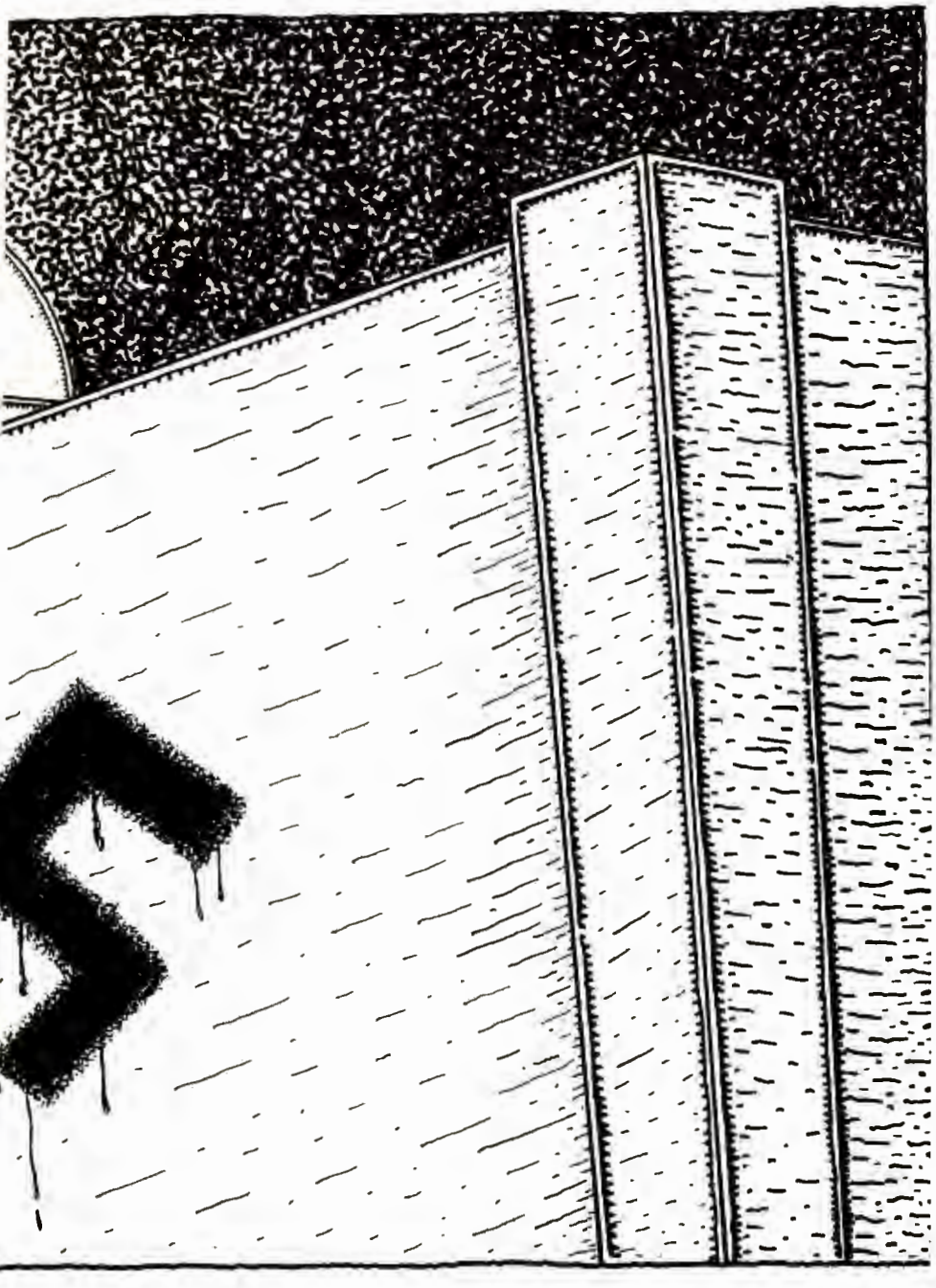
Handwriting On The Wall

The story is told, in the Old Testament (The Book of Daniel, 5:27) of how the handwriting on the wall foretold the end of the kingdom of Belshazzar: "thou art weighed in the balances and art found wanting."

A latter-day form of the handwriting on the wall is anti-Semitic graffiti which, according to a report issued earlier this year by the Anti-Defamation League of the B'nai B'rith, is on the upswing. In 1980, there were about 377 "anti-Semitic incidents" reported in 31 states—incidents involving mainly the smearing of Nazi swastikas on walls (mainly of synagogues), spray-painting of yellow Stars of David on Jewish-owned property, and painting of such scurrilous warnings as "Kikes Get Out!" or "Jews Must Die!" on fences.

In 1981, reports ADL National Director Nathan Perlmutter, there were more than two and a half times as many such inci-





dents—974 of them, to be exact. While such graffiti is only part of the worry (ADL's report also covered arson, bombing and desecration of Jewish cemeteries) it does "indicate a disturbing quotient of anti-Jewish hostility just beneath the surface of American life," says Perlmutter.

Part of the increase is, of course, due to the fact that more people—Christians as well as Jews—are willing to report them, knowing authorities *will* investigate and take action. Still, there *does* seem to be a feeling among the victims of these smears that anti-Semitism is once again becoming socially acceptable ("there is a tendency of people to blame Jews for some of the economic problems this nation is facing, especially because of OPEC and Israel's militancy," says one civil rights specialist at ADL).

Often, when the culprits are caught, they turn out to be teenagers. This, admit police, puts a crimp on bringing the "perpetrators" to trial and giving them jail sentences. Still, eight states have recently enacted "bias crime" laws that carry with them stiffer punishment—New York, Arizona, California, Maryland, Oregon, Rhode Island, Washington and New Jersey.

One New Jersey legislator, describing his state's new law as "the toughest in the nation," remembers that until passage, the worst offense the graffitoist could be charged with was "disorderly conduct." He says, "it was like smoking on a bus or putting a slug in a pay telephone." Now, the desecrator is apt to practice his "art" on the inside of prison walls.

Madison Avenue Remembers Pearl Harbor, Alas

Remember those World War II movies that depicted our Japanese foes as despicable little men who would stop at

nothing in their quest for world domination?

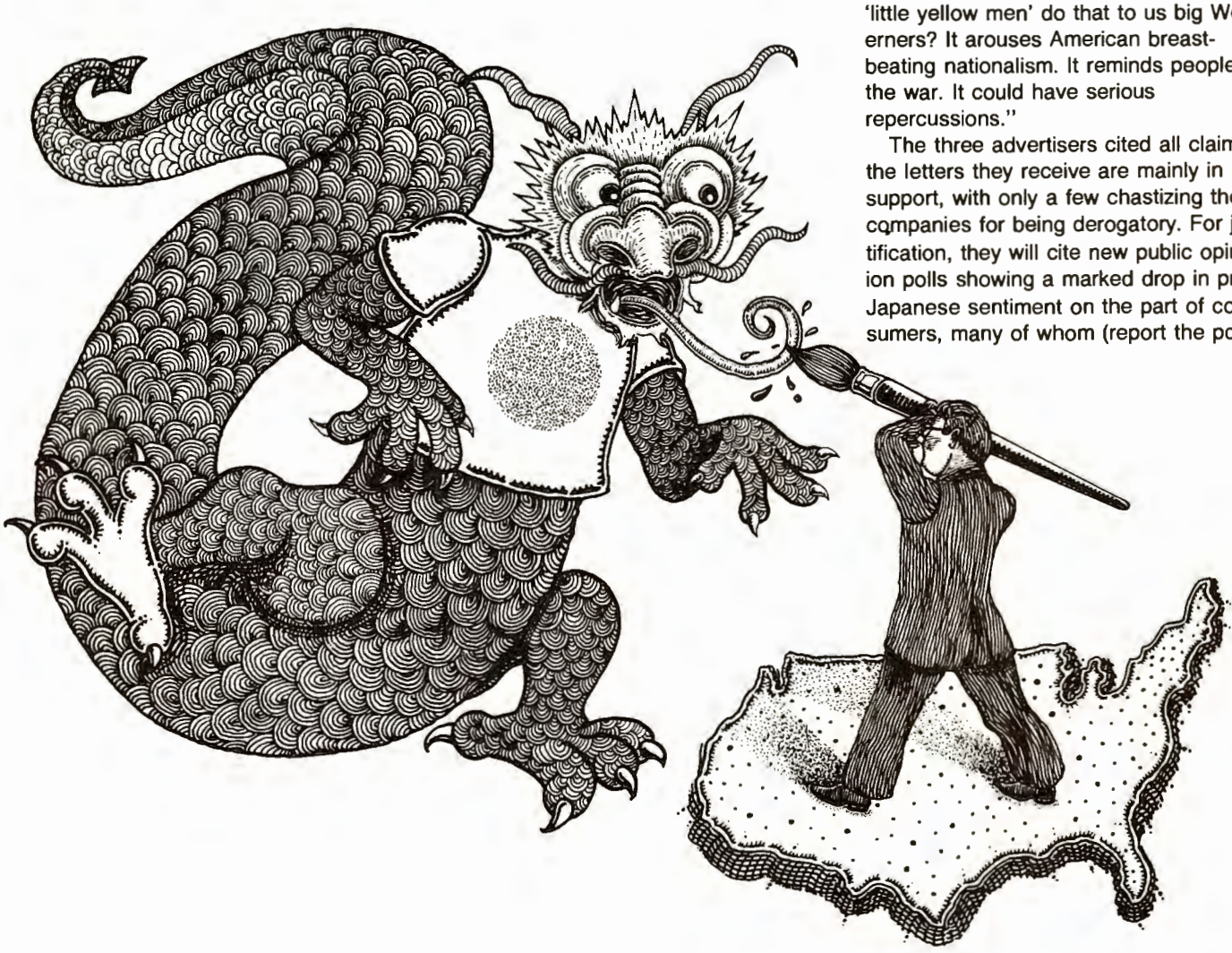
Well, nearly 40 years after V-J Day, they're back, only now they're called commercials. *Adweek,* a trade magazine for the advertising industry, cited three examples of the New Jingoism:

- W.R. Grace ("One Step Ahead of a Changing World") reminding viewers that everything Japan is known to be good at—"from baseball to technology"—was taught the Japanese by America.
- Sylvania (GT&E) resorting to a demeaning stereotype of a Japanese in order to persuade viewers that the U.S.-made set is better than the Japanese-made Sony.
- Harley-Davidson, in a print ad filled with dense, Japanese calligraphy, claiming "nothing gets lost in the translation" when it comes to *its* customized motorcycles.

W.R. Grace officials are quick to deny *Adweek's* allegations, saying that the purpose of its pro-America series is to tout domestic productivity and patriotism. Others aren't convinced.

An American working on Japanese trade agreements calls the Grace ads "reprehensible [and] racist" and adds "there is an effort to arouse residual anti-Japanese feeling—how can these 'little yellow men' do that to us big Westerners? It arouses American breast-beating nationalism. It reminds people of the war. It could have serious repercussions."

The three advertisers cited all claim the letters they receive are mainly in support, with only a few chastizing the companies for being derogatory. For justification, they will cite new public opinion polls showing a marked drop in pro-Japanese sentiment on the part of consumers, many of whom (report the poll-



sters) feel Japan, with its low wages and high productivity, is taking unfair advantage of an America on the economic ropes.

One researcher, William Watts of the non-profit Potomac Associates in Washington D.C., worries that these are just the first batch of anti-Japanese commercials and adds, "We've gone through a period of awe and tremendous admiration for what the Japanese have done. But this has now been tinged with fear and resentment."

He hopes cooler heads will prevail, as do the editors of *Adweek,* who submit "it is questionable whether nationalism alone will sell automobiles."

Grace Responds

Editor's Note: In accordance with Commission policy, W.R. Grace & Co. and Sylvania Corp. were given an opportunity to respond to the above Up Front item. Sylvania did not respond. Grace's response follows:

In your article, you report that, according to some, Grace is producing racist advertising on television. The claim is, quite frankly, absurd. Our response should simply be to refer the reader to a viewing of the ad; but I recognize that matters are not that simple.

Your article focuses on a TV commercial we produced which deals with the remarkable economic success of the Japanese. The commercial deals deliberately with the subject of productivity decline in the United States, and we illustrate that decline by measuring our productivity growth against that of the Japanese. The commercial, in fact, implicitly, if not explicitly, praises the Japanese for the tremendous strides they have made as a people, which today place them first in productivity growth among all nations of the world. Had another nation been first in productivity growth, we would have chosen that nation to compare ourselves against.

The ad, in fact, has nothing to do with racism; it has to do with productivity.

In a world where global competition is the order of the day, the American people must now realize we are being bested by others more productive than ourselves. If we wish to compete effectively in a free, global marketplace, we must become more productive at home. That is the essence of our message, and that is all we wished to communicate. I think a fair appraisal of the situation would require that you be aware of the *other* ads on productivity we have produced.

I am a Cuban-born American and, as such, I am as sensitive as the managing editor of *Perspectives* must be to racial slurrings. I can assure you that as head of corporate communications for a large, multi-national industrial company, I would not be party to an advertising campaign which would be prejudicial to *any* minority. Personally, I have the greatest admiration for the abilities, the determination, and the foresight of the Japanese people. That is precisely the reason we chose the Japanese as the subject of one of our ads.

Antonio Navarro
Senior Vice President
W.R. Grace & Co.
New York, N.Y.

Treaties Keep Women On The Bottom Rung

The right of Japanese companies in the U.S., under existing trade laws, commerce and navigation treaties and just plain friendship, to hire without paying attention to the 1964 Civil Rights Act that prohibits discrimination in employment is getting a good workout in the Federal courts. As it happens, those claiming to be discriminated against are *American* women. Sumitomo Shoji America, a huge import-export firm, like so many other Japanese firms doing business here, prefers bringing in its own management people from Japan. They do so because they feel Japanese have certain linguistic and and cultural skills that Americans aren't expected to bring to the task.

Three years ago, 12 women employed in the New York office of Sumitomo sued, charging that Japanese were constantly brought in from Japan and placed on the job ladder ahead of them.

Lower courts have had trouble agreeing. One said that the commerce treaties in effect exempt Sumitomo from the requirements of the Civil Rights Act; another said the Japanese had to comply with our laws. In a unanimous decision on June 15, the U.S. Supreme Court ruled that Japanese companies, incorporated and doing business in the U.S., are bound by Federal civil rights laws not to discriminate in employment.

Speaking Out

Hispanics in Prison: Reforms...or Riots

by Agenor L. Castro

In September 1976, the New York State Department of Correctional Services, edgy over the persistent increase in the number of Hispanic inmates, named a special advisor to the Commissioner for Hispanic Affairs. I was that designee. It was the only job of its type in New York's correctional system, but one which quickly became a position in name only. During the administration of three commissioners, Hispanic input was not awarded a priority ribbon by the executive staff. Finally, in August 1980, the position was eliminated, although I was the only senior-level Hispanic in an agency employing over 12,000 people. In the five-plus years I served with that system (which now houses over 26,000 inmates), no other Hispanic was hired in an administrative or supervisory position, nor was one promoted from the ranks. Finally following a hotly contested sergeants exam for prison guard, a hearing officer ruled in 1979 that the department's promotional exam procedure had discriminated against minority group officers. A handful of Hispanic prison officers were then promoted to sergeant.

New York's failure to address minority issues by this system accounts in part for the numerous incidents which have plagued the state's prisons since before Attica. Other states have also tiptoed blindly, hoping the problems would go away before their own systems caved in. And among minority issues, none is more explosive than the rise in the number of Latino men and women ushered into prisons yearly for longer and longer sentences.

While the ratio of Hispanics committing crimes for which they could go to prison is similar to that of the U.S. population as a whole, the ratio of Hispanics in prison is growing. That is due in part because they don't have adequate resources to defend themselves during criminal justice proceedings conducted in a language many barely understand. They are more likely to be convicted and are less apt to be paroled. Another factor has to do with simple demographics. Young people are more likely to commit a crime, and Hispanics in the U.S. now constitute a very young population.

No minority issue is more explosive than the rise in the number of Latinos in prison.

There are few Hispanics working in prisons today to serve inmates facing language and cultural barriers. Some prison administrators dread the rise of an Hispanic presence in their cellblocks, fearing that the language and ethnic affinity might contribute to a more cohesive, militant and vocal inmate constituency. Such coalitions have already developed in troubled systems such as those in New Mexico, Arizona, California, Washington and Colorado.

In the years after Attica, a number of ambitious changes were initiated behind-the-walls. For awhile it appeared a revolution was taking place, one focusing on society and the community as part culprit for the country's disturbingly high crime rate. Emphasis was put on the community pressures, social groups and cultural forces contributing to delinquent

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Speaking Out

behavior, especially by minority group offenders.

The pendulum has now swung back; prison reform is no longer "in." The public wants crime stopped at any cost, with convicts jailed for as long as possible to keep them off the streets. Law-and-order advocates have little patience with those who ask America to look at itself before it condemns the wrongdoer. Increasing the number of people arrested, convicted and sentenced is now far more politically popular than trying to change the way we manage our criminal justice system or our society. When a criminal is Hispanic, the criminal justice system is even less willing to be compassionate.

The six largest prison systems, overcrowded in general and especially strained by the rising proportion of Hispanics in their custody, are New York, California, Texas, New Jersey, Florida and the Federal Bureau of Prisons. In New York State in January 1982, of the 25,465 inmates serving a year or more on felony convictions, 5,065 (20 percent) were computer-indexed as "Puerto Rican." That figure did not identify the large number of other Latinos whom the data discs recorded as "white" or "black."

The New York tally also does not include the large number of Hispanics idling in New York City's jails or those awaiting case disposition in detention facilities in Nassau, Suffolk, Westchester, Erie, Monroe and other upstate counties. Similar tabulating errors occur in other states with growing Hispanic populations and increasing criminal caseloads.

In most systems, the largest, ugliest and loneliest institutions are buried far from the metropolitan areas where these inmates originally came from. A predominantly white and rural guard contingent usually supervises the inmates. This racial and cultural imbalance often leads to the type of prison unrest that boiled over in 1981 in several Midwestern states.

As crime escalates in our inner cities, so is it blossoming in municipalities and counties formerly baptized "safe." Some of the crime is attributed to Hispanics or other recent migrants to these bedroom communities. The courts in these areas are reacting by handing down notably stiff sentences to Hispanics, often denying them probation and recommending state prison.

Latino inmates are a "third force" in prisions caught between black and white inmates and between all inmates and the staff.

Prison construction, staffing and programs are at the bottom of the legislative shopping list. So are projects for Hispanic inmates within the institutional setting. The situation in municipal and county jails is even worse by current correctional standards.

Latino inmates are a "third force" in prisons, shoved back and forth in the power struggle between black and white inmates and between all inmates and the staff. While blacks can look to a growing number of black officers and professional staffers, Latinos see a system which apparently prevents them from being hired, or if hired, from being retained and promoted through the paramilitary structure. This problem is especially acute for female Hispanic inmates, who seldom see Hispanic officers at security posts in women's institutions.

Equal employment opportunity programs and affirmative action policies have not worked well in helping to get more Hispanics into corrections, or any other part of the criminal justice field. Hispanic professionals are seldom used by minority recruiting departments or seen employed in corrections personnel departments. And if Hispanics are hired, they are usually subjected to a training and probationary period which inevitably contributes to their quick departure. Staff turnover is a major problem among Hispanic teachers, counselors, clergymen and other non-security employees, who are usually hired provisionally, with limited opportunities for either promotion or reassignment into a position covered by the civil service security blanket.

Latino inmates know that the shortage of Spanish-speaking or Hispanic personnel translates into fewer programs and less sympathy for Hispanic issues. They know it means no one to look out for them in classification or program selection committees, disciplinary boards or the other power blocs which affect their daily lives.

Some Latinos who have managed to stay on as corrections officials have tried to serve as spokesmen for Hispanic inmates, although they knew it might incur the wrath of other institutional personnel or their union. The Mexican American Correctional Association (MACA), based in California, is now a strong and growing force in the Southwest. In the New York City Correctional Department, the Hispanic Society is one of the most respected groups among uniformed employee benevolent societies.

Correctional power groups are starting to look into what has become an Hispanic inmate crisis. At its last five national annual congresses, the American Correctional Association has included workshops and seminars on bilingual inmate programs and personnel recruit-

ment and training.

Such steps are vitally necessary to keep the peace in our prisons. If the communications gap between officials and Hispanic inmates widens much further, we might well see an explosion of violence reminiscent of Attica.

In the last few years, every major disturbance in New York's prisons has included Hispanics among the inmate leadership cadre, since Hispanics feel they are the most neglected members of the prison inmate hierarchy. The New Mexico riot in 1980, in a state where the majority of inmates and staff was Hispanic, was seen by some correctional pessimists as the handwriting on the wall. The Santa Fe problems were not too different from those in other states suffering from a shortage of facilities, programs, personnel and programmatic options, as well as a disinterested public and legislature.

The swelling number of Hispanic inmates demands special attention. Current population figures say there are over 14 million Hispanics, not counting the hundreds of thousands of undocumented Hispanic aliens, in this country. The group's median age is 21, with a significant number of unemployed adolescents and juveniles already straining community resources. Clearly we must find better ways to provide young people with the attitudes and skills to succeed in the labor force rather than be consigned to forced labor. But once Hispanics are caught in the criminal justice system, courts and prisons must respond to special needs of Hispanics or face erosion of their own credibility and legitimacy. The choice must be made soon. ◆

New York Prisons: Another View

Editor's Note: In accordance with Commission policy, New York State Department of Correctional Services Commissioner Thomas A. Coughlin, III was given an opportunity to respond to Mr. Castro's Speaking Out piece about Hispanics in prison. His edited response follows:

Mr. [Agenor] Castro makes some fine general points about the need for corrections officials in this country to recognize and address the needs of Hispanic populations in prisons.

He implies—wrongly—that New York State has turned its back on the problem. To listen to the way Mr. Castro tells it, New York State is unconcerned about its Hispanic prison population and has not done anything to meet those inmates' needs. That, plainly, is not true.

Mr. Castro's knowledge of the advancements we have made is limited by the fact that he has not worked within this agency during most of my tenure. His comments, unfortunately, are directed at the performance of past administrations, with which he was associated.

I have placed Hispanics in high-level advisory and administrative positions within the executive central offices of the Department, and my Affirmative Action Office has conducted an aggressive statewide campaign to bring Hispanics into the workforce at all levels.

Those Affirmative Action efforts, in fact, have far exceeded the goals that had been set for the past year in hiring, particularly in the numbers of Hispanics coming to work for us as correction officers.

We have, since I became Commissioner in 1979, made substantial strides in improving...Hispanic participation in New York's correctional system, and we will continue to do so under my direction.

Thomas A. Coughlin, III
New York State Department
of Correctional Services
Albany, N.Y.


the People
ARTICLE 29; 30; 31 & 32
PSIT

Whither The Constitution?

It was the genius of the Founding Fathers to create a Constitution that could accommodate to vastly changing times and to circumstances impossible to conceive in their day. Indeed, the world's oldest living, written constitution has been amended only 26 times in 193 years. Now, a rash of more than forty proposed amendments since 1981 threatens the very foundations of the Republic.

by Arthur B. Spitzer

It was a hot summer day in Philadelphia on Wednesday, August 8, 1787. The Constitutional Convention was in the third month of its labors, and the topic on the floor was representation in the House of Representatives. The working draft provided that there should be one Representative for every 40,000 people.

James Madison objected. "If the Union should be permanent," he observed, "the future increase in population . . . will render the number of Representatives excessive." He suggested that the draft be changed to provide for "not exceeding" one representative for every 40,000 people, so that the size of the House could be adjusted when necessary.

Delegate Nathaniel Gorham of Massachusetts didn't think the amendment was necessary. The United States would never last long enough for this to become a problem, he was sure. "Can it be supposed that this vast Country including the Western territory will 150 years hence remain one nation?"

Oliver Ellsworth of Connecticut (who later became Chief Justice of the United States) agreed with Gorham. "If the Government should continue so long," he suggested, the Constitution could be amended to revise the ratio of representatives to population.

But the Convention adopted Madison's proposal. With its eye on the distant horizon, it gave the new government the flexibility to adjust to increases of population undreamed of in 1787. And so today, without the necessity of repeated constitutional amendments as our population has grown, we have a House of Representatives with 435 members, each representing about half a million people, rather than a House of over 5,000 representatives. Generations after Gorham, Ellsworth and many others thought the Constitution they wrote would have been superceded, it continues to work superbly well.

* * *

The Founding Fathers assured this by writing a document that established the structure of government and the method by which it was to operate, but that did not attempt to decide the merits of the great political issues of their time, or of ours.

The Constitution did not opt for high tariffs, or for free trade. It didn't decree whether there should be a national bank, or not. James Madison, George Washington, Benjamin Franklin, Alexander Hamilton and the other fifty-one writers of the Constitution certainly had strong feelings on these and other important public questions of their day. They realized, however, that making the decisions about these issues was not part of their job in writing a Constitution. It would be the job, rather, of the government they were establishing. The purpose of the Constitution was only to create a form of government that could, without tearing itself to pieces in the process, decide these and other difficult, controversial, and unforeseeable questions over the years, the decades, and the centuries to come.

The amendment process is like a safety valve which if opened too often will defeat its own purpose.

The Constitution they wrote established a government of limited and separated powers, a government of checks and balances, a government that granted certain authority to elected and appointed officials, but that guaranteed the rights of the people. Their Constitution—our Constitution—has endured longer than any other written constitution on earth.

* * *

Of course, the framers did not suppose that their handiwork was perfect in every respect. They knew all too well that what might seem to make sense at one time might prove to be unworkable at another time. Indeed, they were writing a new constitution because the Articles of Confederation, adopted only six years earlier, had been inadequate. As Colonel George Mason, Delegate from Virginia, pointed out, "The [Constitution] will certainly be defective, as the

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Confederation has been found on trial to be. Amendments therefore will be necessary, and it will be better to provide for them, in an easy, regular and Constitutional way than to trust to chance and violence."

The amendment process provides a necessary safety valve in our constitutional system, as Mason anticipated. But if the safety valve in a machine is opened too often it will defeat its own purpose—the engine loses too much pressure and becomes unable to do its work. Similarly with the Constitution. If it is amended too often, and in ways that are inconsistent with its original genius—a genius of *structure*—it will not serve us as well in the next two centuries as it has for the past two.

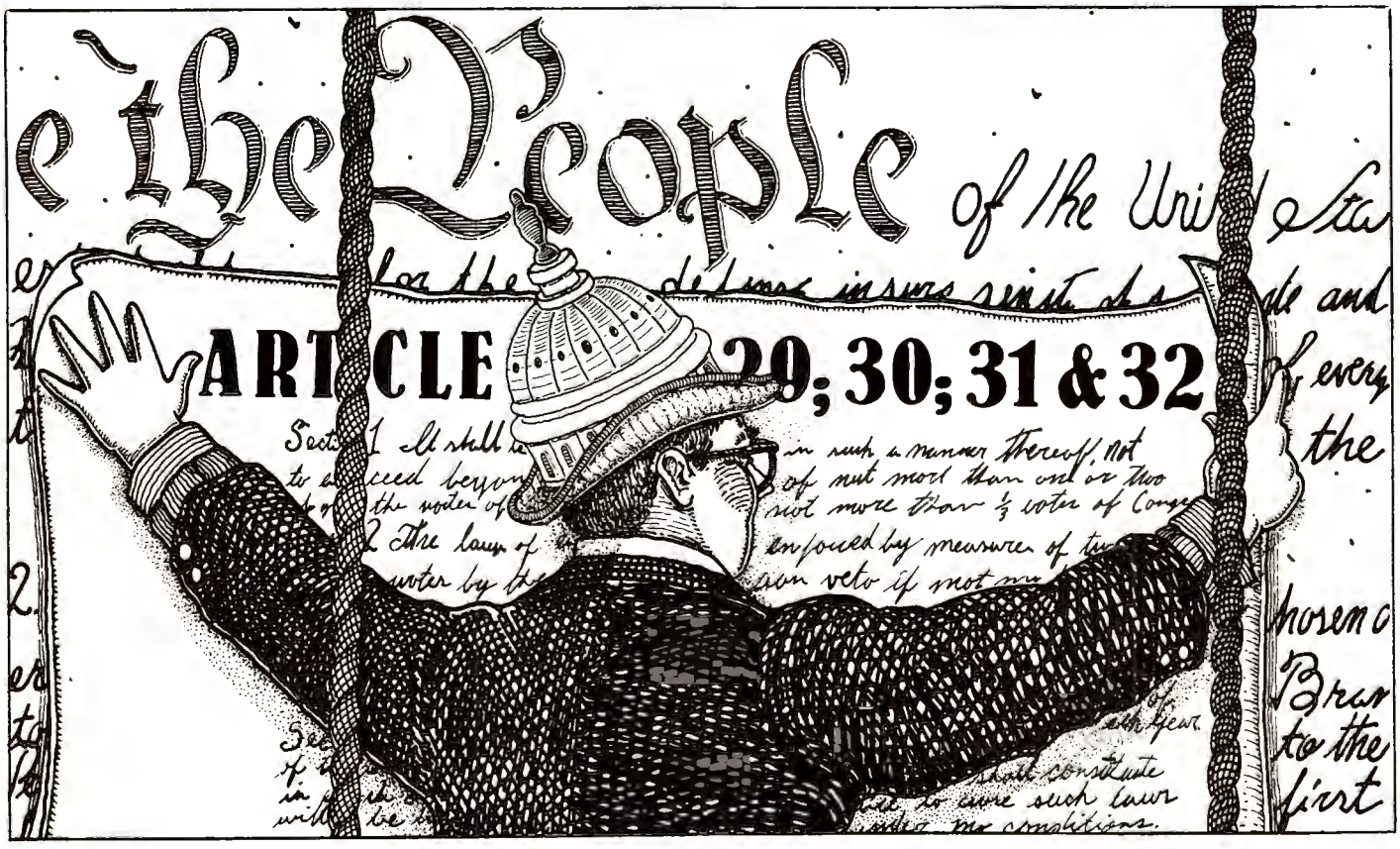
There is only one subject that the Constitution itself shields from amendment: no state may be deprived of its equal representation in the Senate without that state's own consent. Otherwise, any proposal that can garner the votes of 2/3 of each house of Congress, and 3/4 of the state legislatures, can be added to the Constitution. It seems strange, then, that only sixteen amendments have been adopted since 1795.[3]

It is not really strange, however. Over the the years, members of Congress and of state legislatures have recognized the impropriety of making the Constitution into a "Christmas tree," decorated with every passing legislative fancy, or with an amendment to overturn every unpopular decision of the Supreme Court. In fact, almost without exception, amendments subsequent to the Bill of Rights have followed the guidelines of the Constitutional Convention, dealing with the structure of the government and the manner of its operation, but not with particular constroversial issues.

Thus, the 12th, 15th, 17th, 19th, 20th, 22nd, 23rd, 24th, 25th and 26th Amendments all involved, in one way or another, elections, voting, and terms of office—all subjects dealt with at length in the original Constitution. These amendments altered the methods of election and terms of office of the President, Vice President and Senators (the 12th, 17th, 20th, 22nd and 25th), and extended the franchise to blacks, women, residents of the District of Columbia, poor people, and 18-year-olds (the 15th, 19th, 23rd, 24th, 26th).

The remaining six amendments reinforce the view that the Constitution is not the place for social legislation. Two, the 11th and 16th, dealt with the allocation of authority between the Federal government and the states—again, one of the key concerns of the original Constitution. (The 11th Amendment forbade a citizen of one state from suing another state in Federal court; the 16th Amendment permitted the Federal government to levy an income tax, a power previously reserved to the states.) The 13th and 14th Amendments were the constitutional "ratification," so to speak, of the Civil War, abolishing slavery, commanding that blacks be given equal legal rights, and cancelling the debts of the rebel states.

The final two amendments—the 18th and the 21st, establishing and repealing Prohibition—are generally regarded as good examples of what *not* to do to the Constitution; enacting a piece of substantive social legislation unrelated to



the structure of government.

The one amendment proposed by Congress in the Twentieth Century but rejected by the states was of this substantive type: the Child-Labor amendment, proposed in 1924. Child labor has of course been lawfully regulated since 1924; it would seem a little silly now to have an amendment on that subject in the Constitution, just as the Prohibition Amendment now seems a little silly.

* * *

Judged by these standards, the more than 40 proposed constitutional amendments introduced in Congress in 1981, dealing with the subjects of reproduction, school busing and school prayer, have no business being seriously considered as potential additions to the Constitution. They have nothing to do with the structure or the method of operation of the government, or even with the relations between the Federal government and the states. They are simply today's big social causes, as Prohibition and child labor were big social causes half a century ago. They are simply legislative attempts to overturn today's unpopular Supreme Court decisions, like the amendments suggested in earlier years to overturn the school desegregation decisions or the one-person one-vote decisions.

Washington, Madison, Hamilton, Franklin and their colleagues in the 1780s realized that they didn't know what the problems of the 1980s would be, much less the answers to those problems. They designed an open, flexible political system that has proven its ability to respond to changing social, economic and technological conditions for nearly 200 years. Politicans who think that today's social problems should be solved by amending the Constitution and locking future generations into their particular conception of the public good should compare the wisdom of the drafters of 1787 with the "wisdom" of the drafters of the Prohibition Amendment.

* * *

Many of the proposed amendments now introduced in Congress would probably not even accomplish the purposes they are intended to achieve. In attempting to write language suitably broad and general for the Constitution—for even the sponsors of these proposed amendments realize that a lengthy statute would be inappropriate—the drafters would simply turn back to the courts the task of interpreting the language of the new amendment.

For example, of the ten proposed amendments dealing with school prayer, or prayer in public buildings, five would only protect "voluntary" prayer, two would only protect "nondenominational" prayer, and three simply state that the Constitution shall not be construed "to forbid prayer" in public places.

Of course, the Constitution has never been construed "to forbid prayer" in public places or anywhere else. No court decision has ever forbidden any individual from saying a private, personal prayer whenever and wherever he or she wishes. It is group prayer, scheduled as part of the official curriculum, that has been challenged and found to violate the First Amendment. Is such prayer "voluntary"? And what is "nondenominational" prayer? Is it prayer that might satisfy all Christian sects, but that would be offensive to Jews, Moslems, Hindus, Buddhists and others? Presumably, the courts would agree that this is not the kind of prayer the proposed amendments intended to approve. But if "nondenominational" prayer means prayer that is acceptable to all faiths, who can ever hope to find such a prayer?

* * *

In addition to proposing constitutional amendments, politicians who are unhappy with Supreme Court decisions have introduced more than 30 bills in Congress in 1981 to limit the jurisdiction of the Federal courts, including the Supreme Court. These bills are nothing more than constitutional amendments in disguise, and in some respects they are even more dangerous: they would undermine the entire Federal court system, they would permit the Constitution to be effectively altered by a simple majority of Congress, and they could lead to 50 or more different interpretations of what the Constitution means, each interpretation good only in the state or in the Federal judicial district that prefers it.

Article III of the Constitution gives Congress the power to regulate the jurisdiction of the Supreme Court. It follows, in the minds of the sponsors of these bills, that when Congress is unhappy with the Supreme Court's rulings in one area or another, Congress can simply withdraw the Court's jurisdiction to decide such cases, leaving them in the hands of the lower Federal courts and the supreme courts of the 50 states.

Many legal experts have concluded that these bills would be unconstitutional—that the language of Article III permitting Congress to make "Exceptions" and "regulations" to the Supreme Court's authority was never intended to reach this far. For if it was, the institution of judicial review would be destroyed, and the courts would cease to function as an independent third branch of government.

Constitutionality aside, however, the practical results of putting such limitations on the Supreme Court's jurisdiction would be ludicrous. Without one Supreme Court to interpret the Constitution, the differing interpretations of the 50 state court systems will remain in effect indefinitely. An activity protected by the Constitution in one state may be a crime across the river. Worse, if the local Federal courts disagree with the state courts, as they often do, there could soon be two different "Constitutions" within the same state. A citizen, or a state or Federal official, could never know when the marshal of one court system would throw him or her in jail for obeying the constitutional interpretations of the other court system. This is the kind of disarray that existed under the Articles of Confederation, and that led to the establishment of the United States under the Constitution. It is closely related to the old doctrine of "nullification" asserted by some states before the Civil War—that they could ignore decisions of the Federal government that they did not like—a doctrine put to rest by the Union Army.

Let us hope that those who would lead the nation down this path of slow dissolution will emulate their predecessors at the Constitutional Convention 194 years ago, and choose unity instead. ◆

OUR NEXT WAR WHO WILL FIGHT IT?

by Jeremy Feigelson

Secretary of Defense Melvin Laird announced in January 1973 what the Pentagon cryptically called "zero draft." Eight years later, Senator Sam Nunn of Georgia announced plans to introduce draft legislation in the 97th Congress. "I want to begin a long national debate on the draft," he told the *Wall Street Journal* in August 1981.

He needn't have worried. The debate has been going on since Laird's announcement of the end of the draft, and Nunn's bill is really a legislative extension of growing pro-draft sentiment. Hints of the strength of such sentiment have even come from the Pentagon. General David Jones, then Chairman of the Joint Chiefs of Staff, told Congress, "I am deeply concerned that, without a broad commitment to a national cross-section in uniform, economic and demographic pressures could produce a 'volunteer' armed force peopled by economic conscripts—and one without the discipline, attitudes or cohesiveness needed for a modern global strategy."

When the draft is discussed, one of the few points of near-universal agreement is "equity." Everybody wants it; General Jones' remark about "a national cross-section" is typical. But "equity" is a catch-all term for the civil rights issues as key to today's debate as to past debates on the draft, from the Civil War to Vietnam. Underlying everyone's desire for equity are many disagreements on those issues, disagreements which show how hard it is to say what is fair in a process as controversial as the draft.

Flaws in the last draft dominate much of the debate over a future one. Vietnam-era draftees were eligible for a raft of exemptions that produced a disproportionately minority army. College students—mostly white—stayed on campus and protested the war while others—disproportionately minority—fought in Southeast Asia. "In the first eleven months of 1966, more than 20 percent of the soldiers killed

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in the war were black. That is twice their share as a percentage of the population," says draft historian Robert Liston. William Edwards, the National Urban League's military affairs director, is especially critical of the exemption policies set by the Selective Service System (SSS) during that era: "The Board's policies were calculated to protect our nation's intelligentsia, to retain our nation's elite. Unfortunately, what happened is that we decimated minorities and the poor."

That attitude is out these days. "Congress made sure it was out in 1970 and 1971. Hardly any deferments are available now," says spokesperson Joan Lamb of Selective Service. The Congressional actions of which she speaks eliminated automatic student deferments. "The only people exempt are ministers, people studying for the ministry, conscientious objectors and hardship cases. Say you're 20 and you're in college. If you receive an induction notice, you can complete the semester, and if you're a senior you can complete the year, but that's it."

Deciding who gets an induction notice would also be a very different process in a future draft. Local draft boards had great authority during Vietnam; given a quota to meet by Selective Service headquarters in Washington, a board chose from its local registrant pool until the quota was met. Current plans call instead for a lottery in which the SSS computer would randomly choose names by date of birth from its national registrant pool. SSS changed the system in part because of the Vietnam-era problems discussed by Robert Liston in his book on the draft: "The Burke Marshall Commission [which studied Selective Service for President Johnson] found the boards were 'almost exclusively white.'" A 1966 survey showed that "only 261 of the 17,123 local board members were black (1.5 percent)...0.8 percent were Puerto Rican.... Only 38 members (0.2 percent) were Oriental and 16 (0.1 percent) American Indians." (A Selective Service survey in May 1982 shows that of 10,560 board members, 11.3 percent are black, 5.1 percent are Hispanic, 0.8 percent are Oriental and 1.1 percent are Native American; 20.2 percent are female.)

Candidates are now being interviewed and trained to serve on local boards in time of a future draft. Such boards would only hear claims for exemption; they would not actually draft people. Lamb cites racial representation as a reason for choosing board members while the draft is still just a twinkle in certain Congressional eyes. "If we waited until an emergency started, we'd have no chance to make sure these boards were representative. We really are trying to make this as equitable as possible, given that this is a Selective Service and not everyone would go." Says William Edwards: "The present Selective Service system, the national lottery, is the most equitable we've ever had."

"Equitable"—the magic word returns. Vietnam's inequities have been eliminated, ensuring that the process of actually drafting people would be relatively fair. Questions remain, though: whether there will be a peacetime draft at all, and whether it is needed to correct racial imbalance in the All-Volunteer Force (AVF) that now defends America.

That force "is becoming a military ghetto," says the *Washington Monthly*. "There are 400,000 fewer whites in uniform than in 1972. Blacks will soon account for 50 percent of the rank and file, but they make up only six percent of the officer corps." The AVF's high percentage of minority soldiers is the basis of many calls for a restored draft. Here too, a Vietnam parallel is often used—let's make well-off whites shoulder more of the burden.

Some argue, though, that the AVF provides a channel of opportunity for minorities that might be cut off by the draft. David Segal, a draft expert who teaches sociology at the University of Maryland, agrees that the military serves that purpose. "I believe it does and, more importantly, the data show that they believe it does. Women and minority males see the military as less discriminatory than the private sector.... I would be concerned if I were a minority leader and during a war, minority soldiers were dying at twice the rate of whites. But in a peacetime environment, where the military is generating opportunities instead of casualties, that's of less concern."

Edwards is one of those who wonder if the draft is really an instrument of exclusion. "I think the AVF is the best-educated and best-integrated force we've ever had.... After all, the military has always been disproportionately poor." He rates political prospects for a renewed draft as "very low," barring certain strategic developments. "There's a very strong fear in the minds of our military commanders. If Africa becomes very important strategically in the next few years, and there's a war there, they don't believe they would have a strong enough command-and-control situation [with a largely black army]. It reflects a deep fear in the minds of Americans that blacks will some day turn on them.

"One thing that tickles me personally is hearing some of our local gurus talking about the decimation of minorities in a shooting war.... Never before

have I seen so many white folks worrying about so many black folks."

Obviously, few white people will say outright that they favor a "color-blind draft" because they don't want minority soldiers defending them while improving their future ability to compete in the civilian labor market. But Edwards is not alone in imputing those motives to some pro-draft forces. As James Fallows wrote recently in the *Atlantic,* Carter Administration Army Secretary Clifford Alexander "suggested throughout his term that opposition to the volunteer army was ultimately racist, from officers who didn't like having so many blacks in the ranks or from newspaper writers who felt free to run down the quality of a largely black army."

Many experts do agree that the AVF has serious shortcomings. David Segal (who favors "embedding military service in a matrix of national service") holds a common view: "The link between the military and society has, frankly, been withering away since the institution of the AVF." But restoring that link through the draft might limit minority access to the benefits of military service. Moreover, when talk turns to whom a draft might exclude, women step to center stage.

Women cannot be drafted under current law, although they serve in growing numbers in the military and attend the service academies. In *Rostker v. Goldberg,* decided in June 1981, the Supreme Court refused to void all-male

Lincoln Drafts Blacks in 1863

Intertwined draft and civil rights issues are nothing new. They sparked one of the stormiest episodes in the history of American conscription, the draft riots of 1863.

President Lincoln's call for the first-ever Federal draft came against a "background of defeat and unrest," says historian Adrian Cook: wild inflation, an Emancipation Proclamation "ridiculed as a pope's bull against the comet," swelling protest against Lincoln's restriction of civil liberties and continued Confederate military success. But there were also strong economic and racial motives behind anti-draft activity.

"A draftee could...escape service by providing a substitute or by paying a three-hundred-dollar commutation fee," says Cook in *The Armies of the Street.* "This clause brought charges that the Lincoln Administration was waging a rich man's war and a poor man's fight...and it was bitterly resented." A popular song expressed the sentiment well: "Since poverty has been our crime, we bow to the decree/We are the poor who have no wealth to purchase liberty."

Anti-draft feeling burst into full flower in the New York riots of July 1863, three days of perhaps the worst mob violence the United States had yet seen. Mary Frances Berry describes the episode in *Military Necessity and Civil Rights Policy:* "A crowd raided the draft headquarters, lynched a number of black people in the streets, attacked employers of blacks, and even burned down the black orphan asylum on Fifth Avenue.... To large sections of the laboring classes, conscription was a means of forcing white men to fight for blacks, who were their economic rivals.... If men were to be drafted, in all fairness the despised blacks should be the first to go."

Cook tells the story of an Englishman in town at the time, "astonished to see a crowd chasing a Negro, with cries of 'Down with the bloody nigger! Kill all niggers!' [The Englishman] inquired of a bystander what the Negro had done that they should want to kill him. He replied civilly enough, 'Oh, sir, they hate them here [because] they are the innocent cause of all these troubles.'"

Competition from black labor was not a major factor in the riots, concludes Cook: "The intense racial prejudice of white New Yorkers in the 1860s is enough to explain all." And despite the violence produced by that prejudice, Berry counts the Conscription Act as a step forward for black rights—because blacks were permitted to be drafted: "The absence of a racial clause in the Conscription Act indicated official understanding of the importance of black manpower for a Union victory.... Abolitionist sentiment increasingly bore fruit amid military expediency."

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draft registration. "You might say that on an individual basis, it's a favor to be excluded from a military obligation. But to be excluded as a class is an insult," says attorney Isabelle Katz Pinzler. As director of the American Civil Liberties Union's Women Rights Project, she helped argue the losing side of the case. "This arises, we believe, out of a general paternalistic attitude, that women are unable to contribute to the national defense."

Her views are shared by the National Organization for Women (NOW), which filed a brief in *Rostker* supporting the registration of women for the draft. The brief cited what Pinzler calls "a wealth of factual experience about the success of women in the AVF." NOW President Eleanor Smeal said in a position paper that her group opposes the registration and drafting of anyone, "but omission from the registration and draft ultimately robs women of the right to first-class citizenship.... Moreover, because men exclude women here, they justify excluding women from the decision-making of our nation."

Rostker's impact on the legal development of women's rights is still unclear. Justice William Rehnquist's reasoning in the majority opinion had almost nothing to do with the sex-discrimination issues that NOW and the ACLU stressed in their briefs. Says Pinzler: "What surprised us was that Rehnquist used an entirely different line of reasoning, citing deference to Congress in areas of national security. Arguably, the decision is confined to the area of the military, which may not impact on women too much for the sad fact is that there aren't too many women in the military. Standing alone, no, it's not a terrible precedent." NOW officials point out that the day after deciding *Rostker,* the court ruled in *McCarty* v. *McCarty* that ex-wives of military men are not entitled to a share of their ex-husbands' service pensions. The Justices named the hot-off-the-presses *Rostker* decision as a precedent for deferring to Congress in military matters and not touching the sex-discrimination issues involved.

The deference shown by Rehnquist and the Court leaves Congress the freedom to draft women. Pinzler sees the possibility that, as the draft-age population groups shrink, demographic pressures will force that step: "Sooner or later that issue has to be faced. It's not likely that it will be soon." Sociologist Segal has a different opinion: "The cohorts aren't going to get that small. And besides, an all-male draft works best when the cohorts are small. When almost every medically available man is drafted, there's much less chance for inequity."

"Equity" again. "When the shooting starts, the military is the most integrated and most equal institution in the country," says William Edwards, offering a truism that doesn't resolve the problem of how to people the military. That problem seems impossible to resolve equitably, given the roles of minorities and women in the military and the role of the military in the fight for civil rights. ◆

Close Up

Thomas I. Atkins, Esq.

On The Cutting Edge of the Law

by F. Peter Model

Last January, when the Reagan administration announced its intent to lift the court-tested ban on granting tax exemptions to schools practicing racial discrimination, Thomas I. Atkins, the 42-year old General Counsel of the National Association for the Advancement of Colored People, declared *his* intent to have the Supreme Court designate the NAACP as "a private Attorney General" should it decide to hear the cases involving Bob Jones University of Greenville, S.C. and the Goldsboro (N.C.) Christian Schools.

It was clear, Mr. Atkins told reporters, that such "extraordinary action" was called for because the *public* Attorney General (William French Smith) had "announced his intent to default on his constitutional obligation."

Whether Tom Atkins ever seriously planned to make good on his threat is now a moot point. But if it was a legal ploy, then it certainly had its desired effect, for in mid-April—after deliberating behind closed doors to allow the 11-year old IRS ruling stand or let the Government argue its about-face—the Court invited not Atkins but 61-year old William T. Coleman Jr. to defend the original, lower court ruling.

Coleman, former Secretary of Transportation in the Ford administration and head of the Washington D.C. office of O'Melveny & Myers of Los Angeles, the rival firm to Mr. Smith's old firm of Gibson, Dunn & Crutcher, also happens to be Chairman of the NAACP Legal Defense & Educational Fund Inc. Interestingly, it was the Justice Department itself that had suggested the Court appoint "someone" to present its previous position. For his part, Tom Atkins couldn't have been more pleased with the selection of Coleman.

In his post as General Counsel of the NAACP as well as its Special Contributions Fund (which competes with Coleman's Legal Defense Fund for tax exempt contributions) Tom Atkins serves as the cutting edge of the country's oldest (1910), largest (600,000 members) and most prestigious civil rights organization. There is nothing "soft" about either the NAACP's approach nor that of its chief lawyer, who had once been known in NAACP circles as the *enfant terrible* of the Boston chapter.

By his own admission, he has a sharp tongue and is known to go for the jugular, as numerous opposing (and losing) government attorneys have discovered since April 1980 when Atkins succeeded Nate Jones, now a U.S. Appeals Court judge in Cincinnati. "When it comes to interpreting the Constitution and its

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amendments, I can be an even stricter constructionist than anyone on their side. I am determined, in whatever way I can, as long as I'm here, to resist a single millimeter of retreat. We're not going to give up even that much, let alone an inch."

His is a lean operation. His small coterie of staff lawyers, backstopped by a far-flung network of local attorneys, many working *pro bono publico* until such time the defendant pays the court costs, represent some 2,300 NAACP units. Included are adult branches, youth councils, college and prison chapters, and the traditional 36 State or Area Conferences that aggregate the branches. Administratively, there are seven NAACP regions.

Among the hot chestnuts inherited by Atkins from his predecessors was how to resolve the intramural dispute between the NAACP and the NAACP Legal Defense Fund. In the early 1930s, in order to raise funds for the increased case load of law suits, Executive Secretary Walter White recommended and the NAACP Board agreed to create the tax-exempt legal fund. For years, the Internal Revenue Service tended to look the other way, but in the 1950s, IRS said something would have to be done: the NAACP couldn't have two overlapping boards of directors administering two organizations—one tax-exempt, the other not—sharing the same pot. (It was probably no secret to anyone that while NAACP provided the direction, the monies used to win the historic 1954 Supreme Court decision came from the ostensibly-independent Legal Defense Fund.) Not until Thurgood Marshall left for the Federal bench in 1961 did the split between the NAACP and its "wholly-disowned" fund become fact.

But the matter didn't end there. Once the split became public knowledge, NAACP contributors in search of tax deductions funneled their donations to the Legal Defense Fund, figuring it didn't really matter, anyway. But it did: the NAACP lost "several millions," by Atkins' accounting, and was eventually forced to set up its *own* tax-exempt Special Contributions Fund. But Legal Defense, across the street from NAACP headquarters off New York City's Columbus Circle, insisted on keeping the prefix NAACP. Under threat of litigation, the Legal Defense Fund did agree to run a disclaimer on its various brochures, but at this writing, still persists in calling itself the *NAACP* Legal Defense Fund. "It might seem like two children in the same family bickering, but it's a problem that seems to defy resolution. It's not so much the loss in actual dollars to one or the other but the potential loss in *support,*" says Atkins.

"It might seem like two children in the same family bickering, but it is a problem that seems to defy resolution."

The current NAACP budget of $8 million has nearly tripled since the 1977 retirement (and subsequent death) of Roy Wilkins, and the arrival of Benjamin Hooks as Executive Secretary.

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It was 1955, one year after *Brown* v. *Board of Education,* and growing up in Elkhart, Indiana, 15-year old Tommy Atkins was asked by his minister-father to pick up his mother at work. By no stretch of geographic imagination could Elkhart be considered a Southern borderline city.

Yet, as he knocked on the front door of the big frame house where Mrs. Atkins worked as a domestic, the owner loomed before him. "There was a hard look on her face, one I'd never seen before," recalls Atkins. "She seemed shocked. Then she snapped, 'What do you want?' She didn't say 'Hello, Tommy,' she didn't say anything but 'What do you want?' I said I'd come to pick up my mom. She said 'Your mother doesn't come through *this* door. She comes in *that* door,' pointing around the side of the house. At that instant, I pushed her aside and went storming into the house, and when I found her, pulled her out. 'You ain't working here anymore, mom,' I told her. And she never went back."

There was a postscript. The following year, Thomas I. Atkins was elected President of his high school's student body—the first black so honored. Among those who voted for him were the two children of the woman with the Jim Crow doors.

The youngest of four children of a Tennessee couple whose education stopped at the sixth grade ("when they grew up, blacks weren't permitted to go farther than that...it was considered wasteful"), Atkins graduated from Indiana University ('61) and with his wife Sharon and their first child, traveled East to Cambridge, Massachusetts where he enrolled at Harvard Graduate School's Middle Eastern Studies Center.

In the summer of 1963, he first got involved with the NAACP. He'd written a paper highly critical of the way Boston chapter president Kenneth Guscott was handling things, whereupon Guscott brought him in as Acting Executive Secretary and challenged him to do better. He made waves right from the start. "That first summer there were 13 emergency meetings of the executive board to fire me. It seems I was committed to

things they didn't think I should be committed to...." Like organizing sit-ins at the local, lily-white, Irish-dominated Boston School Committee, and otherwise drawing attention to many of the same issues in Boston that were drawing national media attention in Birmingham. "We probably had as much police brutality in Boston and lack of accountability as they did down in Alabama, only nobody was looking." Atkins made the papers look, and the NAACP was discomfited by its young firebrand.

"In my first summer running Boston's NAACP, there were 13 meetings of the executive board to fire me."

He'd come to Harvard to get his Masters in Middle East Politics & Economics, also taking cram courses in Arabic (he can still read, write and speak it, but not as proficiently as he did then). The plan was to go on for a doctorate, and then to enter the foreign service and seek a posting abroad.

That summer, though, "the more I learned about U.S. policies in the Middle East and Africa, the more I felt these policies ought not to be defended but instead attacked."

He worked out his anger by taking charge of the Boston contingent for the March on Washington, working alongside Archie Epps, another angry young man who is now the Dean of Students at Harvard, and newspaperman Bryant Rollins, who would go on to become editor of *The Amsterdam News* and is now a consultant in New York.

In 1965, he quit the NAACP chapter to become business manager for Bill Russell of the Boston Celtics, and in 1966, returned to Harvard—but to the Law School instead.

The following year, "slightly bored with Blackstone," he ran for Boston City Council and to his astonishment, won. "I finished my first councilmanic term and my last two years at law school at the same time." And got re-elected. In 1968, he was asked to join the adjunct faculty at Wellesley College. As his second term was expiring, Atkins ran for Mayor of Boston. It was one of his less spectacular performances. "In fact, it was a total wash-out." It was also a seven-way race (the principal contenders being incumbent Mayor Kevin H. White and divisive former School Committee head Louise Day Hicks, fresh from a one-term stint in the House of Representatives, filling the seat of aging John McCormack).

Now, in November 1971, Governor-elect Francis Sargent asked Atkins to join his Cabinet in the newly-created post of Secretary for Communities and Development. He would remain in state government until Michael Dukakis unseated Sargent in 1975.

In June 1974, Boston was about to explode. Judge W. Arthur Garrity's decision in the school desegregation case had come down—hard on the die-hard "Southies." The NAACP board urged Atkins to take over the chapter. At first he demurred, because of his statewide responsibilities in the Sargent administration.

"They were heavy times," Atkins remembers. During the first eight months, he would receive an average of 40 death threats a day—by mail, messenger, and especially phone. He was unflappable. Rejecting police protection ("they would be better utilized elsewhere") he got himself a big, ferocious dog, instead. His kids—by now two boys, one girl—would sometimes intercept calls, and one "anonymous" caller, when asked "Why do you want to shoot my daddy?" found himself trying to explain segregation to a child for over an hour, and failing miserably. Later, the same caller would feel so guilty he became one of Atkins' most trusted information conduits into the enemy's camp.

During the first eight months of 1974, he received an average of 40 death threats a day.

The job was unpaid. Once out of state government, Atkins tried to make ends meet by becoming a "retained counsel" for the National Office of the NAACP—one of about 10 "circuit-riding" attorneys litigating desegregation cases wherever they might be needed. While Sharon was filling the income gap by becoming a legal secretary at the Harvard Law School, Tom Atkins was running hard and far, tackling NAACP cases in Michigan, Indiana, Illinois, Tennessee, Ohio, California, New York, Texas, Arizona, Nevada and closer to home, Connecticut. His only regret, looking back, "is that it must've been tough on the family—they were deprived of a lot of things they could have had were I working at full market rate."

Now, things have happily improved, with his two sons at college—the older at Northeastern, the younger at Marquette—and with his daughter finishing high school in Boston. Atkins still leads a somewhat nomadic life, commuting to Boston on weekends and maintaining a bachelor's flat on Manhattan's East Side.

Close Up

Questions & Answers

The following freewheeling conversation took place at NAACP headquarters in New York earlier this year:

Q. What's on the NAACP's legal agenda for the 1980s?

A. Almost all the things that were on our agenda for the 1950s, 60s and 70s. Sure, the dimensions may have changed. Some of the remedies being pursued have changed. The emphases may have changed. But we still have a huge caseload (involving) housing discrimination, school segregation, denied access to employment in both private and public sectors. A lawsuit against the Federal government has essentially been settled recently with a rather sizeable back pay fund created with jobs guaranteed, some promotions guaranteed, a grievance structure, etc.

Q. Who was sued?

A. The Eglin Air Force base at Fort Walton Beach, Florida, which was in the news last year because it served as the initial detention point for the Cubans who'd come over....

Q. Other items on the agenda?

A. Voting rights, surprisingly the largest single growth of emphasis. Challenging local redistricting schemes such as that in New York City, and similar situations in Florida. In each of the cases, the issue is conversion from district-based representation at city levels to at-large...effectively submerging minority interests in a majority-take-all kind of race. We've also filed against state legislatures that have reapportioned themselves or Congressional districts following the 1980 Census in manners that have diluted or, in some instances, outrageously gerrymandered black voting districts to dilute black voting strength.

Q. What are the key issues confronting the NAACP in 1982?

A. Number one, I think, would be our fierce determination to resist...to stave off any retreat from the gains that have been made. Virtually all of that progress is now under siege—voting rights, housing, education programs, job training, whatever. They're all under attack, whether you look at public programs or the administrative efforts of [certain] Federal agencies to combat discrimination and prejudice. Or take the courts. They're under attack because they have stood between minorities and those who would either strip away or deny them their rights....

Q. Is there a likelihood of some sort of compromise?

A. Are you kidding? Yes, we hear it said now the time has come to abandon those school desegregation cases because "they divide the community." *We* didn't divide the community. We simply insisted that others not insist that we accept second class citizenship rights and that our children be willing to be relegated into inferior schooling....

Q. Still, aren't you "dividing the country"?

A. To the extent that it's divisive for us to insist on our rights, you're damn right we're dividing the country. We're dividing it between right and wrong. That's always been our goal, for the past 70 years. To weaken now would be morally wrong, tactically unwise and I would think Constitutionally impermissible.

Q. What's the second major issue?

A. The criminal justice—or *in*justice system. It's a problem to which there is no single solution. We're approaching it in several different ways, simultaneously, and I'm not certain just where we're going to come out. Take the area of deployment. Typically, in a large urban set-

Questions & Answers

ting you can determine racial or ethnic composition of that city by studying the *de*ployment pattern of the police. They're deployed to places where there are businessmen, to places where there are people like themselves, whatever they are. So if the cops in a given city are predominantly Irish, then the Irish areas of town will be well policed. If they're predominantly Italian, the same with the Italian section.

Q. What about predominantly black cities? Like Washington, D.C.?

A. Interestingly, there the police are *not* predominantly black, absolutely not. So the *de*ployment pattern is itself a consequence of the *em*ployment policy. You can figure out which part of the District gets the best police protection. It may not be overt discrimination for white cops to police and protect the neighborhood in which they live, but the effect is discriminatory. Devastatingly so, because in many cities this unwritten code has led police to deliberately contain undesirable activities away from themselves, their communities. Which means a level of illegality is tolerated in Harlem that would never be tolerated in Queens or Staten Island. They wouldn't permit prostitutes to parade around Staten Island. It's unseemly, it's embarrassing and besides, the women over there wouldn't want their husbands hanging around with hookers *that* close to home. Let 'em go to Harlem....

Q. Well, how about Atlanta, Detroit or Newark, all with over 50 percent black populations?

A. In each of these cities the police departments do *not* reflect the ethnic or racial composition, because of prior policies of employment discrimination and because hiring precedes by years and years the shift of population. So when it comes to hiring, the entrenched police "establishment" sets up hiring obstacle courses to ensure black representation stays small, within compliance standards, absolute minimum standards. But that can also backfire.

Q. How so?

A. In Detroit, when Coleman Young became Mayor, the city was 65 percent black and the police department was, depending on rank, between 8 to 12 percent black. At the time, Detroit had the highest ratio of per capita police deaths. One of the first things Young did was try and increase minority involvment in the department. He linked the high rate of police mortality to the fact that most blacks viewed the cops not as friends but as members of an occupying army. A white army. So he was sued for his efforts by the Detroit Police Officers Association—and he won. By 1978, the department was 44 percent non-white, and then came the financial crunch, and under "last in, first out" seniority provisions, guess who had to be laid off? That's when the NAACP filed suit. The effect of the seniority rule was simply that of ratifying and locking in for years and years to come the impact of the prior exclusion. Ironically, the number of Detroit cops being knocked off has dropped dramatically. They no longer call Detroit "Murder City." And citizen cooperation with the police has risen proportionately.

Q. What's the third major issue you plan to address?

A. An even worse case of abuse is in the courts, with prosecutors who abuse the discretion which is theirs in deciding what cases to pursue, how they will permit grand juries to be paneled, that sort of thing. Then there are judges that will allow prosecutors, in crimes where a victim is white and for which a black is accused, to systematically weed all blacks off the jury.

Q. The statement being that whites can be fair dealing with race but that blacks can't be.

A. Precisely. If anything, in the history of this country, the reverse has been shown to be the case. Whites demonstrably cannot be, or have not been, fair dealing with racial issues, and it's not clear whether blacks may be any better. We may be as bad as you. But we haven't had an opportunity on the same scale to show *our* inhumanity. That makes no difference to the lawyers and the judges. The result is a prostitution of

Questions & Answers

the judicial process, because it deprives blacks, Hispanics and other minorities of a fair hearing. So we'll be looking at the issue of prosecutorial discretion, looking at the actions or inactions of judges who permit their courtroom to carry out what are clearly racial designs.

Q. What's the legal bill for all these cases?

A. I don't think anybody's ever added it up. But I should think by now it's running in the many millions of dollars—taxpayers' dollars, by the way, if we talk about cases the NAACP has won. Whether it's a local school district or a big city or state that we successfully take on, local and state officials have to share and pay the costs....

Q. Any examples?

A. The Dayton school desegregation case, which has been going since 1972, which has been up to the Supreme Court twice, and which we've won at every turn. We recently filed an application for fees and costs incurred by NAACP and retained counsel in the amount of $1.8 million. *One* case. The Detroit case is even older and also has been up to the Supreme Court twice and won both times. That fee application—including the skirmishes at the district and appellate court levels—will fall a tad short of $4 million. The Cleveland school desegregation litigation, while I've not completed the assessment there, will probably run in excess of $2 million. The Eglin AFB case will probably cost the Pentagon over $1 million. So, this country has, in many, many ways—just in dollar terms—paid an enormous price to maintain segregation and to defend discriminatory practices and policies. I hear it said repeatedly that you can't change hearts and minds. Well, you pay a hell of a lot for it. Legally, Jim Crow has been a very expensive house pet for this country to maintain....

Q. By the way, why is it that when the NAACP files lawsuits, it files only on behalf of blacks and never all affected minorities?

A. You have to be specific unless you are filing broadly-sweeping class actions. Actually, while we appear on paper as representing only blacks, we prosecute each case in a way to protect and represent all minorities.

Q. Including women?

A. Including women, although the issue of women as a minority is one we've not given a great deal of attention because we don't consider women to be a minority in the same sense as blacks. And not just numerically, either. Women as a minority are the only oppressed people who routinely sleep with their oppressors. And that makes a difference.

"Legally, Jim Crow has been a very expensive house pet for this country to maintain."

Q. How does today's NAACP differ from that which Roy Wilkins ran from 1955 to 1977?

A. I can only speak about the last 14 years of Roy's stewardship. I was a 15-year old high school student when he took over from Walter White. But I think that after four years under Ben Hooks, it's an organization that's undergone substantial change in just about all ways. In the number of units, number of people involved, amount of money spent, priorities, style. Roy came up through the ranks, which inevitably meant he brought with him perceptions vastly different from those coming in from the outside, and going directly to the top of the structure. Also, Roy was a newspaperman by profession and by passion: his approach to things was journalistic, even if it wasn't a journalistic result he was seeking to achieve. Ben, on the other hand, is multifaceted—he's been a minister, a lawyer, a businessman, a judge, and he's been inside by virtue of his stint on the Federal Communications Commission. All of which means his approach has *got* to be different.

Q. Just now you mentioned new units. Explain, please.

A. When Roy stepped down, there was no such unit as the NAACP's Economic Analysis Unit down in Washington. Its sharp focus has enabled us to develop policy positions and operational approaches to various economic issues impacting on civil rights at the Federal, state or local level. Then there's the International Affairs Bureau, which permits the NAACP to think globally. There's also a different kind of unit dealing with voter registration, rights, education. Twenty years ago, the big problem was making it possible for people to vote. Today, the problem is making sure that they *do* vote and in a way that is intelligent and informed. Different emphasis, same problem.

Q. How do people perceive the NAACP compared, say, to the more flamboyantly militant civil rights activist groups? One senses that to some of the firebrands, NAACP, like the Urban League, is often seen as Uncle Tom.

A. It's a gross misperception. The NAACP has, from the beginning, viewed itself as being in a marathon, not a sprint. You run differently when you're in for 26 miles than for 100 yards. So somebody sprints by you, you don't get upset, you *know* you're going to pass them a mile down the road. Because they will be out of steam. And it's not

Questions & Answers

just that they won't beat you in the context of winning: they won't *finish.*

Q. In other words, it's a matter of timing your efforts and allocating energies.

A. Correct. We plan today for tomorrow. We *act* today, believing there *will* be a tomorrow, and that we'll be part of it.

Q. Sounds very inspiring, but who will be more successful—those with the knives and the torches or the lawyers waving the legal documents?

A. Those who'll *succeed*. Let's face it, power holders in this country historically have been very pragmatic. They've done as much, or as little, as they can get away with. That applies particularly to what we're talking about here—discrimination, segregation, denial of rights, etc. With respect to the extent of our approach succeeding in forcing change, they'll respond to that. They won't have any choice. We won't leave them any choice. We can't send out any one hero. All of our heroes have been killed, going out on solo missions, or perceived as such. When a big dog surfaces he becomes a running target for a bear. Martin Luther King was a big dog, and the bear figured that if he could get rid of him by whatever means short of killing him—disinformation, disorganization, infiltration, surveillance, etcetera, then this thing, this worrisome problem, would go away. And when King didn't let go....

Q. So what you're saying is....

A. ...that the reason J. Edgar Hoover set his sights on *individuals* like Martin Luther King is that it was hard to draw a bead on the *movement.* There is no one big dog in the NAACP. There are more than 600,000 of us, some more outspoken than others. They speak within a framework that has been carefully thought out, hammered out, polished and after heated discussion, decided

Questions & Answers

upon and made public. We do it our way. The Urban League does it *its* way. There are more than 150 other groups in the Leadership Conference on Civil Rights, each with its own particular point of view. The point to bear in mind is that together, we form a pretty formidable army, a long phalanx that essentially marches to the same drummer, in the same direction. We've even got our share of 100-yard sprinters to keep us all on our toes....

Q. You sound optimistic. Yet, the news out of Washington doesn't bode well for civil rights. The* Wall Street Journal *notes that the Reagan administration "is governing as if the vital interests of nearly 12 percent of the population—the black population—don't matter to it."

"You run differently when you're in for 26 miles than for 100 yards."

A. While I would agree with Ben Hooks that [the President] and some of the people around him have convinced themselves they are not "anti" civil rights, the evidence points the other way.

Q. Be more specific.

A. OK, compare the policies now being pursued by the administration with some of the planks of the GOP platform, the volumes of material given President-elect Reagan by the Heritage Foundation, and then by his transition team, and you'll see very little change, in fact, a startling similarity. During the campaign he attacked affirmative action and said a major part of the problem was "excessive activity" on the part of the Federal government. The Heritage Foundation spelled out very specifically where this perceived heavy-handedness was taking place: in the Civil Rights Commission, the civil rights division of the Justice Department, the civil rights office of HEW (now HHS), of HUD, of EDA, of DOT, etc. To make the long story short, Heritage also made specific recommendations: strip away, centralize and concentrate all civil rights activities under the aegis of the Attorney General and you'd have no trouble moderating, modulating and slowing down some of this "excessive activity." Especially if you put in a guy who would be willing to stand up to the predictable opposition and outcries from the civil rights community and other special interest groups.

Q. Do you think that has happened?

A. Yes, and also this. The Heritage Foundation also pointed out that one of the most effective ways to deal with this is through the budgetary area. Reduce the money and you reduce the ability of these troublesome civil rights lawyers to run around the country making trouble for hard working public officials who they insist on suing and making them meet some new standards they keep dreaming up.

Q. So, can you see some of that proverbial light at the end of the tunnel?

A. Some, a glimmer. Actually, I don't think about it much. The NAACP has a series of priorities relating to what we see as factual circumstances. And our agenda won't change because of who happens to be occupying the White House. Our *emphasis* will change. Last year's priority number three might have to be number one this year. What might last year have been number two will be number four. The fundamental list doesn't change because the end-line problems haven't changed. ◆

by Judith and Mark Miller

HANDS OFF!

Barbara, a 35-year-old clerk-typist at a large university, got her job after months of searching. Her hopes that this job would be the first step up a career ladder were all but dashed, however, when she discovered that one of the conditions for the job was that she accept her boss' sexual advances. He complimented Barbara on her appearance, made endless sexual jokes and references, touched her arms and back during conversations. Barbara, angry and upset, wanted to put an end to his actions but feared the loss of her job and of her chances for advancement.

Barbara is a typical victim of sexual harassment: unwelcome sexual advances, requests for sexual favors, and generally suggestive conduct, the submission to which is a condition of employment. Harassment can involve an offer of benefits (promotions, good performance reports, desirable work shifts) in exchange for sexual favors; it can also involve reprisals for refusal to submit.

"Sexual harassment is not an issue of sex but one of power, an expression of dominance, and women who do not respond submissively find harassment increases until they are driven to leave their jobs," says Lin Farley, Director of the Women's Section in the Human Affairs Program at Cornell University. "All types of harassment, from very subtle to brutally blatant, are equally important in terms of female job loss."

Sexual harassment is an old problem; only the growing awareness of it is new. In the Victorian age, Farley says, "Untold numbers of working women literally died because of sexual harassment. If a woman did not submit to sexual advances, she quit or was fired, and, in that time, being out of a job for even a week could mean starvation. On the other hand, if she did submit, she was branded a whore; marriage was then out of the question. Many turned to prostitution...and were dead in two to three years of venereal disease. The next time anyone says 'Don't women ask for it?' give them a little history lesson."

Patriarchy, Farley believes, is the root of the problem. The principle of male rule and female subservience dominates the workplace just as it dominates society; men have always controlled female labor in both. They have in turn relegated women to less skilled jobs at lower wages—"the beginning of the female job ghetto," says Farley.

75 percent of harassers have the power to hire and fire their victims.

This "ghetto" explains women's vulnerability to sexual harassment on the job. Women work primarily in the clerical (35 percent of women workers) and service (20 percent) areas. They constitute less than three percent of engineers, five percent of dentists, 13 percent of attorneys, 11 percent of physicians, 19 percent of scientists and 25 percent of managers, officials, and administrators.

Men thus hold the vast majority of positions with hiring and firing authority, and too many of them abuse their power by making sexual demands of women workers. Studies show that approximately 75 percent of harassers have the power to hire and fire their

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victims. As long as management condones the harasser's behavior, harassed women have no alternative but to tolerate it or leave their jobs.

"The incidence of sexual harassment is staggering," says a report by Working Women's Institutes, a group formed in 1975 to focus on the pervasive problem of sexual harassment. "As with rape and battering, women are hesitant to report its occurrence out of fear of retaliation, embarassment, or resignation to its inevitability. But available statistics indicate that as many as seven out of ten women are sexually harassed in some form at some time in their working lives." In a *Redbook* magazine survey, 88 percent of the 9,000 respondents said that they had experienced sexual harassment on the job.

As many as seven out of ten women are sexually harassed at some time in their working lives.

Even when it does not cost women their jobs, sexual harassment is a painful experience. As the Institute explains, "At worst, a woman...loses her source of income because she won't submit or because she cannot continue to tolerate the harassment; at best, she continues to work in a hostile environment in which she is always subject to a demeaning sexual put-down or an unwanted advance."

Too often, though women do lose their jobs. In a recent Oklahoma case, for example, a police department dispatcher complained that her shift commander began making sexual advances, lewd comments and the like, towards her. Told she was overreacting when she complained to her boss, her onerous working conditions ultimately forced her to resign. She filed suit. The Oklahoma police dispatcher's case also shows how women in non-traditional careers often face aggravated sexual harassment; this harassment could be one reason why few women take non-traditional, higher-paying jobs.

Lynda White of the Michigan Women's Commission says that the tremendous emotional impact of sexual harassment often makes women hide it away. Victims may feel that the harassment is somehow their fault; they are silent, embarassed, ashamed. This experience often affects relationships with family and friends as well as job performance; anger and fear generated daily on the job are hard to turn off once a woman gets home.

Symptoms reported by victims of sexual harassment include insomnia, stomach, neck and backaches, decreased concentration, diminished ambition, and depression. Plagued by physical and emotional problems, their job productivity is affected as well.

Employers also pay a price for sexual harassment. According to the U.S. Merit Systems Protection Board's March 1981 study, the Federal government loses $95 million a year in lost productivity, medical bills and sick leave attributable to harassment.

For women who are single heads of households, temporary job loss can spell economic devastation. Take the case of Ann. The sole support of a family of four, she became the first woman appointed to an administrative post at an Ivy League university but quit because of physical illness brought on by severe sexual harassment. Unable to

find another comparable job, she applied for unemployment compensation, but was denied because she said she had quit for "personal reasons." After she spoke out publicly on the issue of sexual harassment, her job prospects dwindled to zero, her children were ridiculed in school, and she eventually moved out of the community where she had lived all her life.

"When we finally do get out of the female job ghetto," says Farley, "We are brutally sexually harassed. It is blackmail. It is as if society is saying 'Don't go too high or too far, or you're going to be sexually harassed right back (into the ghetto).'"

A legal framework exists for combatting sexual harassment on the job. The keys lie in Title VII of the Civil Rights Act of 1964 and in the stance of the Equal Employment Opportunity Commission (EEOC), which is empowered to enforce that Act. The first landmark decisions came down in 1977, when courts ruled in the cases of *Barnes* v. *Costle* and *Tomkins* v. *Public Service Electric and Gas* that sexual harassment was employment discrimination under Title VII.

Legal protections now available to women fall into four categories: harassment by supervisors and higher-echelon management personnel, harassment by co-workers, harassment by clients, customers and the general public, and sexually degrading work environments.

In cases involving sexual harassment by supervisors, companies are liable for situations where supervisors base continued employment or based advancement of subordinates upon submission to their sexual demands. Liability exists whether or not the supervisor's conduct violates company policy or whether the employer knows of the harassment.

Employers are liable for sexual harassment by co-workers, clients or customers when it has a negative impact on a woman's conditions of employment and in situations where the employer knows or should know of the conduct but fails to take timely, appropriate corrective action.

Courts have also determined that employers violate Title VII if sexual advances, remarks, and verbal and non-verbal conduct create a discriminatory work environment, whether or not the complaining employee lost tangible benefits as a result of sexual harassment.

Legal protections available to fight work-related sexual harassment are due largely to EEOC efforts, which "recognized early on that sexual harassment was form of employment discrimination and not simply a personal problem between a woman and her male supervisor," according to Karen Sauvigné, Program Director of the Institute.

"EEOC recognized early on that sexual harassment was a form of employment discrimination."

EEOC Guidelines for employers were published in November 1980 and the agency has become an important force in women's efforts to achieve equality of opportunity in the workforce. However, according to Sauvigne, "the...courts have too often deviated from applying standard Title VII law to sexual harassment cases." In particular, they require actual notice of harassment to employers before holding them responsible for the conduct of employees.

Such burdens imposed by courts are illustrated by a 1980 District of Columbia case. A bank teller alleged two years of sexual harassment by her supervisor (the branch manager, an Assistant Vice President of the bank), including sexual remarks and 40 to 50 incidents of coerced intercourse. The defendant denied all charges, calling the suit the result of a dispute about promotions. But rather than attempt to establish what happened, the court simply absolved the bank of liability because the plaintiff did not report the harassment to higher-echelon management.

Legal remedies for sexual harassment are indeed fraught with difficulties. Besides using Title VII, a woman can also file criminal charges or bring a civil suit, depending upon the nature and severity of the harassment. But according to the Institute, "An employment discrimination action often requires protracted administrative proceedings. Proving subtle forms of discrimination may be difficult. Suing... [means] securing and paying for an attorney. All of this takes time and effort and emotional energy; and, in the meantime, the woman will most likely lose her source of economic support if the company retaliates."

And retaliation is common. A 1979 study published by the Institute found that 66 percent of women who responded to their questionnaire left a job as a consequence of sexual harassment (24 percent were fired for failing to go along with sexual harassment or for complaining about it; 42 percent quit because they couldn't stop the harassment or complained and caused an escalation of harassment).

Another problem is that most employers and unions have not taken a firm stand against sexual harassment in the form of a policy statement and effective grievance procedure. There have been few open, supportive discussions of sexual harassment at corporate or union meetings. As a result, women often experience personal and political isolation on the job.

Ms. magazine editor, Gloria Steinem likens the plight of women dependent on employers to that of political hostages and battered women—day after day they are completely vulnerable, open to any whim of their "captors." Steinem outlines possible solutions: women's caucuses, rap groups, informal lunches and women's committees can be formed in the workplace. Women's organizations, civil rights and social justice groups should add the issue of sexual harassment to their agendas. Literature should be publicized so that women realize they are neither crazy nor alone.

Harassment is an issue of power. Until legal solutions and steps such as those suggested by Steinem become more widely used and effective, exploitation in the workplace will continue. And until this imbalance of power is corrected, real equality for American women remains elusive. ◆

Mt. Rainier Was Easy

by Fritz Rumpel

The 1980 eruption of Mount St. Helens in southwest Washington was one of the top news stories of that year. Clearly, an awesome volcanic blast that snuffs out 26 lives in moments has the power to make everybody pay attention.

One year later, seven mountain climbers drew national attention to another volcanic peak in the same Cascade Range. In this case, it was triumph rather than tragedy that made news: 14,410 ft. Mount Rainier had been reconquered—this time by seven rather inexperienced novice climbers, each one of whom had a major disability. It was the "handicap event" of 1981 and led to a White House reception for these magnificent seven and a public recognition by President Reagan that handicapped Americans are the nation's most underused resource.

Several days after the White House meeting, one of the seven contacted Mainstream, Inc., a service group for the handicapped, for help in finding a job in his home area, a task, it seems, that is more difficult for a handicapped person to accomplish than scaling a treacherous ice-covered mountain. He is one of 21 million disabled Americans between the ages of 18 and 64 who are able to work, but cannot find jobs.

Section 503 of the Rehabilitation Act of 1973 requires Federal contractors to take affirmative action in the hiring and promoting of disabled persons. "503" gave handicap rights advocates high expectations for the "new employability" of the last of the protected groups. Those expectations are still unmet.

The handicap law is weaker than the executive order protecting the employment rights of women and minorities; Federal contractors do not have to set goals and timetables for hiring disabled people. Also, handicapped people have only one specified way to seek redress for discrimination: filing a complaint with the Office of Federal Contract Compliance Programs (OFCCP), the Labor Department agency which enforces affirmative action regulations. OFCCP currently has a backlog of over 2,000 complaints filed by handicapped persons against Federal contractors.

Because of this logjam, some disability rights advocates have tried to take employers to court. But 503 did not spell out whether or not handicapped employees and job applicants may sue Federal contractors in the courts. The legal opinion that disabled persons have no private right of action under 503 was bolstered by the Labor Department when in June 1981 it reversed its previous support of that right.

Fritz Rumpel is Director of Public Information for Mainstream, Inc., a national nonprofit association which provides information and training on employment issues affecting handicapped people and employers.

The Rehabilitation Act did have some positive effects. Handicapped people are much better organized as a result of it. Unlike the experience of blacks and women, the law created the movement.

Who is to blame for the weakness of Section 503 of the Rehabilitation Act? According to Duncan Wyeth, Consumer Activities Director of United Cerebral Palsy, "Handicapped individuals by and large are extremely naive, like most Americans, about the legislative process. We have rallied around a number of *ad hoc* issues and gotten some very positive legislation passed, and thrown victory parties, but forgotten that that's about 10 percent of the process, and that the real issue is when the regulations are written and promulgated. That is where things really begin.

"Handicapped individuals have forgotten that. Then when things don't work out, they say, 'I can't understand that. Isn't there a law?' Yes, there is a law, but the regulations that were written to implement that law are in many ways atrocious from my standpoint. But that is not the fault of the writers of the regulations and it's not the fault of society. It's the fault of the naivete of our groups' failure to follow through that process from passing the legislation right through to promulgation of the regulations."

Mt. Rainier Was Easy

Nevertheless, the Rehabilitation Act did have some positive effects. Employers, particularly Federal contractors, are now at least aware of handicapped people as possible employees. Terms like "accommodation" and "accessibility" have entered the corporate lexicon. As one affirmative action officer for a major publishing house puts it, "We do not have a lot of people in our corporation who are disabled, but the disabled are in our day-to-day language and we are making a slow—but I would say genuine—progress."

Handicapped people are also much better organized as a result of the law's passage. Unlike the experience of blacks and women, the legislation created the movement rather than the other way around. The law gave disabled people a rallying point. As a result, umbrella groups like the American Coalition of Citizens with Disabilities (ACCD) and the Disability Rights Center began in the mid-seventies to speak for the rights of all handicapped Americans. A major recognition of the handicapped community as a civil rights move-

Mt. Rainier Was Easy

ment came on Solidarity Day in September 1981 when, along with leaders of labor, women, blacks, Hispanics, and elderly people, ACCD's Reese Robrahn addressed the 250,000 marchers.

But the organizing is by no means complete. The handicapped community is still trying to establish a group identity in the business world, even among the most "aware" corporate managers. During the same month of Solidarity Day, Mainstream, Inc. held a symposium on disabled persons in the workplace. Panelists representing both Federal contractors and the handicapped were asked to specify why the majority of qualified disabled people remain unemployed.

Arthur Colby, EEO Program Manager for Pratt Whitney Aircraft Group, said that employers prefer dealing with umbrella groups. "Employers like to turn to groups who truly speak for [all handicapped workers]," he noted. [Where] there is no such organization, there is a perceived weakness in the approach."

The problem that Colby identified is "the lack of cohesiveness" in the handicapped community. It is an accurate complaint. Traditionally, disabled people have identified with those persons who have the same handicap.

"I remember as a child constantly being told, 'Duncan, you may have cerebral palsy, but thank God you're not blind or deaf or mentally retarded,'" relates Duncan Wyeth. "My blind friends were told as kids, 'You may be blind and it's an inconvenience, but thank God you're not crippled.' All of a sudden we're adults and we've been told all through life, 'Thank God you're not them,' and now we're supposed to work with them."

Just as the handicapped community is trying to become better organized, the business world is trying to come to grips with how to recruit, hire and employ the disabled. Recruitment has always been a problem, even for companies that actively look for handicapped employees. "Where are the qualified handicapped workers and college graduates?" asked one corporate personnel representative at the Mainstream symposium.

They are often in the employer's own community, available through the numerous disability rights groups in most

Mt. Rainier Was Easy

Mt. Rainier Was Easy

cities and towns, through vocational rehabilitation agencies, through mayor's and governor's committees on employment of the handicapped, even through a growing number of private employment agencies who specialize in job seekers with disabilities. The key for employers is finding such local resources and then working with them to establish a job bank that both employers and handicapped job seekers can use.

Successful programs like this were set up in Pittsburgh's metropolitan area in 1976 and in the Phoenix area in 1978. Employers in those cities had not been receiving referrals of the right client at the right time from the numerous rehabilitation agencies. Today, both projects—The Pittsburgh Alliance for the Employment of the Handicapped, and Phoenix's Handicapped/Employers Information System—involve numerous public and private organizations working together for the benefit of individuals, companies and the entire community.

A common complaint among employers is that it costs too much to hire the handicapped. Employers may argue that an elevator for one new worker who uses a wheelchair isn't worth its $25,000 price tag. That is true if the company plans to hire no more mobility-impaired workers. Each additional productive mobility-impaired worker hired, however, turns that $25,000 into a more cost-beneficial investment.

Few studies exist showing the cost of accesibility to an employer and none backs up the claim that "it costs too much." One study (done by Mainstream, Inc. in 1976) found the average cost of making 45 facilities accessible—ranging in size from 2,000 to 1,900,000 square feet—to be less than five cents per square foot.

The two-year study suggested that a careful look at what needs to be done, as well as what does not need to be done, can greatly reduce accessibility costs. For instance, Kaiser Aluminum determined that it would cost $160,000 to make its 27-story Oakland headquarters totally accessible. But Mainstream claimed that only two of the floors needed extensive work, at a total cost of $7,800.

What underlies such agreements is the willingness of an employer to be creative. "Employers will have to deal with non-traditional ways of getting their work done. It may mean restructuring job content or the creation of new jobs. It will be challenging the old ways to do things and in most cases it takes a lot of time," says Tom Bowdle, Equal Opportunity Affairs Director for Kaiser Aluminum.

The Reagan administration has placed great faith in the private sector's ability to solve the nation's economic woes. One of America's economic problems—and ironies—is that so many of its citizens are forced to be tax users rather than tax payers. Writes Dr. Frank Bowe in his book *Rehabilitating America:* "Today, America is spending ten dollars on dependence among disabled people for every dollar it expends upon programs helping them become independent."

It is up to business leaders—working in concert with handicap organizations and disability service providers—to turn those figures around. If they don't, then yesterday's "supercripple" mountain conqueror will continue to be today's disabled, dependent and defeated worker. ◆


PRESS
THE NEWS

by Charles Ericksen

WANTED

Several years ago *Nuestro* magazine warned its readers that the surge of attention being given to the Hispanic presence by big circulation newspapers and magazines didn't necessarily herald "better treatment of Latino life by the U.S. media." The editor went on to characterize such coverage as being "like a false pregnancy—a flush indicating major changes which never materialize."

Parade magazine is one of the most widely circulated Sunday newspaper supplements. The editor's introduction to *Parade's* March 14, 1982 cover article, "Stories of Promise and Pain about Our Newest Immigrants—An American Struggle," informs its readers: "In Los Angeles..., Hispanics are so numerous that they have tipped the political scales to dominate the local government and schools."

So far, wrong on two counts. Indo-Hispanics were here before the Mayflower dropped anchor. And today, in Los Angeles, Hispanics hold zero out of 15 seats on the City Council and zero out of 7 on the Board of Education. Hardly domination.

"*Parade,*" continues the editor, asked former White House domestic policy adviser John Ehrlichman "...to travel throughout the nation...and share what he learned about the various and remarkable people whom our society calls Hispanics." Ehrlichman is an authority on Hispanics, the editor explains, because he did time with "Mexican aliens" and felt sorry for them.

Thereafter, repentent Watergate felon Ehrlichman describes five people he met in his *Parade*-subsidized travels: a Cuban millionaire in Miami, a Mexican American janitor in El Paso, an 88-year-old Spanish matron in New Mexico, a Puerto Rican teacher, and a Puerto Rican dishwasher, both in New York. The Cuban tells him that Cubans have different customs, language, and skin than do Puerto Ricans and Mexicans. The New Mexico Spaniard doesn't like the terms "Hispanic" or "Chicano." Through selective use of subjects, information and quotes, Ehrlichman carefully recreates Hispanic American stereotypes, placing special emphasis on differences among the nation's 20 million residents of Hispanic descent.

The *Parade* article, unfortunately, isn't unique. Stories like it appear daily in the U.S. press. They do because many U.S. print media owners and executives apparently don't bother to question the crude stereotypes which John Ehrlichman reconstructed and because they haven't hired more Hispanic reporters and editors to cover the nation's Hispanic communities the way they should be. Hispanics constitute eight percent of our population. Yet, based on figures collected in a 1982 survey commissioned by the American Society of Newspaper Editors, only about 1.3 percent of the reporters and editors working on the nation's general circulation dailies are Hispanic. The ASNE survey projects that out of nearly 50,000 newsroom professionals (reporters, copy editors, news executives, photographers and artists), 650 are

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Editor's Note: *This second of two articles about Hispanics in the news media deals with employment of Hispanics by the media. The first article, which appeared in the Winter 1982 issue of* Perspectives, *focused on coverage of Hispanics by the press.*

Hispanics in the Newsroom

Hispanic. That's an increase of 74 percent since 1978, when it projected 374.

The breakdown of Hispanic newsroom professionals, compared to non-Hispanic whites, for 1982 shows, by percentage:

	Reporters	*Photographers & Artists*	*Copy Editors*	*News Executives*
Hispanics	63%	16%	14%	7%
Non-Hispanic whites	53%	11%	20%	17%

Today, minorities, including blacks, Asian Americans and American Indians as well as Hispanics, comprise 5.5 percent of the professional work force in the newsroom. The '82 newsroom census, which included data from 705 daily newspapers (40 percent of the nation's dailies) concludes:

- Minority employment continues to progress in daily newspapers, but the rate of progress is slowing. The 1982 increase (0.2 percent) was the smallest since the study began.
- Minorities are least represented in the "news executive" category and are underutilized in positions where decisions are made on how the news is selected, edited and displayed.
- Three-fifths of all daily newspapers still employ no minority journalists.

ASNE's survey offers the following box score on progress of minority professionals (barely a fifth of whom are Hispanic) in the newsroom:

Year	*Minorities*	*Increase over previous year*
1978	4.0%	—
1979	4.5%	0.5%
1980	5.0%	0.5%
1981	5.3%	0.4%
1982	5.5%	0.2%

Nancy Hicks, president of the Berkeley, California-based Institute for Journalism Education, which sponsors the JobNet minority journalist placement service, sees editors, particularly in the West and Southwest, as more receptive to hiring Hispanics during the past few years "just as it was happening with blacks 10 or 15 years ago. The perceived need to cover Hispanics is greater now." By showing that there's awesome Hispanic purchasing power out there, Spanish-speaking radio is pushing newspapers to become more aggressive in tapping that market, she adds. "So is the fact that ad agencies like J. Walter Thompson have created Hispanic divisions within their organizations."

The 1981 ASNE survey indicated a major hurdle still to be crossed, however. About half of the editors stated flatly that they found minority applicants to be "less qualified" than their "white" counterparts. About 20 percent of the editors actually stated that hiring minorities would lower the standards of their newspapers.

ASNE, through a series of workshops conducted jointly by Jay T. Harris, assistant dean at Northwestern University's Medill School of Journalism, Christine Harris, director of the Consortium for the Advancement of Minorities in Journalism Education housed in the Medill School, and Albert Fitzpatrick, executive editor of the Akron *Beacon-Journal* and chairman of ASNE's Minority Affairs Committee, has been attempting to deal with such attitudes among senior editors.

I attended one of the day-long workshops, conducted in Washington, D.C., along with Frank Cota Robles Newton, executive director of the California Chicano News Media Association. The top editors from about 20 Eastern papers participated and unquestionably gained a lot from the sessions. There was an initial prevailing attitude which struck both Cota Robles Newton and me, however. For the first two hours of discussion, the issue of minority hiring was dealt with by the editors as strictly an "affirmative action" question. No editor suggested that his or her paper stood to gain professionally by hiring Hispanics or other racial or ethnic minorities. Until Cota Robles Newton and I reacted to the dialogue, there seemed to be a reluctance to admit that bilingual, bicultural journalists bring essential expertise to the newsroom—cultural awareness and an extra language.

In cities where significant monolingual Spanish and English populations exist, bilingual journalists are absolutely necessary if a newspaper is committed to covering the community it professes to serve. How else can it find out firsthand what's going on, and make intelligent news judgments? Editors and reporters who lack second-language skills, or have insufficient knowledge of the cultures of their constituent communities, are less adequately equipped, less competent professionally to do their jobs.

"Reporters with medical or legal or business knowledge get 'editor' appended to their byline and in most cases, some extra dollars in their paychecks to compensate them for their additional expertise," says Dolores Prida, former senior editor of *Nuestro* magazine. "Should reporters who speak Spanish, understand Hispanic culture, and are expected to use those acquired assets on the job, be compensated, too? Of course they should be—but it's a rare editor who would admit that. More rare are papers that actually pay for this additional expertise."

A simple example of the value of having bilingual, bicultural writers on staff in all editorial units comes with the press's experience with the Los Angeles Dodgers' Fernando Valenzuela. The English-speaking, culturally-limited sportswriters and reporters who covered his arrival onto the

American sports scene created, because of their own communications trammels, a one-dimensional man-child—half Lil' Abner, half Billy Carter.

Quotes from three non-Hispanic sports reporters illustrate the point:

- "Valenzuela had flicked aside the Houston Astros like so many flies on his plate of tortillas."
- "He speaks just enough English to order a beer."
- "A kid from Etchohuaquila, Mexico, with little or no formal education, a non-citizen who cannot speak the language, wants $1.4 million a year for a job where he works only every fourth day, and then for no more than an hour and a half. He doesn't contribute a jot to the gross national product.... And he doesn't do windows.... Even the man on the street thinks he should get on his knees and thank Our Lady of Guadalupe he's got a job."

"The very basis for the Latino's hiring is used as a penalty because his or her cultural sensitivity is construed as a lack of professional objectivity."

By contrast, Jaime Guerra, now with the Houston *Chronicle,* wrote some highly informative, sensitive magazine and newspaper articles on Valenzuela, in both English and Spanish, which showed the man's dimensions. Guerra also scored a national beat on all competition in March when he reported that the southpaw pitcher had returned to Mexico to protest the Dodgers' inflexibility during contract negotiations.

Sports columnist Rodolfo Garcia has offered many insights on Valenzuela in Los Angeles' Spanish-language daily, *La Opinion,* and Eddie Rivera, a free-lance writer from San Fernando, Calif., wrote an exceptional piece for *Inside Sports* magazine. In his article, Rivera explained how he got the assignment:

> In 1965 the L.A. *Times* sent black copyboys to the front lines of Watts; in 1981 they and the *Herald Examiner* and the rest of the media scoured their staffs for Spanish-speaking reporters to interview Fernando. *Inside Sports* found me.

But getting on board with a newspaper or magazine editorial staff is not the only hurdle facing Latino journalists. Cota Robles Newton notes that Hispanics encounter a special problem when they make it into the newsroom. "A Latino journalist is expected to be fluent in Spanish and have a special sensitivity to Latino issues, but at the same time, is tacitly judged by editors to be biased in favor of Latinos and against Anglos. Thus, the very basis for the Latino's hiring is used as a penalty because his or her cultural sensitivity is construed as a lack of professional objectivity." One facet of "this clever trap," says Newton, is the assignment of the Latino reporter to cover the Latino community—exclusively. "This," he points out, "severely limits the Latino's chances for professional recognition and upward mobility."

Felix Gutierrez, associate professor at the University of Southern California's School of Journalism, concurs that professional advancement is a real problem. "The battle to get up is tougher than the one to get in," he says. "Our biggest hurdle is moving into decision-making positions." According to Gutierrez, "Latino men have a toehold, but not a foothold. But Latinas are much worse off. They don't seem to be getting hired until at least three or four men get hired." The pool of excellent Hispano reporters—possessing solid journalistic skills and secure in their own identities—is large and growing, he says.

Gerald Garcia, recently named publisher of the Tucson *Daily Citizen,* agrees. Garcia, former assistant to the publisher of the Kansas City *Star,* has aided dozens of Hispanic journalists in locating positions around the country. He rejects out of hand the frequent excuse of editors that they can't find "qualified candidates." "They're out there," he says. "If you're sincere enough about looking for them, you can find them."

Yet, the disparity remains. New York City, with 1.3 million Puerto Ricans among its residents, has less than half a dozen Puerto Rican reporters among its three major newspapers. In Philadelphia, only one Hispanic reporter is currently on the job with a major daily. Numerous large cities in areas of major Hispanic population concentration in the Southwest and elsewhere have no more than one or two Latinos on their reporting staffs.

At a Los Angeles ASNE minority workshop this spring—attended by five Anglo editors and a dozen Latino reporters, the reporters expressed a common concern that there was more "distance" between them and their editors than there was between Anglo reporters and the same editors. Some of the Hispano journalists complained about being "pigeonholed." The editors may unconsciously have admitted why: Without Latinos on their staff, they said, they would have a difficult time reporting on the Latino community.

Some major media also tend to "smother" their Latino reporters, contends Cota Robles Newton. "They're definitely judged more harshly by their bosses. The biases of non-minority reporters aren't questioned, but theirs are. They know they're walking a tightrope, and as a result, some of them bend over too far to prove themselves. Or they try to get as far away from covering the barrio as they can."

Last summer, the Philadelphia *Daily News'* Juan Gonzalez was elected president of the National Congress for Puerto Rican Rights. The paper immediately saw a conflict between his continuing as a reporter and serving as the Congress' president.

"The *Daily News,* and other Philadelphia papers, too, allow other writers to hold leadership and policy positions with such organizations as the United Way, the NAACP, and the Red Cross—but the *News* told me flatly that I could not be a reporter and be active in my community at the same time," says Gonzalez.

"I volunteered to cover no assignments involving the

Puerto Rican community—even to work on the copy desk. I met with all five editors. I was told that that was unacceptable, that I must either resign as president of the Congress or face dismissal. So I asked for a one-year leave of absence, and they granted me one—joyfully."

Daily News Executive Editor Zachary Stalberg responds: "We had a lot of conversations with Juan before we hired him as a reporter [in January 1979]. He had to choose between reporting and taking an advocacy position. When Juan became head of the Congress, we came back to essentially the same situation. His value to us was as a reporter to whom we could give any assignment. What he could do best for us was work as a cityside reporter."

Stalberg says he has no one on his staff who has a position "with any organization—political or otherwise" comparable to that of Gonzalez with the Congress.

Gonzalez, whose 1981 *Daily News* series on Philadelphia's "hot spot" cancer neighborhoods won a major state journalism award this spring, stepped down as president of the Congress and returned to the paper this summer. His relationship with his editors remains professional and cordial. "Each side understood where the other side was coming from," says Stalberg.

"A man is as many men as the number of tongues he speaks." Gutierrez finds the modern meaning to be "Hispanic reporters can do everything Anglo reporters can do—PLUS."

USC's Gutierrez conducted a study on journalistic bias in 1978, analyzing stories on immigration issues. He found that Latino reporters working for establishment media presented more objective, balanced reports than did their non-Hispanic counterparts. "The Latinos didn't stop with public agency sources," he said. "They added dimensions which considered and included views from Mexico, from immigrants themselves, from Latino and legal assistance organizations, as an example. Today, I know of no cases of biased reporting by Hispanic reporters. But I can show you a lot of them on the other side."

"A man is as many men as the number of tongues he knows," the Holy Roman Emperor Charles V observed. Gutierrez puts the observation in a modern newsroom context: "Hispanic reporters can do everything Anglo reporters can do—PLUS!"

The "plus" was readily evident in the coverage provided by competing U.S. reporters at the 22-nation "summit" conference held in Cancún, Mexico, last October. When President Reagan made reference to the tardiness of his lunch companion on October 21, the Washington *Post,* with three reporters on the scene, ignored it in its main story. The only reference was buried in a sidebar piece by Christopher Dickey, who wrote: "Chinese Premier Zhao Ziyang, meanwhile, arrived 15 minutes late for lunch with Reagan, so the American president instantly seized the opportunity to be gracious by noting that such tardiness is common in Latin America."

That the President's Mexican hosts saw nothing at all "gracious" about his remark was developed into a major page one story in the San Diego *Union* by correspondent Ricardo Chavira. In a lengthy piece quoting a Mexico Foreign Ministry official and an aide to Mexican President Lopez Portillo, Chavira wrote: "With a remark that reminded his Mexican hosts of Jimmy Carter's comments about 'Montezuma's revenge', President Reagan yesterday angered Mexican officials here by saying lateness is a Latin American custom...."

The Washington *Post,* which has no full-time Hispanic American reporter or editor on its staff, according to Thomas Wilkinson, the paper's assistant managing editor for news personnel, ran two pieces in the first week of March 1982 implying that the violence in Central America was the result of the influence of Hispanic culture.

The writer of one piece wrote that the United States "is pushing uphill against the culture." A second writer outdid that statement with this comment about Salvadoran soldiers: "Trained by their traditions, their culture, and some of their officers to use brute force as a solution to any threat, or in some cases to satisfy any whim, they are attempting to adapt virtually overnight to Anglo-Saxon values as alien to most as tea and crumpets."

Such reporting would not have gone untouched by a Hispanic editor. The Forum of National Hispanic Organizations protested to Publisher Donald Graham that "The spurious allegations, treated as fact by both writers, are dangerous to persons of Hispanic heritage throughout the world."

As the powers guiding the nation's establishment print media move slowly to assess and address their inadequacies in hiring and coverage of Hispanics, Latino journalists and major Latino national organizations are moving at a much faster pace.

Within recent months, at least half a dozen new groups of Hispanic media professionals have either incorporated or started the process. Most are in Southwest cities. The first Hispanic Professional Journalists Conference, coordinated by Cota Robles Newton, will be December 2–5 in San Diego. It is expected to attract more than 400 Hispano print and broadcast journalists from throughout the U.S.

The Forum of National Hispanic Organizations, which encompasses more than 30 of the country's largest and most broadly-based Hispanic organizations, has started talks about newsroom bias and hiring of Hispanic editors and reporters with the American Society of Newspaper Editors and the American Newspaper Publishers Association. Its goals are to get such professional bodies to address the value of hiring Hispanic journalists at their national conventions and to develop joint strategies to improve the hiring record of establishment print media in a hurry.

The American Society of Newspaper Editors has set the Year 2000 as its target date to complete the "integration" of the nation's newsrooms. Hispanics wonder if the nation can really wait that long. ◆

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