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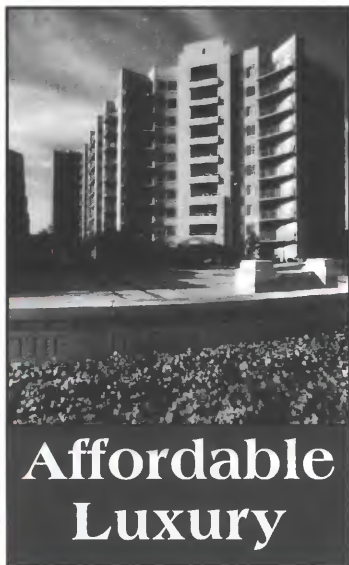
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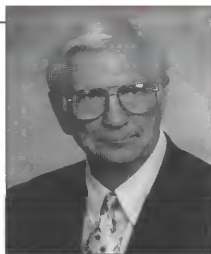
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PRESIDENT'S VIEWS

Back to the Future?

BY DAN GEISLER

The lead article in this issue of the *Foreign Service Journal* contains a comparison of two recent studies on the future of American diplomacy conducted by two influential Washington think tanks using advisory panels of eminent persons with impressive diplomatic credentials. Both panels make a number of the same recommendations for strengthening the United States' ability to conduct foreign affairs in the new millennium.

Both studies criticize the State Department's deplorable information technology system, an issue about which AFSA has complained to anyone who will listen and many who will not. One study calls on Congress to create a \$400 million Capital Fund for Information Technology to bring State closer to modern standards. It also calls for a government-wide information system and for State to consolidate its various information networks, two sound ideas.

The studies also deplore the State Department's lack of workforce planning. State should be able to predict future needs in order to hire and train Foreign Service officers. Granted, the Foreign Service system of assignment rotation creates specific management challenges. Still, the Air Force, which faces similar challenges, is able to predict how many fighter pilots it will need in the future. Why can't State make similar personnel predictions?

Dan Geisler is president of the American Foreign Service Association.

*Only if the
secretary is
perceived as
committed to
change will
it happen.*



Both studies conclude that the State Department should do more to provide diplomatic services to U.S. business. This is true, but it's not news. Ten years ago Larry Eagleburger, then-deputy secretary of state, advanced the "Business Bill of Rights" to sell American companies on what economic and commercial FSOs could do to help them export goods and services. Although our government's traditional role has been to regulate business, not collude with it, there is now strong bipartisan consensus that American diplomats should advance American business abroad. State has made progress in this area, with many U.S. ambassadors now actively engaged in commercial diplomacy.

Also addressed in the studies is the need to improve Washington's policy process — an enormous challenge. Former Secretary of State Warren Christopher's Strategic Management Initiative staff took a crack at re-inventing how State makes decisions

in coordination with the rest of the executive branch. Some of their ideas have resurfaced in these studies. In fact, many of these same problems were identified even earlier, in a 600-page report written by in-house committees of active duty Foreign Service personnel and published by State under the title *Diplomacy for the 1970s*. The study described the complexity of coordinating the interests of numerous government agencies overseas and decried State's insularity. The authors considered consolidating State, USAID and USIA, but rejected the latter suggestion until such time as State could demonstrate that it could match foreign policy priorities with resource allocation, an achievement that continues to elude State managers.

The worth of these two new studies will be determined by how much energy their publishers put behind them. AFSA strongly supports the fundamental principle underlying both studies: America needs an active, vigorous foreign policy. We also support many of the studies' recommendations, and will work to advance them. In that regard, experience has taught us that the secretary of State must be personally committed, and perceived as being personally committed, if change is to happen. Otherwise, expect to see some of these same recommendations resurface yet again thirty years from now in a report entitled *Change for the 2030s*. ■

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LETTERS

Visa déjà vu

I read the Robert Olsen saga (*FSJ*, November 1998) with more than a touch of déjà vu. In 1967, I was assigned to San José to replace an officer who was being selected out of the Foreign Service because he had deliberately used race as a basis for refusal of both immigrant and non-immigrant visas. The officer in question freely admitted to his bias, basing it on his religious views. His superiors, in both San José and Washington, rightly appalled, sought and got a curtailment of his tour. Upon his return to Washington, he was selected out for cause.

My next assignment, to Manila, was as chief of the NIV unit. The longest line in town is the one in front of the embassy building where the consular section is housed. My "unit" consisted of me and two even more junior officers charged with interviewing and evaluating upwards of 300 applicants a day. There were more, but that's all we could shoe-horn into the building. In an eight-hour workday, interviewing an average of 100 persons each, we

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had, theoretically, a grand total of 4.8 minutes per applicant. In the real world, however, things do not go so smoothly and with paperwork and other processing requirements, three minutes was a lot. To keep from



drowning, we profiled. Simply put, if it walked like a duck, talked like a duck and looked like a duck, we presumed it to be a duck. That is to say, a young, un- or under-employed applicant, particularly one recently graduated from college (the Philippines is notorious for diploma mills) with little or no money was an almost automatic rejection under 214(b). We also put cryptic notations on the forms so that when the inevitable request for reconsideration came up, the reviewing officer would know what the initial interviewer had based his/her judgment on; none of these notations were flattering.

Reliance on documents was almost

impossible. Forgeries abounded, passports were manipulated, photographs and biographies were substituted and all a vice consul had to work with then and now was judgment. Interestingly, despite a very high rate of rejection, a rate always getting us into hot water politically, at least a third of all those who did get visas never came back. Part of our paperwork overload was from responding to INS inquiries on overstayers and adjustment seekers.

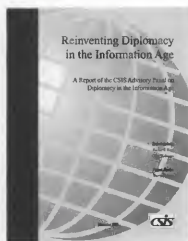
There is a simple reality. The United States was, is and I pray will continue to be, the promised land. Millions of people, all over the world, are prepared to do whatever it takes, including forgery and perjury, to get a visa. As the son of an immigrant, I have great personal sympathy for them and in their place might well do the same. Nevertheless, we take an oath which requires us to uphold the law and we may not choose which laws we like and which we dislike. If we cannot, in good faith, execute said laws, then the honorable thing to do is resign and fight to change the law.

*Robert H. Stern
FSO, Retired
Chantilly, Va.*

Overstays Overstated

We commend Steven Honley for his balanced and informative piece on the Robert Olsen case. We would, however, like to correct a factual error.

The CSIS Press



REINVENTING DIPLOMACY IN THE INFORMATION AGE

A Report of the CSIS Advisory
Panel on Diplomacy in the
Information Age

Richard Burt and Olin Robison,
project coauthors; Barry Fulton, project
director

"The culture of diplomacy must be overhauled to make it more accessible and participatory; obsolete technology must be discarded and replaced to make diplomacy more efficient and relevant; and a larger community of international and domestic actors must be included in deliberations and implementation. These changes will require bold and sustained leadership as well as a better-trained, more effective diplomatic service."
—from the Introduction

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LETTERS

Citing INS as his source, Honley states that 41 percent of all visitors to the U.S. overstay their visas. In fact, what INS reported was that an estimated 41 percent of illegal aliens living in the U.S. originally entered legally as non-immigrants and overstayed, with the remainder having entered illegally.

Because the U.S. does not currently have reliable or universal exit controls, an accurate figure for the overall visa overstay rate is not available. INS estimates that about 2.1 million non-immigrant overstayers live illegally in the U.S. This population is made up of aliens who entered the U.S. over many years. When one considers that the U.S. issued roughly 30 million non-immigrant visas in the past five years alone, and that some overstayers presumably entered without a visa under the Visa Waiver Pilot Program, it is clear that the actual visa overstay rate is far less than 41 percent.

We note that Honley cited the 41 percent figure as evidence that illegal immigration is a serious problem and that consular officers need to be vigilant in screening out non-bonafide visa applications. While the particular statistic may have been incorrect, we certainly agree with the general proposition it was intended to support.

*Nancy H. Sambaiew
Deputy Assistant Secretary
for Visa Services
Washington, D.C.*

Needed: More Visa Staff

Your November articles on Robert Olsen's battle over visas touch on a number of painful tensions in the visa world, including the seemingly eternal questions: How are posts to adequately dispose of the avalanche of visa applications many face, and how should managers deal with

adjudicating officers marching to different drumbeats?

We can assume that visa law will continue to be complicated, and full of areas wherein sophisticated judgment is demanded. We can also confidently assume that most visa issuance errors are unlikely to be caught at the port of entry, and that once in the United States, a person, whatever his or her status, has an excellent chance of remaining indefinitely. Thus, there is a need to take all reasonable steps to issue visas only to those qualified for them.

We can, and should, be sensitive to public perceptions, and must rein in the "vice consuls from hell" whenever they appear. Consular managers should insure that the written (and oral) guidance provided newcomers on local adjudicatory wisdom is accurate and current. The wording of our guidelines should not be insensitive, but neither must it be politically correct to the point of unreality.

Officers need guidelines that are more than mush. Having widely differing refusal rates among adjudicating officers dealing with essentially the same population profile greatly aggravates the situation. Beyond the sometimes impossible task of getting all adjudicating officers to use close to the same standards (the value of the written guidance, constant training and monitoring), the greatest enemy we face is staffing.

Unless the Foreign Service is able to provide sufficient qualified officers to adjudicate all visa applications with more than a cursory look and allow visa officers a workday that avoids the risk of burnout, we will continue to receive criticism from our public and ourselves. Sad to say, the procedural shortcuts which are adopted with the laudable intent of efficiently — and fairly — processing the never-ending lines of visa seek-

ers leads to the unfair perceptions spawned by situations such as this. Worst, we sour new officers on a vital function, while we go to bed each night knowing our performance has been less than it might have been.

*Bruce A. Beardsley
Diplomat in Residence
UCLA
Los Angeles, Calif.*

The Limits of "Profiles"

In responding to the Olsen case and broader questions of U.S. visa policy, Deputy Assistant Secretary Nancy Sambaiew concluded with this important point: "Every application is examined on an individual case-by-case basis."

That is the policy, but it is not always the practice in the field. Faced with ambassadorial, congressional and/or GAO (as Steven Honley's article mentioned) pressures to reduce visa waiting lines and the large increase in visa fraud, overworked visa officers have been forced to come up with applicant profiles to assist them in the visa adjudication process. Such a development is understandable, although the personally derogatory comments apparently made on the application forms by some offices in Sao Paulo would seem to go too far. The real problem arises when these visa profiles or characterizations become in effect the sole basis for adjudicating the visa application, thereby denying the applicant a genuine case-by-case hearing.

Let me illustrate this with a case that was brought to my attention while I was principal officer at a European post a few years ago. Here is the profile of the applicant, who wanted to visit relatives in the United States: domestic worker (huge market for illegal domestics in the United States) from the Philip-

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LETTERS

piners (a high fraud rate country), applying outside of the country of nationality (absence of ties), visiting close family in the United States (added incentive to stay). This case seemed a no-brainer: "Refused; next applicant, please." There were two pieces of information, however, that the officer did not consider. First, the applicant had a residence permit for the European country, and second and most importantly, had worked for the same prominent family for 13 years. I urged that the case be reconsidered. The visa was issued, the applicant went to the United States, and returned to the European country after the visit.

This brings me to the case of Robert Olsen. From his account, he was only trying to follow the department's policy of treating each applicant on a case-by-case basis and

was fired because he would not go along with the practice of adjudicating visas according to post profiles. Apparently, Judge Stanley Sporkin reached the same conclusion. The *Journal's* coverage does not contain much information about how wisely Olsen applied the case-by-case method except his own statement that a survey of his visa issuances "that was neither random nor accurate" was used to show that 22 percent of his visa issuances were to illegal immigrants. Olsen was a first tour officer. If his use of the case-by-case approach led to poor judgments, he needed to be counseled by his superiors and assisted in improving. He may well have been, but we do not know from the record in the *Journal*.

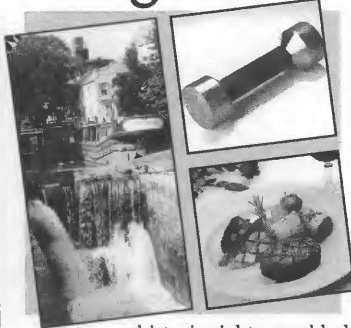
The unfortunate case of Robert Olsen, in my view, requires the

department to act on several fronts. First, the department needs to make a strong case within the administration's budget process and with the Congress for sufficient consular resources to handle the ever growing and increasingly demanding visa services. Dealing with the workload may well mean asking for more FSO positions, expanding the family member employment program, and perhaps even reestablishing something akin to the old Foreign Service Staff Corps.

Second, more time needs to be spent in the consular course on instructing officers how to implement the department's case-by-case visa policy in practice.

Third, supervisory officers need to work closely with junior officers throughout the rating period and not,

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LETTERS

as is too often the case, only at EER time. Periodic performance reviews should be substantive and frankly discuss areas for improvement so that an officer has a chance to remedy shortcomings.

Finally, the 1994 amendment to the 1980 Foreign Service Act, which makes FSOs responsible for mistakes made while serving in their professional capacity, makes officers particularly wary in visa work. I believe that the department should work to clarify whether or not FSOs can be held personally liable in court for their actions. Given the current uncertainty, many consular officers have felt the need to take out personal professional liability insurance.

*Clarke N. Ellis
Consul General, Retired
Kensington, Md.*

Olsen: The View from Brasilia

Robert Olsen is incorrect in his allegation that "a consul general secretly lobbied the U.S. ambassador to Brazil to urge the director general of the Foreign Service to quietly remove me from Brazil for reasons of efficiency and morale. The ambassador complied without further investigation." Having worked in the front office in Brasilia during the time Olsen was a consular officer in Sao Paulo, I know something about that situation.

Number one: Did Olsen want the consul general to lobby openly for his removal from Brazil? The decision to remove Olsen from Brazil was done with discretion. Surely Olsen did not want everyone in the consulate general and the embassy discussing his case.

Number two: The ambassador

did not comply without further investigation. My recollection is that the ambassador was distressed when the request was first made to remove Olsen from Sao Paulo. In fact, the ambassador directed that every effort be made to work with Olsen to keep him in Sao Paulo in the visa unit, and followed up on his orders.

*Claudia Romeo
Office Management
Specialist
U.S. Embassy Rabat*

Olsen Milking the System

Robert Olsen's "Speaking Out" column is an excellent example of why lawyers and legalistic arguments make bad policy.

Olsen seems to feel that anything less than total capitulation by the

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LETTERS



other side is unacceptable. There is much I do not know about his case. Still, what I read prevents me from accepting automatically that he is totally in the right, even though the actions of his supervisors seem to have been arbitrary and unjustified. Nevertheless, when given full reinstatement and an excellent assignment, he refuses to accept victory unless given full pay during a time when he was making more money as an attorney than he would have in the service. Even if we believe that his original standpoint was a principled and correct one, his present situation appears to be simply that of a lawyer trying to milk the system for everything he can get.

C. David Noziglia
Desk Officer, USIA
Washington, D.C

Internet[ional] Relations

Thank you for the fine article "Internet[ional] Relations" which appeared in the November issue of the *Journal*. Our Internet explora-

tions in China are turning up useful tools for the Sinoliterate: Chinese language search engines and newspaper Web sites with tens of thousands of searchable articles. For example, a Nov. 30, 1998 search of the *People's Daily* database brought up over 1,200 articles since August 1 or about 10 articles per day mentioning the United States.

You'll find information in the environment, science and technology area in that section of the Embassy Beijing Web page at <http://www.usembassy-china.gov>. The net has indeed become a cool resource for internet[ional] relations.

David Cowhig
Environment, Science and
Technology Section
U.S. Embassy Beijing ■

CORRECTION: The article Internet[ional] Affairs in the November *FSJ* stated incorrectly that the American Diplomacy website (www.unc.edu/depts/diplomat) is run by the University of North Carolina's Diplomacy Department. In fact, it is maintained by American Diplomacy Publishers, a non-profit corporation.



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Why not write a "Speaking Out" for the *Foreign Service Journal*?

"Speaking Out" is the *FSJ's* op-ed section, the place where writers can express opinions on issues specific to the Foreign Service, its employees and its work. Writers are encouraged to take strong stands, but all claims must be supported and documented. Length of submitted articles should be from 1,500 to 2,000 words.

All submissions go to the *Journal's* Editorial Board for discussion.

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CLIPPINGS



The bombing of our embassies in Kenya and Tanzania reminds us of the risks faced every day by those who represent America to the world. Let's give them our support, the safest possible workplaces, and the resources they need so America can continue to lead.

PRESIDENT WILLIAM
JEFFERSON CLINTON,
STATE OF THE UNION
ADDRESS,
JANUARY 19, 1999

RUSSIA AND BELARUS: UNITY THAT DIVIDES

Moves by Russia and its neighbor Belarus to reunify are creating shockwaves in both the East and the West, writes Paul Goble, an expert on post-Soviet nationalities, in the December 28 Radio Free Europe bulletin.

The proposed merger of the two "represents a direct challenge to NATO," Goble writes. Poland, scheduled to join NATO later this year, adjoins Belarus. Russian President Boris Yeltsin and his Belarusian counterpart Alyaksandr Lukashenka signed an agreement on Christmas day which they say may lead to unification of the two states by mid-1999.

While there is widespread skepticism regarding this new marriage of old partners, the two former Soviet republics have already agreed to convert to a single currency and a common tax system early this year, reports Goble.

Russian communists and nationalists applaud the accord as a restoration of the past and a challenge to NATO and the West, but they fear the unity will place a tremendous financial burden on Moscow.

Some reformers have objected to a shotgun wedding which appears to be taking place without public discussion or plebiscites. According to Goble, "they view it as a threat to democracy and free market economics, with many fearful that such a reunification would transform the authoritarian Belarusian president into a major player on the Russian political scene."

The Belarusian Popular Front has criticized Lukashenka's willingness "to eliminate Belarusian statehood," and democratic activists opposed to the merger

clashed with police in late December.

The Yeltsin-Lukashenka accord, Goble writes, "highlights the continuing influence in Moscow of those interested in reversing the 1991 dissolution of the Soviet Union and calls into question Yeltsin's past commitments to oppose any such revision."

STATE, AID LAG IN FIXING Y2K BUG

The State Department and the Agency for International Development are both behind schedule in meeting the Y2K challenge, according to a December 8 report from the Office of Management and Budget. In fact, OMB listed AID as the federal agency with the lowest percentage of systems that are year 2000 compliant, reported the January 11 *Federal Times*.

Of AID's seven "mission-critical systems," only 14 percent (or one of the seven) are Y2K compliant. State is doing better, with 46 percent of its 59 mission-critical systems considered ready for the millennium. Even so, OMB listed State along with AID as two of the six federal agencies "not making sufficient progress" in meeting the challenge of preparing computer systems so that they function properly when the date changes to 2000.

Overall, said OMB, of 6,696 mission-critical systems in the U.S. government, 61 percent were considered Y2K compliant. By far the largest burden falls on the Department of Defense, which operates 2,581 critical systems, with 53 percent in compliance.

But pensioners can breathe easy, it seems: Among the best prepared federal units is the Social Security Administration,



CLIPPINGS

considered 99 percent Y2K compliant.

The goal of the President's Council on Year 2000 was to have all federal systems ready for testing on March 31, 1999. But Jack Gribben, spokesman for the council, admitted, "It is likely many agencies will not reach the March 1999 milestone for certain systems."

FS KIDS: "CHILDREN WITHOUT A COUNTRY?"

Being a child of Foreign Service personnel can create serious adjustment problems, whether you're Canadian or American. That's the message conveyed in an article headlined "Children Without a Country," in the November 16, 1998 *Ottawa Citizen*.

Though the life of a diplomatic brat might appear privileged, correspondent Mike Trickey writes, "The reality frequently turns out to be quite different, with the children of globe-trotting parents suffering psychological problems, academic struggles and feeling that they don't fit in, either abroad or at home."

Adjustment can be especially tough for teens. Said one Canadian FSO, "I remember my 15-year-old daughter telling us she was going to kill herself if we made her move one more time."

While that level of stress is unusual, frequent moves can make it hard for teens to get the peer group acceptance they need.

One young woman who grew up at four different foreign postings by age 13 said, "As a kid, I always thought of myself as a social chameleon even before I knew what those words meant. I remember even at age nine or 10 consciously examining what the new crowd was doing and then trying to mimic that. A lot of kids

do that, but it is more difficult if you have to change or remake yourself every year as your parents move to a new country."

Canada's Foreign Affairs Department has started running seminars for returning teens to reassure them that what they are feeling is normal, and that in time they will again feel a part of their peer group.

For smaller children, the fears can be more basic. Seven-year-old Jonathan Francoeur, coming "home" to Ottawa after living his entire life in Chile and Jamaica, was afraid living in a normal house without special security.

"We used to have a big dog and bars on the windows and a 24-hour alarm system and security guards," the boy said. "Now anybody could just come into our house and rob us."

A FOREIGN POLICY GLASS CEILING?

Women in foreign affairs careers must be exceptional to succeed, according to a new study conducted by the Women's Foreign Policy Group, a Washington, D.C.-based professional association. Ninety-five percent of the 516 women leaders in international affairs who responded to the survey said they had to consistently exceed performance expectations in their careers. In addition, 74 percent said they had to consciously work to make their male colleagues comfortable with them in the workplace.

The women also reported that they have paid a high price for their career success. More than one-half said they had sacrificed time with their families to meet professional demands. A majority, 68 percent, said they were unhappy with the balance between their professional and personal lives.

50 YEARS AGO

"Mr. [George] Marshall is the first Secretary of State in modern times who had working level experience with the Foreign Service in the field prior to becoming Secretary in 1947. After a strenuous life of service to his country in the Army and desiring above all else rest and retirement, his reply, when the President phoned him at his home in Leesburg, Va., and asked him to go to China, was simply, 'Yes, Sir.'"

FROM AN FSJ EDITORIAL COMMENTING ON GEORGE MARSHALL'S RESIGNATION AS SECRETARY, FEBRUARY 1949



“Battle — a method of untying with the teeth a political knot that would not yield to the tongue.”

AMBROSE
BIERCE,
*THE DEVIL'S
DICTIONARY*

IN RUSSIA, CHARITY STOPS AT HOME

Though many Russians badly need help this winter, foreign charities are in despair over bureaucratic obstacles that keep them from helping. In fact, according to an article by Ben Aris in the December 11 *Moscow Times*, many international non-profit organizations have left the country, defeated by city administrations, the tax police and the customs service.

With limited resources, a number of organizations have moved to places where they can function. According to the British Charities Aid Foundation, there are more international non-profits in tiny Georgia than in all of Russia.

In Moscow, for example, some criminal organizations in previous years registered as charities in order to get tax concessions. Consequently, it has become very difficult for a legitimate charity to get the registra-

tion it needs to function legally.

The Moscow committee that considers applicants for the “charity passport” needed by nonprofits to operate meets only twice a month. Small charities with little political clout have almost no chance of registering successfully, the *Moscow Times* reports.

Customs is also a major problem. The Salvation Army says it has more than 3,000 sleeping bags that have been stuck on the border for more than a year “while they try to meet a Kafkaesque set of regulations.” The Red Cross reports that in 1997 customs agents “burned a consignment of toys from Sweden destined for Siberia, because ‘toys’ doesn’t appear on the list of goods designated as aid.”

In the meantime, the Salvation Army and Médecins Sans Frontières report that increasing numbers of Russians are visiting their soup kitchens and free clinics — not just the homeless and elderly but employed people who haven’t been paid in months. ■

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SPEAKING OUT

Sometimes Silence is Safer

BY EUGENE M. PROPPER

Not long ago, an investigator from State's Office of the Inspector General approached a senior Foreign Service officer and told him that he was conducting an investigation into events in which several persons, including the FSO, were involved. The FSO freely answered the investigator's questions and also signed a written statement based on the interviews. It was not until he finally hired an attorney that the FSO discovered that he was the principal target of the investigation and that, as a result of his statements, he was being charged with lying to the inspector general.

If the FSO had retained a lawyer before giving an interview, he would have had an advocate present during questioning, been able to obtain a copy of the agent's report of the interview and had a chance to review all the relevant records. His subsequent problems could have been avoided.

In another case, a USAID FSO was approached by an FBI agent and advised that another person had been arrested and that the FSO might be implicated in that person's case. The agent said the only way the FSO could clear himself was to speak to the agent immediately, before the arrest was revealed in the press. The FSO spoke alone to the agent for

Eugene M. Propper, a former U.S. attorney, works in the Washington law firm of Holland & Knight. Leslie McAadoo assisted with this article.

Note: For ease in reading, the author has used only masculine pronouns.

*Lying to an agent
can carry penalties
of up to five years
in prison and fines
of up to \$5,000
for each false
statement.*

hours, and even though he was never charged with a crime, his security clearances were suspended.

After the USAID FSO hired a lawyer, he obtained a copy of the agent's interview report. He discovered that his statements had been misconstrued, and, worse, that the agent had lied about what was said. Not only did the FSO still have the burden of denying wrongdoing in the first charge, he also then had a larger problem of accusing the FBI of issuing a false statement. If he had hired an attorney, the attorney could have prepared him for the interview, made sure the agent didn't ask ambiguous questions and could have prevented the FSO from being pushed into saying something that could later hurt him. He would also have had copies of his notes to refute the agent's report.

When agents from State's Office of the Inspector General or the FBI

conduct investigative interviews with Foreign Service employees, they are likely to find cooperative people who won't ask for a lawyer to be present. FSOs are inclined to believe in the fundamental fairness of law enforcement agencies; they find it hard to believe they could be investigative targets. That makes them vulnerable. If an FSO's conduct is being investigated for possible criminal prosecution, he should not answer questions without private or AFSA counsel present.

An agent may give the employee good faith assurances that his statements won't be used against the employee in a criminal case. However, the agent's assurances do not bind a prosecutor or protect the employee. The only assured protection for an employee is a written declination of prosecution from a prosecutor.

Better Safe Than Sorry

Like all Americans, Foreign Service employees have the right in a potentially criminal case to have a lawyer present before answering agents' questions and even the right to refuse to answer agents' questions. This protection is derived from the Fifth Amendment to the U.S. Constitution, which gives citizens the right to remain silent in the face of government questioning if answering might incriminate them. In addition, as government employees, FSOs are protected from threats of being fired if they refuse to answer questions that they think may be used against them



in a criminal prosecution.

If an agent really has no intention of conducting a criminal investigation, he can obtain a letter to that effect from the appropriate United States Attorney's office. This so-called "declination of prosecution" gives an FSO immunity from having his words used against him in a criminal case, but not in cases involving civil or administrative sanction or for an administrative or criminal charge of making a false statement to an agent. Whether or not he has counsel present, an FSO can decline to answer questions unless he receives a declination of prosecution. If an agent refuses to obtain a declination, there is good reason to believe that a possible criminal investigation or prosecution is involved, and the FSO should retain counsel to discuss his rights.

Garrity Rights

Because FSOs work for the federal government in positions of responsibility and authority and have to maintain complicated security clearances, most find it uncomfortable, if not untenable, to refuse to talk with law enforcement agents. Many believe that if they refuse to immediately answer questions posed by agents, they will lose their jobs. Law enforcement agents often try to intimidate FSOs with pressure tactics and intimidating statements such as, "you don't want to make trouble for yourself" or, "it would be better if you just cooperated and answered our questions." Falling for this pressure may be more detrimental to an FSO's career than exercising caution.

In recognition of this dilemma, the Supreme Court has developed protection for government employees. This protection, sometimes referred to as "Garrity Rights," is derived from the Court's 1967 decision in *Garrity*

v. New Jersey, in which it ruled that statements coerced from government employees after they have been threatened with termination can not be used in a criminal prosecution. Although Garrity rights are only applicable when an employee faces a penalty if he refuses to speak, they may apply if an FSO has a reasonable belief that refusing to speak to an agent will mean a penalty. An FSO's general fear that he will be considered uncooperative does not give him Garrity protection, however, and, in most cases, any statements can be used against him.

Even if an FSO assumes that since he has done nothing wrong and so risks nothing in talking to an agent without a lawyer present, he should be wary. Many investigations are conducted into events years in the past. Answering questions about these matters is best done after all records have been reviewed and events have been reconstructed. Typically, an agent comes to the interview well prepared, and, as a result, has more complete information than the FSO. If the FSO feels pressured, he or she might easily make misleading or incorrect statements, which could lead to administrative charges of lying to an agent or other criminal charges, even if the investigation reveals no underlying civil or criminal violation.

Even if a statement isn't given under oath, and even if the "interview" is an informal exchange, lying to an agent can carry penalties of up to five years in prison and fines of up to \$5,000 for each false statement.

On top of these legal issues, there are also practical considerations. Since the investigating agent will not have a court reporter, stenographer or tape recorder available during the interview, there is a high probability that statements will not be reported

accurately. The agent will rely on his notes, and he will have complete discretion about what is reported. Without an impartial observer, an FSO may later have to contradict the agent's report, or worse, risk administrative or criminal prosecution for statements that he can not prove were inaccurate or fabricated.

Speak At Your Own Risk

If an FSO decides to consider answering questions without preparing and without hiring an attorney, he should at least follow some basic procedures.

Ask for the identification of every person present, making sure to find out which agency each works for. If an FBI agent is present, presume the matter will involve potential violation of criminal laws.

Ask what the investigation is about and whether or not you are personally under investigation. If you are not, ask why you are being interviewed. Remember, you still don't have any protection if the agent, his superior, or a prosecutor decides later to charge you with a crime. If the agent tells you that you are under investigation, even if he says it does not involve criminal charges, refuse to answer questions until you have consulted an attorney, either private or provided by AFSA.

If the agent answers your questions specifically, says you are not the investigative target and lets you look at relevant documents, you can feel safer if you decide to answer questions without an attorney present.

Still, when FSOs speak to agents without enough time to prepare and without the advice of legal counsel, they later all too often face unnecessary, serious legal problems. Investigating agents have a great deal of power. Speak to them without an attorney only at your own risk. ■

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STUDIES BY CSIS AND STIMSON
CRITICIZE FOREIGN SERVICE WAYS,
BUT MISS SOME KEY QUESTIONS.

By PETER GALBRAITH

Not long ago, Senator Phil Gramm (R-Texas) justified slashing the State Department's budget by portraying America's diplomats as elitists enjoying the good life at the expense of the American taxpayer. Katherina Frasure replied with a blistering letter to *The Washington Post*, describing the hardships her family went through when they moved abruptly to newly independent Estonia, where her husband Bob served as our first ambassador.

A few months before Mrs. Frasure's riposte to the senator, I stood on the tarmac of Croatia's Split airport as the remains of Bob Frasure, Joe Krusel and Nelson Drew were transferred from a helicopter to the military plane that

would take them home. The three diplomats died when their armored personnel carrier rolled off the Mount Igman Road that provided besieged Sarajevo's only link to the outside world. Nine months later, I stood on the tarmac of another Croatian airport as the remains of Secretary of Commerce Ron Brown and 34 accompanying travelers made their somber final trip home. Ron Brown's plane had flown into the Mountain of Saint John the Baptist near Dubrovnik on an Easter trade mission aimed at making tangible the benefits of the peace for which Frasure, Nelson, and Kruzel died.

These deaths in civilian missions far exceed U.S. military losses, all in accidents, during the three years of the Bosnia deployment. Along with the other names on the marble plaques in the State Department lobby, the crashes on Mount Igman and Mount Saint John underscore the extraordinary human toll paid by American diplomats. Yet while Congress adds billions to the Defense and intelligence budgets, Foreign Service officers are lampooned and minimal funding for such items as U.N. dues is not forthcoming.

A Somber Anniversary

On this, the 75th anniversary of the Rogers Act that created the Foreign Service, it is well to ask what has gone wrong with it. Why is it held in such low esteem at home, and in particular on Capitol Hill? What can be done to reform or improve the service?

Two new studies purport to answer these questions at least in part: one by the Center for Strategic and International Studies (CSIS), entitled "Reinventing Diplomacy in the Information Age," reflects the views of a 63-person advisory panel drawn from business, the media, NGOs, and academia, but heavily laden with former ranking government officials. "Equipped for the Future" from the Washington-based Stimson Center is endorsed by 14 former senior officials including three

Peter Galbraith, U.S. ambassador to Croatia from 1993 to 1998, teaches at the National War College. He was a senior staffer for the Senate Foreign Relations Committee from 1979 to 1993.

*Technology
gives us a way
to talk, but it
doesn't tell us
what to say.*

secretaries of State. The timing of these reports seems to me to be singularly unpropitious.

With consolidation of the foreign affairs agencies, the Congress has just enacted the most substantial changes in the institutions of American diplomacy in 50 years. The prospects for another dose of change just now seem slim.

I must confess bias. I like our Foreign Service and consider that I was extremely well served by the career diplomats who worked for me during my tenure as U.S. ambassador to Croatia through years of war and tenuous peace. I found little from the CSIS report that related to my experience of the Foreign Service as an ambassador or as senior staffer with the Senate Foreign Relations Committee, with 10 years experience handling the State Department's authorization legislation.

A Hierarchical Cable Culture?

The CSIS report paints a grim picture of American diplomacy: "The conduct of American diplomacy faces unacceptable performance gaps between its outdated practices and the requirements of the new age of information." These gaps include diplomatic priorities, professional standards, leadership, relations with NGOs, media and business, as well as resource-driven matters of infrastructure, computers, and telecommunications. American diplomats, says the report, are caught in a "hierarchical cable culture that defines American diplomacy today" and which "has changed little in the last century." As the cable culture yields inevitably to the digital culture, the State department must accelerate changes in information processing or else "American diplomacy risks being rendered irrelevant."

Yet, beyond an accounting of the undeniable shortcomings of the department's computer system, there is little documentation of performance gaps I as ambassador never saw. Similarly, many of the report's recommendations are stated in generalities, with maddeningly little concrete justification: Diplomats should end the culture of secrecy and exclusivity to develop collaborative relations with the public, the secretary of State should be a change leader, the priorities of diplomacy should be reordered, diplomats should

network better, foreign public opinion should be better used, and security should be balanced with openness. The new paradigm of American diplomacy should recognize the distinctive roles of the National Security Council, the newly reorganized State Department, Congress, NGOs and the media. State should have a business plan that recognizes the equities of stakeholders and constituents. It should also have a vision statement.

Diplomacy does not lend itself to the planning that characterizes the military or business. It is inevitably driven by crises — foreigners keep doing inconvenient and unpredictable things — and therefore demands

ders of Alta Vista and Lycos search engines, computers that recognize voice commands, new-generation fiber optic cables, and World Wide Web news sites. In their enthusiasm, the authors seem to lose sight of the fact that technology is a tool, not a substitute for substance.

In 1995, I was conducting shuttle negotiations between Zagreb and rebel Serbs in Eastern Slavonia. The war had cut phone lines between the region and the rest of Croatia, and while there, I was effectively incommunicado. General Wesley Clark, then Holbrooke's military adviser and now Supreme Allied Commander, Europe, assigned a four-man Army team to accompany me with the latest in secure mobile communications.

Outside the small yellow villa where we negotiated, the soldiers deployed an array of satellite dishes and communication gear. I was impressed and so were the Serbs. But the gear was never used. All U.S. government expertise on Eastern Slavonia was in the room with me, and no one in Washington knew enough of the issues to offer guidance (even though we reported daily). Technology gave us a way to talk, but didn't help with what to say.

Clarity is an essential virtue in the information age. The CSIS report lacks it. Following its survey of technology, the report moves on to cover globalization in an enthusiastic but uncoordinated manner. The narrative jumps from American attitudes toward public engagement to data on rising IQ scores to unanswered questions about the future of representative government. Normally, metaphors should illuminate. Here, they run amok, moving from quantum analysis to Newtonian physics to Japanese pagoda architecture. The prose makes this ex-diplomat nostalgic for the writing in the *Foreign Affairs Manual*.

A Foreign Service Reserve

More simply written, less dramatic in its assertion of crisis, and more specific in its recommendations is the Stimson Center's "Equipped for the Future." Its recommendations fall into four categories: Remodeling the foreign affairs machinery, improving embassy operations, better information technology, and closer connections between diplomacy and business. Some recommendations overlap with CSIS's, notably in endorsing major capital expenditures on a state-of-the-art computer system and reform of the personnel system to encourage greater

DIPLOMATIC DISCONNECTS

"America's foreign policy establishment, with its reliance on traditional methods of Classic Diplomacy, is deficient in certain crucial elements in its policy making apparatus:

- effective interagency organization;
- 'right-sized' embassies adaptable to their local circumstances;
- modern information technology;
- sufficient private sector interaction; and
- adequate and consistent budgetary resources.

These 'disconnects' hamper America's ability to pursue its national interests and have profound implications at several levels for the future conduct of U.S. foreign affairs."

— From the Stimson Center's "Equipped for the Future"

versatility and creativity. A military operation requires intricate planning to get all units in place in the proper sequence. Diplomats must have goals — peace in the Balkans based on the integrity of the successor states — but getting there requires an ability to think on one's feet. The great practitioners, such as Richard Holbrooke, operate instinctually rather than according to a specified plan. A business plan and a statement of vision and values would be additional paper exercises, rather like an embassy's Mission Program Plan, that consumed too much of my senior staff's time without providing any guidance that we didn't already have.

The Wonders of Technology

The CSIS report swoons over the wonders of modern technology with paragraph after paragraph on the won-

functional expertise and more investment in professional development.

Both reports recommend recreating a Foreign Service reserve officer system under which foreign policy professionals who are not FSOs serve tours in the State Department or embassies. This idea has merit as it can provide the department expertise not always available in the Foreign Service. This reserve service can be particularly valuable as the department addresses the increasingly critical global issues of the environment, international crime, and new threats from weapons of mass destruction.

For a reserve system to work, its officers cannot be second-class citizens relative to the career Foreign Service. This means that top jobs would have to be open to its members. I would also urge particular consideration of reserve appointments for congressional committee staff, many of whom are both entrepreneurial and expert on substance.

Down with Cones

The CSIS report recommends consolidating the present cone system into two career tracks of policy officers (presently the political, economic, and public affairs functions) and management (consular and administrative). This is one of the report's few concrete proposals and it makes lots of sense. It will enable the department to recruit administrative and consular officers directly rather than staffing these functions with disappointed aspirants for the political cone. The current system can produce individuals with neither the skills nor the frame of mind to do the very important work to which they are assigned.

The policy officer slot should help eliminate the rigid divisions that enable some political and economic officers to see their jobs as reporting and negotiation while thinking of public affairs as an alien and less meaningful activity. For many embassies, public affairs — explaining and promoting U.S. foreign policy — is our single most important diplomatic activity. Further, just as a *Washington Post* story usually has a greater impact on policy makers than a well-reasoned cable, the media can

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be the most effective way to reach a foreign decision maker.

In Croatia, my speeches and public remarks were extensively covered and certainly affected Croatian public and governmental perceptions of U.S. policy. Nonetheless, I had a hard time persuading the very talented young officers in my political section that this was a game they should not only be willing, but eager, to play. Hopefully, consolidation of State and

USIA will help change this mindset. Consolidating the cones will also help.

Cookie Cutter Embassies

The Stimson report recommends that the State Department develop a surge capacity to handle crises. I applaud the recommendation, but only wish the secretaries of State making it hadn't waited until they were out of office to say so.

The department's greatest operational shortcoming in the Balkans during the recent war was its inability to staff its embassies in the region or its offices in the department to cope with the crisis. With the Belgrade embassy cut off by a visa war and the Sarajevo embassy barely functioning, Zagreb, Croatia, became the principal locus of U.S. government activity in the former Yugoslavia. In addition to responsibilities for Croatia issues and the Croatia peace negotiations, our embassy was the primary liaison to the United Nations mission for the former Yugoslavia. We ran the humanitarian assistance programs for Bosnia, Croatia, and Kosovo, and handled the refugee and consular workload for both Bosnia and Croatia. We also did much of the diplomatic reporting on Bosnia and interacted with Bosnian officials as they transited Zagreb. Yet, in spite of the attention being paid to the war, the department staffed Zagreb in 1993 hardly differently from any of the other 20 new posts that had been opened in the previous two years.

The department was no more capable in its Washington staffing. In 1991 Yugoslavia was in the Office for Eastern Europe with six other countries. Thanks to the breakup of Yugoslavia and Czecho-

slovakia and Baltic independence, the office handled 15 countries in 1993, many of which screamed for attention.

These staffing patterns had consequences. A management system that cannot distinguish U.S. interests in Zagreb from those in Minsk is a disgrace. I spent much of my first year lobbying for resources and cannibalizing other parts of the embassy to support our negotiations. Only when Richard Holbrooke took the reins at the European Bureau was there someone who understood that resources affect policy, and at last we got the positions we needed. It then took far too long to fill them with the right people.

Holbrooke abolished the Office of Eastern European Affairs, creating three offices in its stead. The conflict states of the former Yugoslavia got their own office, which vastly improved policy coordination and implementation.

Preemptive Capitulation in Congress

The State Department does stunningly poorly on Capitol Hill, especially compared to its fellow national security agencies. Compare State's relationship with its appropriating and authorizing committees to that of the Defense Department and the CIA. This year the Pentagon has ended up with \$7 billion more than requested. The Intelligence Oversight Committees, set up to check abuses at the CIA, have been fully "recruited" by the agency. Not only do these committees generously fund the CIA — \$1 billion over request this year — but they also carry the agency's water in its intramural battles.

By contrast, the State Department has been repeatedly unable to win funding for something as basic as U.S. dues to the United Nations. State's budgets are routinely cut below request by its committees and the department finds itself negotiating about its core structure for the sake of getting nominations approved.

The Stimson panel addresses the problem, but its proposed solutions are either unobtainable or too little. Boldly and sensibly, the panel recommends that the Congress reorganize the appropriations subcommittees so that the 150 account is handled by a single subcom-

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mittee in each chamber. Currently, four House subcommittees handle pieces of this account and quite often foreign affairs spending is raided for domestic demands within the same subcommittee. The recommendation is bold (rarely do blue ribbon foreign affairs panels propose that Congress change its structure), sensible, and won't happen. Subcommittee chairmen do not give up jurisdiction, as that is the essence of their power.

The other proposal, which has been kicking around for some time, would have State open up a liaison office on the Hill, much as the armed services have in the basements of the House and Senate office buildings. The idea is that an attractive face cheerfully resolving a member's passport or constituent visa problems would not only build goodwill but serve to remind the Congress that diplomats are real Americans too. This is a marginally useful suggestion, as is one that would notify members of constituents who are selected into the Foreign Service.

These ideas are designed to counter the old saw that the State department has no constituency. This may be true — but the department's problems on the Hill are structural, and far more serious.

When the secretary of defense and the CIA director interact with the Congress, the basic issue on their agenda is money. When the secretary of State goes to Congress, her primary concern is usually policy. More often than not, the secretary's posture is defensive. Can she block the unilateral lifting of the U.N. arms embargo on Bosnia? How will she counter criticism of the Iraq policy?

This structural problem is compounded by the role of the assistant secretary of State for legislative affairs. (The bureau she heads is known as "H," as in Hill). Her power in the bureaucracy depends on a belief propagated by all incumbents that she is of a priesthood uniquely the master of the mysterious ways of Capitol Hill. (In recent years the assistant secretaries have all come from the Hill; my comments deal generically with how they conduct themselves and are not directed specifically at the very capable incumbent.) Other bureaus are firmly instructed to work through "H," lest

it be discovered that there is no mystery to congressional relations. Within the department's senior circle, there is a tendency to defer to the assistant secretary both out of awe for the priesthood and because of a bureaucratic tendency to respect a colleague's turf.

Of course, assistant secretaries that lose too many battles will not maintain their privileged position. Therefore, they tend to engage in a strategy of preemptive capitulation. "Madame Secretary, that nomination will be controversial with X's office" translates into a decision not to expend capital on someone. Compromise is almost always recommended on resource issues and coming back with half a loaf is then portrayed as a great victory for the legislative affairs strategy. The priesthood's mastery is thus confirmed.

Members of Congress, and their staffs, understand this system very well. A single senator, or well connected staffer, indicates opposition to a nominee. He advises against a fight and so a career diplomat is tagged with being unconfirmable. A career goes into a tailspin.

How to Win in Congress

The most important single element in an effective foreign affairs strategy for the next century is adequate funding. Both reports mention this but neither gives it the emphasis it deserves. It is an idiotic approach to national security to have a superb military, first-rate intelligence, and underfunded diplomacy.

Diplomacy is our nation's force multiplier. When successful, it avoids military commitments. When our armed forces are used in peacekeeping (as they are likely to be used increasingly in the next century), diplomats frame the terms of the deployment, negotiate its goals, and hopefully provide for the exit strategy. The masterfully negotiated Dayton annexes on military deployment are one reason that no American troops have died in hostilities in the three years of the Bosnia deployment. Richard Holbrooke has argued that inadequate resources devoted to the civilian side of the equation is one reason those troops are still there.

Diplomacy is an essential adjunct to our armed forces should we ever get into conflict. Secretary of State James Baker and his department skillfully lined up allies to participate in Desert Shield while getting other countries to pay for the war. Diplomacy is also key to all

INFORMATION RISK MANAGEMENT

"If the State Department is to lead the U.S. government on this global technology undertaking, it needs to replace its current policy of risk avoidance with risk management. The atmosphere at State has to change from information policing to information providing. The State Department must accept the fact that in an information-intensive environment, not having access to information can be riskier than losing control over a particular piece of information."

— *From the Stimson Center's
"Equipped for the Future"*

war-ending strategies. The military, in which we invested close to \$3 trillion in the decade preceding Desert Storm, performed brilliantly. In the immediate aftermath of the war, American diplomacy sat on its hands as Shi'ites and Kurds staged an uprising against Saddam Hussein. No one in the administration knew much about the rebels (although the uprising was entirely predictable, it caught the administration unaware) and let pass an opportunity to oust the Iraqi regime for which we are still paying today. An American diplomacy not so thin on expertise on Iraq might have helped chart a course that consolidated our military's victory rather than squander its sacrifices.

The president and the secretary of State need a legislative strategy to insure adequate funding for diplomacy. First, the case must be made more effectively that diplomacy is an essential component of our national security strategy. Second, that case must be made by the secretary of defense, the service chiefs, the director of central intelligence as well as the secretary of State.

Finally, the secretary of State must be prepared to fight resource battles to win. It is true that the scorecard won't look as good as it does under the strategy of preemptive surrender, but the department will at least have a chance for more money.

Two important areas for the 21st century are only tangentially discussed in the two studies — intelligence

and broadcasting. The omissions are significant as both consume major resources and raise serious performance questions.

Spying on Diplomats

The United States spends 50 percent more on intelligence activities than it does on foreign affairs (including foreign assistance). The CIA budget is larger than the State Department's. For all this expenditure, there are serious questions about how well intelligence supports American diplomacy and how well the intelligence community relates to American diplomats.

As U.S. ambassador to Croatia, I found the intelligence support on diplomatic and war-related issues of limited value. Rarely did intelligence products provide warning of significant pending developments in the war, and their value was small as compared to the intelligence from overt collectors such as our diplomats in the region or the defense attachés. Ambassadors dealing with other complex military/political crises have made similar observations. (The intelligence community performs important work in other areas, such as combating terrorism, for which I personally was very appreciative.)

The Stimson report appears to share the conventional view that recent intelligence failures, such as not detecting the Indian nuclear test, stem from inadequate resources, particularly in the area of human intelligence. I question whether we can recruit in many places the kind of assets that would enable us to know the closely held planning of an Indian prime minister (it would have required someone in his innermost circle, a daunting challenge) and worry that delegating responsibility for anticipating these developments to the intelligence community lets diplomats off the hook. Based on

the ruling party's campaign rhetoric, as well as diplomatic contacts with its top leadership going back long before the party took power, the embassy in New Delhi should have sent some warning about the possibility of testing. Deferring to assessments made significantly on the basis of clandestine sources can be the hard way of finding answers that are much more readily and reliably available.

Neither report addresses the tricky issue of relations between the State Department and the intelligence community both in Washington and the field. Aside from the well publicized case in which the CIA couldn't figure out that it was the President's policy not to object to arms flows to the Bosnians (even after its director was told), I observed several other instances in which the agency seemed to have a tin ear for U.S. policy. Correcting problems, even when there were very substantial State Department equities at stake, produced resentment against supposedly unwarranted interference in intelligence matters.

For example, in 1996 the State Department sought CIA agreement that its stations would not send official cables reporting on the activities of American diplomats. (An investigation had turned up CIA cables reporting, among other things, overheard conversations between American officials, accounts of country team meetings, and comments on a diplomat's personal life.) The CIA refused, even turning down a department request to review cables to determine the extent of such reporting.

The CIA and the State Department are completely intertwined. The department is the major consumer of the agency's product and embassies are essential platforms for intelligence collection. While some tension is inevitable given the very different cultures of the two

FEWER AMERICANS ABROAD

"The Department of State should also carry out a comprehensive reassessment of the requirements for official presence abroad with a view to increasing the representation of country and area specialists and reducing the presence of those whose support can be more efficiently provided by e-mail, teleconferencing, and international travel. A forward-looking analysis, conducted in close consultation with American ambassadors, should result in fewer resident Americans to protect as well as stronger official representation where it matters most."

— From CSIS's *"Reinventing Diplomacy in the Information Age"*

institutions, there is no reason for the lack of coordination, and mistrust, that I observed. The current secretary has a particularly close working relationship with Director of Central Intelligence George Tenet. This represents an opportunity to address some of these issues from the top down. They could begin with a systematic critique of CIA products by practitioners, but should also better delineate the responsibility of diplomats for anticipating events. Not every failure to predict the future is an intelligence failure, and not all intelligence failures should be laid at the CIA's doorstep.

Broadcasting to No One

Although ostensibly about diplomacy in the information age, the CSIS report barely touches on U.S. government broadcasting, even though it is the most extensive and expensive (consuming 40 percent of USIA's budget) means the government uses to inform foreign publics. The Voice of America and the surrogate radios (Radio Free Europe, Radio Liberty, and Radio Free Asia) broadcast in more than 40 languages.

This does not mean our broadcasts are heard in all these languages. The VOA's Croatian service has a superb professional staff that produces several hours of engaging programming a day. It broadcasts on short wave, which Croatians don't listen to, and is carried on several unlicensed FM stations with a few miles broadcast radius. None of these stations are in Zagreb, where a quarter of the population lives, including the politically active people we would most like to influence. In my four and one half years as ambassador, I met just one Croatian who said she listened to the VOA, and she was the wife of the Swedish ambassador.

Many U.S. government radio broadcasts are short wave, a great way to get information with those large receivers now mostly seen in World War II films but obsolete in a broadcast band packed with FM and AM stations. The programming may be great, but is it a wise use of resources if no one listens?

The U.S. government also operates television net-

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out their decisions.*

works, spending vast sums with reckless disregard for whether there are viewers. In the 1980s, the Reagan administration initiated a government version of CNN international, which it called Worldnet. Suspicious of claims of millions of viewers in Europe, the Congress commissioned a Nielsen-type rating survey. It revealed an occasional audience of 20,000 viewers, mostly elderly pensioners with little else to do. In France the survey could not find a single viewer. The program was slashed one year only to be revived without any proof the new programming would produce audiences.

For waste, however, nothing rivals Television Martí, the surrogate TV station broadcasting to Cuba. Castro easily and cheaply jams its signal. So far the taxpayers have spent more than \$100 million to transmit programming no one in Cuba has ever seen.

America pioneered and dominates global television, thanks to private broadcast companies. When our top officials speak to the world they do so on CNN, not Worldnet. There is no need for boring and inferior government television that is not watched.

Where we can reach an audience, the investment in broadcasting makes sense. In the late 1980s and early 1990s, the Congress created VOA services in Tibetan and Kurdish. These VOA broadcasts, along with the newly created Radio Free Iraq, are acts of solidarity with oppressed peoples who have few other sources of information. They actually have audiences, as do some of the surrogate services and VOA broadcasts in major world languages.

Diplomats: More than Reporters

At the height of the war between Muslims and Croats in Bosnia, I asked Tom Mittnacht, my economics officer, to visit a Croatian helicopter base near Mostar where we believed Bosnian Muslims were being detained. Defying the camp commandant's orders and ignoring nearby snipers, Tom entered a hangar to discover hundreds of malnourished Bosnians.

NO FUTUROLOGISTS HERE

"DOD's resident visionary, Andy Marshall, says it is 'striking how little people at State look into the future,' but, he adds, 'there is no reason it can't catch up.'"

— From CSIS's "Reinventing Diplomacy in the Information Age"

His report made a great cable. But more importantly, I used his information with the Croatian foreign minister to secure the immediate release of 5,000 Bosnian POWs and the eventual removal of the warlord responsible for their detention. The warlord's removal paved the way to a more responsible Croat leadership in Bosnia that in turn made it possible to negotiate an end to the Muslim-Croat war.

Tom Mittnacht wasn't the only U.S. diplomat who made a difference on the ground. In 1995, I was charged with negotiating the return of Serb-occupied Eastern Slavonia to Croatia, an essential precondition to a Bosnia settlement. Jeff Hovenier, of the political section, helped me negotiate and write the peace agreement. After the agreement was concluded, my PAO, Douglas Davidson, organized a series of town meetings so that I could bypass obstructionist leaders and explain the accord's provisions directly to the affected populations. Chuck Aanenson, the AID mission director, channeled his resources into projects that had Serbs and Croats working together to restore their war torn region. Three years later, Eastern Slavonia is the one place in the former Yugoslavia where wartime ethnic cleansing has actually been reversed with both Serbs and Croats now living in the region.

In Croatia, we saw as our mission mitigating the consequences of war and achieving a durable peace. We certainly worked to inform policy makers, and some of our cables helped shape key decisions. Much more importantly, we sought to use all available tools — from jawboning the government to press conferences to AID expenditures — to implement U.S. foreign policy. While some embassies are in places where the U.S. has primarily a watching brief, many operate like ours.

The CSIS and Stimson Center reports convey a sense

of crisis that is based on the false premise that the U.S. Foreign Service today exists primarily to inform policy makers. The programmatic and operational service that the reports advocate already exists, and not just in a war zone. From Moscow to Bratislava, and in large parts of Africa and South America, American diplomats are working to promote democracy, facilitate the transition to free markets, tamp down ethnic conflict, and promote human rights. Virtually everywhere embassies help American business navigate the local economy while aggressively pushing American products. As I read the reports, with their image of diplomats as untimely reporters, I wondered who some of these former high officials thought had carried out their decisions.

If the history of previous blue ribbon panels is any guide, these will gather more dust than action. While each report has some meritorious suggestions, this will not be all bad. What American diplomacy needs is not reform but resources. Being equipped for the future costs money. ■

U.S. TAX TIME IS HERE! LIVING ABROAD?

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AFSA NEWS

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American Foreign Service Association



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Internet Addresses:

ofsa@ofsa.org (Association)
pres@ofsa.org (President)
journal@ofsa.org (FSJ)

AFSA Headquarters: (202) 338-0405
FAX: (202) 338-6820
State Department Office: (202) 647-8160
FAX: (202) 647-0265
USAID Office: (202) 712-1941
FAX: (202) 216-3710
USIA Office: (202) 401-6405
FAX: (202) 401-6410
AFSA News Editor: Wesley Ann Godard

Grievance Results: Some Progress and Some Setbacks

by Sharon Papp, General Counsel and Suzanne Brennan, Labor Management Attorney

A FSA's Labor Management Office has reported the results of two recent grievance cases of interest to our members: **FSGB Decision on 1996 MSI Recipients**

State Department FSOs and specialists who received Meritorious Service Increases (MSIs) from the 1996 Promotion Boards may be affected by this case. Beginning in late 1997, AFSA assisted on employee in presenting a grievance which alleged that the department failed to include in the employee's Official Performance File (OPF) a notice that the employee had been awarded a Meritorious Service Increase in 1996. The department denied the decision on the basis that the employee was not disadvantaged by the absence since none of the 1996 MSI recipients received a notice in their OPF.

On appeal, the Foreign Service Grievance Board recently found in favor of the employee. The FSGB determined that the agency misinterpreted its 1996 selection board precepts when it failed to place a record of the grievant's 1996 MSI in the personnel file. The FSGB thereby ordered the department to

place a copy of the award in the grievant's file. The board went on to find, however, that the employee was unlikely to have been promoted in 1997 even if the omission had not occurred, since the employee was ranked too low for promotion on the promotion cut-off line in the competition group.

While it may have been clear that the grievant in this case would not have been promoted in 1997 even with the notice of the 1996 MSI in the file, it is not clear to AFSA that the same can be said of the other 255 employees whose notice of 1996 MSIs were not placed in their performance files.

In light of the recent board decision, AFSA and management agreed to the following remedy for some individuals who may have been harmed by the omission of the 1996 MSI record in their OPF:

Of the 255 employees who received a MSI in the top five percent in 1996, 13 were recommended but not reached for promotion by the 1997 Selection Board. After careful consideration of the number of slots away

continued on page 2

• AFSA Dateline •

• The AFSA Scholarship Program is looking for judges for the 1999 AFSA/AAFSW Academic and Art Merit Competition. Judges will spend six to eight hours in late March to score Foreign Service high school senior applications. Contact Lori Dec at 202-944-5504 or scholar@ofsa.org for more information.

• Volunteers are also needed to judge essays from the 75th Anniversary of the Foreign Service National High School Essay Contest. One of the activities of the 75th Anniversary Gala Celebration, the essay contest promotes the Foreign Service to high school students nationwide (whose parents

are not in the Foreign Service). It is sponsored by the Uno Chapmon Cox Foundation. The time commitment is approximately five hours in late March. Interested individuals should contact Perri Green, the essay contest coordinator, at 703-761-3126 or perrigreen@aol.com.

• AFSA welcomes Margaret G. Perl, a low clerk in the Labor Management Office. Margaret graduated magna cum laude in history and Russian from Arizona State University and is presently a second-year low student of Georgetown University Law Center.

continued on page 14

RETIREE
V.P. VOICE

• BY ED DILLERY •

Membership Communication is a Two-way Activity

The office of the Retiree Vice President is a clear example of how AFSA's membership communication is a two-way activity. For many retirees, especially the majority living outside of Washington, this office is the natural channel for their comments, complaints or requests for AFSA's help. Similarly, to the great extent the association relies on us retirees for assistance in supporting important outreach programs, my office is the one charged with getting out the appeal.

Many of you got in touch with me in 1998 concerning problems in dealing with the department on retirement issues. In response to your concerns, we had AFSA President Dan Geisler write a letter to the Director General, Skip Gnehm. I want to share with you the gist of Ambassador Gnehm's year-end reply:

"Our Office of Retirement is committed to improving customer service to annuitants. In the last few years, the Office of Retirement has implemented a new computer system for calculating annuity benefits; streamlined procedures for payment of survivor benefits; produced an annual personalized statement of benefits for department employees; automated many services for annuitants with the Annuity Direct system; and developed benefits statements and customized software for informing employees about the retirement open seasons. Despite these improvements, we recognize that there have been some interruptions in providing routine services to employees and annuitants. The Office of Retirement is working to correct these problems."

Needless to say, I will continue to monitor this situation closely.

Many of you have also inquired about the state of AFSA's outreach programs, especially the speakers bureau. I am glad to report that Dan Geisler and the Governing Board have asked me and your retiree representatives to explore actively how we can reenergize this important activity. I will welcome your help on this one.

As you know, a number of retired colleagues engage in speaking about the Foreign Service to public groups. Some do this on their own, some through the limited opportunities of the speakers bureau, some in conjunction with our successful Elderhostel programs. What we hope to do is coordinate these activities in a way that each will

reinforce the other; at the same time making greater use of the nascent Diplomats Online project and other computer-age assets.

I will be writing more about this undertaking. Far now, I will welcome information from you about public speaking you have undertaken independent of AFSA, college teaching you may be doing, or local organizations you are aware of which have shown interest in having a speaker on the Foreign Service. We hope to achieve a better understanding of existing activities, in order to direct our outreach programs effectively. Specifically, I would be grateful for any ideas you have on how we could do outreach better — please contact us at:

2101 E Street, NW,
Washington, D.C. 20037-2990,
tel. 1-800-704-2372, or
e-mail: retirees@afsa.org

with your suggestions.

You are our principal resource. AFSA will appreciate your help.

"I would be grateful for any ideas on how we could do outreach better."

Grievance Results

continued from page 1

from the promotion cut-off line, and mindful of the FSGB's recent decision, AFSA and management agreed that of the 13 recommended for promotion, six employees who were six or fewer slots away from the cut-off line will receive a reconstituted 1997 Selection Board.

As for the remaining seven who were recommended, but not reached for promotion; based on FSGB precedent, they are probably situated too far away from the cut-off line to necessitate a reconstituted panel. If, however, you are not one of the six receiving a reconstituted board and believe that a reconstituted panel should consider you, then you may file an individual grievance with PER/G.

AFSA is pleased to report that in October 1998, Personnel placed a record of the receipt of a 1996 MSI in all 255 OPFs in question. Therefore, future Selection Boards will be aware of an employee's 1996 MSI.

For a copy of grievance guidelines, contact AFSA at (202) 647-8160. Questions regarding this agreement should be directed to Suzanne Brennan at the same number.

Update on FLSA Grievances: FSGB Rules in Favor of Department

On October 14, 1998 the Foreign Service Grievance Board issued its long-awaited decision in a series of grievances regarding Fair Labor Standards Act (FLSA) overtime pay for Diplomatic Security officers. Three hundred DS officers had grieved the denial of their overtime pay, because they were deemed exempt from overtime provisions of the Fair Labor Standards Act. FLSA mandates overtime compensation at the rate one and one-half times the employee's hourly rate of pay, without any maximum limit, for those qualifying employees assigned to the United States. The officers argued that they were entitled to uncapped overtime under the FLSA rather than the overtime payable under title 5, which is subject to limitations.

These group grievances followed a 1994 grievance by a DS special agent assigned to the secretary of State's detail who contested the Department's classification of his position as FLSA exempt. AFSA provided extensive legal research in support of the grievant's position and the department quickly settled the case, conceding that non-supervisory agents assigned to the secretary's detail are

entitled to overtime under the FLSA.

The specific questions addressed in the Grievance Board's Oct. 14 decision were: whether the DS officers, who were nonsupervisory DS agents serving various offices and divisions of the Bureau of Diplomatic Security, fall within the administrative exemption of the FLSA; and whether DS agents exempt from FLSA overtime provisions are entitled to FLSA overtime pay when they are temporarily detailed to FLSA nonexempt positions (e.g., the secretary's detail) for a week or more.

AFSA regrets to advise employees that the board ruled in the department's favor in all of the cases, in effect, finding that DS agents are unique from other low enforcement officers who are entitled to pay under the FLSA. The attorney representing the agents, Gregory K.

McGillivray, maintains that in reaching this decision, the board has disregarded the analysis of virtually every court that has considered the issue of whether low enforcement employees who perform investigations and security work are entitled to FLSA overtime compensation.

McGillivray has advised that he will appeal the board's decision to Federal District Court. Those who do not wish to participate in the appeal must advise him that they wish to opt out of the lawsuit.

AFSA will keep members informed of the status of the District Court appeal.

The Graduate Foreign Affairs Fellowship Program

The Graduate Foreign Affairs Fellowship Program offers grants for graduate education in areas pertinent to the Foreign Service. The goal of this program is to attract students from all ethnic and social backgrounds to seek a career in the U.S. Department of State Foreign Service. Women, minorities and students with financial needs who are U.S. citizens are encouraged to apply.

The award includes tuition, a stipend for room and board, fees, books and an around-trip travel between home and school for both years of the graduate study, plus other benefits.

The deadline to apply is February 22.

For more information about requirements and benefits, contact Dr. Richard Hope, Director, Graduate Foreign Affairs Fellowship Program, The Woodrow Wilson Foundation, P.O. Box 2437, Princeton, N.J. 08543-2437 or click on <http://www.woodrow.org>

Letters

A Farewell to Prabhi

At 10:30 a.m. on August 7, 1998, my world turned upside down. I lost my Prabhi in the bombing of the U.S. embassy in Nairobi, Kenya. Prabhi was my wife of 16 years and my steadfast friend and inspiration for 20. I did not have the opportunity to say one final farewell:

I thank you, Prabhi, for serendipitously saving my life, albeit I find it difficult to ascribe any meaning to it in your absence. By reminding me to see someone in the front port of the embassy, I am here today.

Your murderers, and the murderers of your devoted Kenyan colleagues, are truly perfidious souls. They delude themselves into thinking that they are followers of Islam, a religion of love and tolerance. They desecrated the religion in whose name they profess to have acted. Many of their victims were in fact Muslims. A more apt appellation than heretic or infidel cannot be given to these cowards. Do not worry, justice will be served.

Prabhi, on October 23, *The New York Times* ran a front page article by Raymond Banner and James Risen reporting that an Egyptian arrested in Tanzania in conjunction with the attack on our chancery in Dar es Salaam had apparently ventured into our embassy in Nairobi lost to whom our people that a plot to bomb the mission was in the offing. They, unfortunately, did not take the requisite measures to address this wake-up call. I become very angry when one of our brave colleagues, hiding behind the mantle of a "Clinton administration official," was quoted by Banner and Risen as saying that their revelation was "embarrassing." You and the others deserved more than flippancy from a feckless bureaucrat.

The powers that be had a responsibility to provide you a safe working environment that met the Inman standards of the 1980s for embassy security. These same powers will blithely plead poverty. The niggardliness of the Hill is a lame excuse for passivity. The dollars and cents argument is truly an omoral obdication by those lacking the courage to do the right thing. The Department of State, which you loved and for which you ultimately gave your life, let you down. It had an obligation to find the funds either to make the mission safe or secure a replacement building in which you would not be in harm's way. If that was not possible, the department was duty bound to close our mission.

The knee-jerk obsession with the notion of universality and the attendant need to maintain a diplomatic presence in every corner of the world obscenely blinded the department to its threshold responsibility overseas — to wit, to protect you and your colleagues who work so assiduously and loyally to safeguard our nation's interests. If it was the department's policy to staff missions throughout the world, often times in countries where our interests are minimal at best, it should have made the well-being of you and your colleagues the sine qua non of this policy. Security of our embassies abroad should be more than senior officials rolling the dice of the risk management game. Security for our diplomats is not a crap shoot. Unfortunately, only now (250 lives later) is that message beginning to sink in.

Prabhi, you might also be interested in knowing that Secretary Albright has appointed Admiral William Crowe to lead the statutorily-mandated Accountability Review Board to oversee the investigation into the East African bombings. I fear that history will repeat itself. I hope that I am proven wrong. It is my understanding that no State Department-convened board has ever found anyone accountable for dropping the bomb in conjunction with a terrorist-related incident at a United States mission overseas. I certainly hope that Ambassador Prudence Bushnell, whose prescient and clarion plea for enhanced security was met with deadening and unimaginative silence, is not made the scapegoat for this avoidable tragedy.

Life would be so much different today had you stayed home and fully recovered from the cold which you were nursing on August 6. But that wasn't you. Believing that you had to pitch in to clear up backlogs in your overburdened office, you returned to work even though you felt ill. You were always committed to turning in first-class performances — whether you were on the department's crucial Mexican desk or in our administrative section in Manila.

I am, however, uplifted by 20 years of wonderful memories. How proud I was when you became an American citizen. I was equally proud of you when you joined the ranks of the Foreign Service, having passed the rigorous written and oral assess-

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FAS
V.P. VOICE
• BY MAGGIE DOWLING •

New Year — New Contract

What better way to begin the new year than with a new AFSA FAS collective bargaining unit agreement (CBA). This contract represents a significant milestone in our efforts to achieve a more personally and professionally rewarding workplace. All major policies impacting our careers are now clearly and readily available. Though the policies may not always be exactly what we would have wished them to be, they will, at least, be equitably and consistently applied to all FSOs and executive assistants. Equity and transparency always were our top priorities.

Many long-sought-after goals finally achieved with this contract would not have been possible without the expert assistance from the AFSA legal staff, the support of the AFSA administrative staff and the encouragement and advice of the AFSA board and, especially, AFSA President Dan Geisler. All these critical components to our success were there for us, thanks to our dues-paying members and those who contribute their time and energies working in AFSA committees.

In the future, when the realities of the straight line budget settle in, continuing advances likely will prove even more challenging. The expertise and support available to us during these negotiations will become even more necessary. Your continuing financial support will always be important but equally, if not more important, will be each member's personal commitment and involvement in AFSA and AFSA/FAS.

Our personal and professional goals are increasingly tied to AFSA; each of us has an interest and responsibility to enhance its stature and effectiveness. Whether contributing to the *Foreign Service Journal*, being available for *Journal* interviews, serving on the scholar-

ship, nomination or awards committee or the AFSA board, all of us benefit when we strengthen the union. We all take special pride in promoting our Foreign Service profession and the ideals it seeks to advance. The celebration of the Foreign Service's 75th anniversary this year reminds us all of the uniqueness of our profession and the privilege to be part of such a rich legacy.

That legacy is as rich and as respected as it is because of the hundreds of individuals contributing their time and energies to AFSA, when they had no time. Service is a privilege and I will work hard to ensure that all FAS AFSA members have the opportunity to continue that tradition of sharing time and talents. With tours in Washington becoming shorter, service while in the United States is increasingly important. AFSA involvement keeps you apprised of the challenges to our profession and opportunities to meet them.

Your union provides an unequalled access to become an agent of change, to participate more fully in your worklife. AFSA/FAS's experience during the negotiations underscored the power and import of individual members utilizing that access. The 1999 goals for FAS Partnership Council forwarded recently by AFSA are further evidence of the potential of members exercising these opportunities. These goals include more overseas training, ensuring a job at grade in Washington and abroad, greater opportunities for senior management training, meeting changing needs for technical skills, reviewing the agency's recruitment profile, and enhancing EEO activities and diversity initiatives. Our foremost goal is to make the FAS PC a strong vehicle for participatory management. When AFSA calls, remember you can be part of the action, or you can watch.

"You can be part of the action or you can watch."

Letters

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ments. My proudest moments, however, were on July 25, 1988 and April 20, 1993, when Tara and Maya were born.

I derive a great deal of solace knowing that your unmatched beauty, wit, charm, tenacity, and intelligence live on in our radiant daughters. When they ask me why anyone would kill their mommy, I have no ready answer to offer. No one does. I tell them that they should never forget that their mother, while born and raised in India, died serving her adopted country, a country which she embraced and loved with a passion. Prabhi, like you they will reach for the stars. Like you, they will triumph. Howard Kavaler
FSO, Department of State
Washington, D.C.

Note from the editor: Kavaler has established a perpetual scholarship in Prabhi Kavaler's name to help defray college costs for needy F.S. students. Anyone wishing to make donations should contact AFSA Scholarship Administrator Lari Dec at 1-800-704-2372 ext. 504 or scholar@afsa.org.

Selling Ambassadorships

The selling of ambassadorships is unethical and arguably illegal. When campaign contributions are a factor in the appointment of a chief of mission, America's image abroad, and at home, is tarnished. When unqualified individuals are placed in positions of responsibility, America's interests can be damaged.

The problem is an old one. Ambassador DePree made some suggestions on how to overcome it in the October 1998 *Foreign Service Journal*. Here are some other thoughts.

1. Argue the law.

The Foreign Service Act of 1980 explicitly requires that "contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission." The fact that no other activity is singled out in this manner demonstrates the seriousness with which the Congress views the matter. Such an appointment would thus be contrary to the spirit and the letter of the law, and subject to a court challenge.

The act states that "positions of chief of mission should normally be accorded to career members of the Service, though circumstances will warrant appointment from

time to time of qualified individuals who are not career members of the Service." "Normal" and "from time to time" are not further defined. Standard usage would suggest that from time to time is somewhere between rare and normal. The exact point is somewhat subjective and would depend on context, but I believe it would fall somewhere between five and 20 percent.

• The concept of "qualified" is defined. The act urges that "to the maximum extent possible" a chief of mission should speak the language of the country of assignment and be familiar with its history, culture, economic and political institutions, and the interests of that country and its people.

If this part of the law was fully honored, the selection of non-career FSO chiefs of mission would be drawn largely from the non-career professional foreign affairs community (including members of Congress) which has supplied many excellent chiefs of mission.

If nominees do not meet these qualifications, a court challenge based on the act should be considered.

2. Drop the suggestion that members of the Foreign Service should provide AFSA with examples of ambassadorial misbehavior that damaged American interests.

• This approach would create the impression, and perhaps, bring into being the reality, that the Foreign Service has a snapp and tell culture. It would not sit well with the Congress.

• It would poison the relationship between political appointees and embassy career staff and undermine teamwork.

3. Develop some easily understood points that resonate with the public and the Congress.

• For example, ambassadors earn up to \$125,900 per year and usually serve three-year tours. A \$300,000 campaign contribution to the winning party could thus be more than recouped courtesy of the American taxpayer.

4. Make suggestions for specific changes in the act.

• Propose that from "time to time" be defined as 15 percent. Urge that the 15 percent be spread equally among the geographic regions.

• Propose that campaign contributions above, say, \$100,000 over a period of 24 months preceding the nomination to a

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USIA V.P. VOICE • BY RILEY SEVER •

All Over But the Shouting?

The battles have been fought, the strategies played out, the compromises have been negotiated, the decisions made and the agreements signed. A few careers have, perhaps, been stalled and a few careers made. According to the final reorganization plan, USIA will cease to exist on October 1, 1999. As of that date, a new State Department will emerge with a fifth cone for public diplomacy. Many people seem to believe that it's all over but the shouting.

There were a few surprises in the final plan that Secretary Albright sent forward to the president. The anticipated three bureaus for Information, Exchanges and Public Affairs were collapsed into two: Public Diplomacy and Public Affairs. There will be no separate budget allocation for public diplomacy, but program funds will be allocated to the posts overseas and fenced off. Smith-Mundt/Zarinsky, the congressional legislation banning domestic activities by USIA, will apply to programs and not people. FSNs who are primarily responsible for programming will be paid from the post program funds.

Although AFSA was an active participant in the initial task force meetings in the summer of 1997, we were not involved in the final discussions or decision-making on the reorganization plan. As many of us suspected, once the president signed the Omnibus Bill authorizing the reorganization, the rush to finalize the plan to submit to the secretary of State did not allow for the niceties of partnership. Neither AFSA nor AFGE felt that our concerns were considered by State management, which was clearly running the show. It became obvious to me why State does not have a successful part-

nership program in place. They are willing to involve the union when the law mandates it, but if they can legally ignore union concerns, they will.

Nevertheless, both AFSA and AFGE have the legal right to be involved at this point, when the reorganization is being implemented, and management is required to listen. The unions have the responsibility to negotiate with management over the impact and implementation of the reorganization on our bargaining unit. This is called

"I and I" bargaining; and it gives AFSA considerable input, not always regarding what is done, but certainly with respect to how it is done and how management's decisions will affect AFSA's bargaining unit, which includes all Foreign

Service officers and specialists.

Among the issues of highest concern to AFSA, is the need to monitor the grades assigned to public diplomacy positions under the reorganization. Despite reassurances from management, we fear that many public diplomacy Senior Foreign Grade and O-1 positions may be downgraded as they are brought into comparability with similar State positions. Logically, that is one of the effects of positions transferred from an independent agency to a very small part of a large organization.

Another key issue for AFSA will be our continued concern and involvement with the harmonization of personnel practices between USIA and State including TIC/TIS, the six-year window, promotion and tenuring precepts, and many others.

For those people who may have thought that "it was all over but the shouting," I would say, "It ain't over till the fat lady sings." And with 11,000 members, AFSA has no problem carrying a tune.

"There were a few surprises in the final plan."

AFSA 1998

FEDERAL AND STATE TAX PROVISIONS FOR THE FOREIGN SERVICE

FEDERAL TAX PROVISIONS

Under the Tax Acts of 1997 and 1998, there are several tax relief segments that may apply to Foreign Service employees and their families. Foreign Service employees most frequently ask AFSA about home ownership, tax liability upon sale of a residence, and state of domicile and we have devoted special sections to these issues.

AFSA's Tax Guide is designed as an informational and reference tool. It does not presume to be any more than that. Although we try to be accurate, many of the new provisions of the tax code and implementing IRS regulations have not been fully tested. Therefore, use caution and consult with a tax adviser as soon as possible if you have specific questions or an unusual or complex situation.

For 1998, the five basic tax rates for individuals remain applicable: 15, 28, 31 and 36 percent, and a top rate of 39.6 percent. The 15 percent rate is for taxable income up to \$42,350 for married couples, \$25,350 for singles. The 28 percent rate is for income up to \$102,300 for married couples, \$61,400 for singles. The 31 percent rate is for income up to \$155,950 for married couples and income up to \$128,100 for singles. The 36 percent rate is for income up to \$278,450 for married couples and singles. In addition, there is a 10 percent surtax for certain high-income taxpayers. It is computed by applying the 39.6 percent rate to taxable income over \$278,450 for singles and married couples and for married couples filing separately whose income is over \$142,000. Long-term capital gains are taxed at a maximum rate of 20 percent and are reported on Schedule D. This rate is effective for all sales in 1998 unless you fall within the 15 percent bracket, when the rate becomes 10 percent. Long-term capital gains is defined for property held for 12 months for sales in 1998.

Personal Exemption

For each taxpayer, spouse, and dependent the personal exemption has been increased to \$2,700. There is, however, a personal exemption phaseout of two percent for each \$2,500 of adjusted gross income (AGI) over \$124,500 (singles), \$155,650 (head of household), \$186,800 (joint) and \$93,400 (married, filing separately). For those taxpayers in the last category, the two percent is taken from each \$1,250 exemption.

Standard Deduction

The standard deduction is given to non-itemizers. It has been steadily increasing since 1987. For couples it is \$7,100; for singles the deduction is \$4,250. Married couples filing separately get a standard deduction of \$3,550 and head-of-household filers receive a \$6,250 deduction. An additional amount is allowed for taxpayers over age 65 or blind.

Most unreimbursed employee business expenses must be reported as miscellaneous itemized deductions which are subject to a floor of two percent of adjusted gross income (AGI). This includes professional dues and publications, employment and educational expenses, home office, legal, accounting, custodial and tax preparation fees, home leave, representational and other employee business expenses, and contributions to AFSA's Legislative Action Fund. Unreimbursed moving expenses are no longer an itemized deduction. As of Jan. 1, 1994, moving expenses are an adjustment to income, which means that you get to deduct them even if you are taking the standard deduction. However, the deduction has been narrowed to include only the unreimbursed costs of moving your possessions and yourself and your family to your new location.

Medical expenses (including health insurance) are subject to a floor equaling 7.5 percent of AGI. This means that any deductible medical cost would have to exceed \$2,250 for a taxpayer with a \$30,000 AGI. There is also an additional three percent reduction of itemized deductions (excluding medical, casualty, theft, and investment interest) if the AGI exceeds \$121,200. This three percent is applied to the AGI over \$121,200 and not to the total of itemized deductions on Schedule A. The maximum loss of deductions is capped at 80 percent.

State and local income taxes and real estate and personal property taxes remain fully deductible for itemizers, as are charitable contributions (to American charities only) for most taxpayers. Donations to the AFSA scholarship fund are fully deductible as charitable contributions. Donations to AFSA via the Combined Federal Campaign are also fully deductible. Individuals may also dispose of any profit from the sale of personal property abroad in this manner.

For 1998 tax returns, any interest paid on auto or personal loans, credit cards, department stores and other personal interest will not be allowed as an itemized deduction. Interest on educational loans will again be allowed as a deduction, starting in 1998. If the above debts are consolidated, however, and paid with a home equity loan, interest on the home equity loan is allowable. Mortgage interest is, for the most part, still fully deductible. Interest on loans intended to finance investments is deductible up to the amount of net income from investments. Interest for loans intended to finance a business is 100 percent deductible. Passive-investment interest on loans in which the taxpayer is an inactive participant, i.e. a limited partnership, can be deducted only from the income produced by other "passive income." Interest on loans that do not fall into the above categories, such as borrowing money to buy tax-exempt securities, is not deductible.

TAX GUIDE

Home Leave Expenses

Employee business expenses, such as home leave and representation, may be deducted as a miscellaneous itemized deduction. In addition to the two percent floor, only 50 percent for meals and entertainment may be claimed (100 percent for unreimbursed travel and lodging). Only the employee's (not family members') home leave expenses are deductible. Maintaining a travel log and retaining a copy of home leave orders will be helpful, should the IRS ever question claimed expenses. It is important to save receipts: without receipts for food, a taxpayer may deduct only \$30 to \$42 a day (depending upon the per diem rate at the home leave address), no matter how large the grocery or restaurant bill. Lodging is deductible, as long as it is not with friends, relatives, or in one's own home. The IRS will disallow use of per diem rates and any expenses claimed for family members. If a hotel bill indicates double rates, the single room rate should be claimed, and, if possible, the hotel's rate sheet should be saved for IRS scrutiny. Car rental, mileage, and other unreimbursed travel expenses, including parking fees and tolls, may be deducted. The rate for business miles driven is 32.5 cents. Those who use this optional mileage method need not keep detailed records of actual vehicle expenses. The only thing necessary will be a detailed odometer log to justify the business use of the vehicle and percentage of business use. From 1998, this optional mileage method will also apply to leased vehicles.

Official Residence Expenses (ORE)

Since Oct. 1, 1990, employees who receive ORE have not been allowed to reduce their reportable income by five percent. The IRS ruling regarding ORE states that "usual expenses," defined as five percent of salary, are not deductible. Therefore the only expenses that are deductible are those above the five percent that are paid out of pocket. Employees should save receipts for any out-of-pocket expenses associated with their representational duties. These expenses can be deducted as miscellaneous business expenses.

Home Ownership

For 1998, employees may deduct interest on up to \$1 million of acquisition debt for loans secured by a first and/or second home. This also includes loans taken out for major home improvements. On home equity loans, interest is deductible on up to \$100,000, no matter how much the home cost or what the loan is used for. The \$100,000 ceiling applies to the total of all home equity loans you may have. The same generally applies to refinancing a mortgage. Points paid to obtain a refinanced loan cannot fully be deducted the same year, but must be deducted over the life of the loan. It is advisable to save the settlement sheet (HUD-1 Form) for documentation in the event your tax return is selected by the IRS for examination.

Qualified residences are defined as the taxpayer's principal residence and one other residence. The second home can be a house, condo, co-op, mobile home, or boat, as long as the structure includes basic living accommodations, including sleeping, bathroom, and cooking facilities. If the second home is a vacation property that you rent out for fewer than 15 days during the year, the income need not be reported. Rental expenses cannot be claimed either, but all property taxes and mortgage interest may be deducted.

Rental of Home

Taxpayers who are overseas and rent out their homes in 1998 can continue to deduct mortgage interest as a rental expense. Also deductible are property management fees, condo fees, depreciation costs, taxes, and all other rental expenses. Losses up to \$25,000 may be offset against other income, as long as the AGI does not exceed \$100,000 and the taxpayer is actively managing the property. Retaining a property manager does not mean losing this benefit.

Sale of a Principal Residence

There is a new capital-gains exclusion on the sale of a principal residence on or after May 7, 1997, that applies to all homeowners, regardless of

their age. Previously, qualified individuals who were age 55 or older were allowed a one-time capital gains exclusion of \$125,000. Also, under previous law, if you had a gain when you sold your home, you could defer all or part of the gain if you purchased or built another home (of equal or higher value) within two years before or after the sale.

The new tax laws allow an exclusion of up to \$500,000 for couples filing jointly and up to \$250,000 for single taxpayers on the gain from the sale of their principal residence. All depreciation taken after May 7, 1997 will, however, be recaptured (added to income) at the time of sale.

The only qualification for this new capital-gains exclusion is that the house sold must have been the taxpayer's principal residence for at least two of the last five years prior to the date of the sale. This exclusion is not limited to a once-in-a-lifetime sale, but may be taken once every two years.

When a principal residence is sold, capital gains realized above the exclusion amounts are subject to taxation. This new exclusion replaces the earlier tax-law provision that allowed both the deferral of gain and a one-time exclusion of a principal residence sale.

Many Foreign Service employees are hurt by the "two out of five years" residence provision. Despite repeated attempts, AFSA has so far been unsuccessful in persuading Congress to grant an exemption for Foreign Service personnel who cannot meet this requirement due to prolonged overseas service.

Temporary rental of the home does not necessarily disqualify one from claiming the exclusion. The new tax law requires only that you have occupied the house as your principal residence for the required period (two years out of five).

Under Internal Revenue Code 1031, a Foreign Service employee whose U.S. home may no longer qualify for the customary residence replacement rule may be eligible to replace the property through a "tax-free exchange" (the so-called Starker exchange). In essence, one property being rented out may be exchanged for another, as long as that

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also is rented. In exchanging the properties, capital gains tax may be deferred. Technically, a simultaneous trade of investments occurs. Actually, owners first sell their property, place the equity proceeds in escrow, identify in writing within 45 days the property they intend to acquire, and settle on the new property within 180 days, using the money held in escrow as part of the payment.

It is important to emphasize that the exchange is from one investment property to another investment property — the key factor in the IRS evaluation of an exchange transaction is the intent of the investor at the time the exchange was consummated. The IRS rules for the exchanges are complex and specific, with a number of pitfalls that can nullify the transaction. An exchange should never be attempted without assistance from a tax lawyer specializing in this field.

Calculating Your Adjusted Basis

Many Foreign Service employees ask what items can be added to the cost basis of their homes when they are ready to sell. Money spent on "fixing up" the home for sale may be deducted from the sales price. To qualify as legitimate "fixing-up costs", the following conditions must be met: 1) the expenses must be for work performed during the 90-day period ending on the day on which the contract to sell the old residence was made; 2) the expenses must be paid on or before the 30th day after sale of the house, and 3) the expenses must not be capital expenditures for permanent improvements or replacements (these can be added to the basis of the property, original purchase price, thereby reducing the amount of profit). A new roof and kitchen counters are not "fix-up" items. But painting the house, cleaning up the garden, and making minor repairs qualify as "fixing-up costs."

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State Tax Provisions

Every active Foreign Service employee serving abroad must maintain a state of domicile in the United States, and the tax liability that the employee faces varies greatly from state to state. In addition, there are numerous regulations concerning the taxability of Foreign Service pensions and annuities, as each state has different rules about the conditions under which individuals are liable for taxes on such income.

This state guide briefly reviews the laws regarding income tax and tax on annuities and pensions so they affect Foreign Service personnel. Please note that while AFSA makes every attempt to provide the most up-to-date information, readers with specific questions should consult a tax expert in the state in question at the addresses given. Information is also available on the states' websites listed below.

Most Foreign Service employees have questions about their liability to pay state income taxes during periods posted overseas or assigned to Washington. It is a fundamental rule of law that all U.S. citizens, because they have the right to vote, retain a state of domicile even if residing abroad. There are many criteria used in determining which state is a citizen's domicile. One of the strongest determinants is prolonged physical presence, a standard that Foreign Service personnel frequently cannot meet, due to overseas service.

In such cases, the states will make a determination of the individual's income tax status based on other factors, including where the individual has family ties, where he or she is registered to vote or has a driver's license, where he or she owns property, or where the person has bank accounts or other financial holdings. In the case of Foreign Service employees, the domicile might be the state from which the person joined the service, where his or her home leave address is, or where he or she intends to return upon separation. For purposes of this article, the term domicile refers to legal residence; some states also define it as permanent residence. Residence refers to physical presence in the state.

Foreign Service personnel must continue to pay taxes to the state of domicile (or to the District of Columbia) while residing outside of the state, including during assignments abroad, unless the state of residence does not require it.

A non-resident, according to most states' definitions, is an individual who earns income or interest in the specific state but does not live there or is living there for only part of the year (usually, less than six months). Individuals are generally considered residents and are thus fully liable for taxes, if they are domiciled in the state or if they are living in the state (usually at least six months of the year) but are not domiciled there.

Foreign Service employees residing in the metropolitan Washington area are required to pay income tax to the District, Maryland or Virginia in addition to paying tax to the state of their domicile. However, most states allow a credit, so that the taxpayer pays the higher tax rate of the two states, with each state receiving a share.

There are currently seven states with no state income tax: Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming. In addition, New Hampshire and Tennessee have no tax on personal income but do tax profits from the sale of bonds and property.

There are also six states which, under certain conditions, do not tax income earned outside of the state: Connecticut, Missouri, New Jersey, New York, Pennsylvania and West Virginia. The requirements are that the individual not have a permanent "place of abode" in the state, have a permanent "place of abode" outside the state, and not spend more than 30 days in the state during the tax year. Also, please note that these six states require the filing of non-resident returns for all income earned from in-state sources.

Pennsylvania holds that "quarters provided by the government at no cost to Petitioner cannot be considered as maintaining a permanent place of abode." Thus members of the Foreign Service domiciled in Pennsylvania who occupy government housing overseas must pay income tax to Pennsylvania. If they rent their own home overseas, however, they will be exempt from these taxes. AFSA has not heard of a similar ruling in any of the other five states but Foreign Service

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employees should be aware that states could challenge the status of government housing in the future.

The following list gives a state-by-state overview of the latest information available on tax liability, with addresses provided to write for further information or tax forms. Tax rates are provided where possible. For further information please contact AFSA's Labor/Management Office at the individual state tax authorities. As always, members are advised to double-check with states' tax authorities.

Alabama: Individuals domiciled in Alabama are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Alabama's tax rate ranges from 2 to 5 percent. Write: Alabama Department of Revenue, Income Tax Farms, P.O. Box 327470, Montgomery, AL 36132-7470. Website: <http://www.adar.state.al.us>

Alaska: No state income tax.

Arizona: Individuals domiciled in Arizona are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Arizona's tax rate ranges from 3 to 5.6 percent depending on income and filing status. Write: Arizona Department of Revenue, Attention: Farms, 1600 West Monroe, Phoenix, AZ 85007-2650. Website: <http://www.state.az.us/revenue>

Arkansas: Individuals domiciled in Arkansas are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Arkansas's tax rate ranges from 1 to 7 percent depending on income and filing status. Write: Department of Finance and Administration, Income Tax Farms Division, P.O. Box 3628, Little Rock, AR 72203. Website: <http://www.state.ar.us/dfa/taxes/index.html>

California: Foreign Service employees are considered non-residents and do not have a tax liability on out-of-state income. AFSA would like to hear from any member who has had difficulty with the Franchise Tax Board concerning their tax liability. California has an additional exemption for anyone who is domiciled in-state but is

out of the state on an employment contract for more than 546 days. This applies to FS employees and their spouses. Non-residents use Form 540NR. Write: State of California, Franchise Tax Board, Taxpayer Services, P.O. Box 942840, Sacramento, CA 94280-0040. Website: <http://www.ftb.ca.gov>

Colorado: Individuals domiciled in Colorado are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Colorado's tax rate is a flat 5 percent. Write: Department of Revenue, Taxpayer Service Division, State Capital Annex, 1375 Sherman St., Denver, CO 80261. Website: <http://www.stote.ca.us>

Connecticut: Individuals who are domiciled in another state but who have a permanent place of abode in Connecticut and spend more than 183 days in Connecticut in the taxable year are considered residents and are taxed on all income, regardless of where it is earned. The tax rate ranges from 3 to 4.5 percent depending on income and filing status. Write: Department of Revenue Services, 25 Sigourney Street, Hartford, CT 06106. Website: <http://www.state.ct.us/drs>

Delaware: Individuals domiciled in Delaware are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Delaware's tax rate ranges from 3.1 to 6.9 percent depending on income and filing status. The first \$2000 of income is exempt. Write: Division of Revenue, Taxpayers Assistance Section, State Office Building, 820 N. French St., Wilmington, DE 19801. Website: <http://www.state.de.us/revenue>

District of Columbia: Individuals domiciled in the District of Columbia are considered residents and are subject to tax on their entire income regardless of their physical presence there. The District's tax rate ranges from 6 to 9.5 percent. From 1988, the D.C. tax exclusion ceased to apply to Foreign Service employees. Write: Office of Tax and Revenue, 441 Fourth St, NW, Suite 550, Washington, D.C. 20001. Website: <http://www.dccfa.com>

Florida: No state income tax.

Georgia: Individuals domiciled in Georgia are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Georgia's tax rate ranges from 1 to 6 percent depending on income and filing status. Write: Georgia Income Tax Farms, P.O. Box 740389, Atlanta, GA 30374-0389. Website: <http://www.state.go.us/departments/dar>

Hawaii: Individuals domiciled in Hawaii are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Hawaii's tax rate ranges from 2 to 10 percent depending on income and filing status. Write: Oahu District Office, Taxpayer Services Branch, P.O. Box 3559, Honolulu, HI, 96811-3559. Website: <http://www.state.hi.us/tox/tax.html>

Idaho: Individuals domiciled in Idaho for an entire tax year are considered residents and are subject to tax on their entire income. Idaho provides a safe harbor provision where a resident individual who is outside Idaho for a qualifying period of time will not be considered a resident. If an individual qualifies for the safe harbor, he would report as a nonresident and be taxed only on income from Idaho sources. A nonresident must file an Idaho income tax return if his gross income from Idaho sources is \$2,500 or more. Idaho's tax rate is between 2 and 8.2 percent depending on income and filing status. To request forms write: Idaho State Tax Commission, P.O. Box 36, Boise, ID 83722. Website: <http://www2.state.id.us/tax/index.html>

Illinois: Individuals domiciled in Illinois are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Illinois's tax rate is a 3 percent flat rate. Write: Illinois Department of Revenue, Farms Division, 101 West Jefferson St., Springfield, IL 62794-9044. Website: <http://www.revenue.state.il.us>

Indiana: Individuals domiciled in Indiana are considered residents and are subject to tax on their entire income regardless of

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their physical presence in the state. However, a credit is granted for any taxes paid to the state where the income was earned. Indiana's tax rate remains 3.4 percent. Write: Department of Revenue, 100 N. Senate Ave., Indianapolis, IN 46204. Website: <http://www.ai.org/dor>

Iowa: Individuals domiciled in Iowa are considered residents and are subject to tax on their entire income to the extent that income is taxable on the person's federal income tax returns. Iowa's tax rate ranges from 0.4 to 8.98 percent depending on income and filing status. Write: Department of Revenue and Finance, Forms Division, Hoover State Office Building, Des Moines, IA 50319. Website: <http://www.state.ia.us/tax>

Kansas: Individuals domiciled in Kansas are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Kansas' tax rate ranges from 3.5 to 7.75 percent depending on income and filing status. Write: Kansas Taxpayer Assistance Bureau, 915 SW Harrison, 3rd Floor, Topeka, KS 66612-1588. Website: <http://www.ink.org/public/kdor>

Kentucky: Individuals domiciled in Kentucky are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Kentucky's tax rate ranges from 2 to 6 percent depending on income and filing status. Write: Revenue Cabinet, PO Box 181, Station 56, Frankfort, KY 40602. Website: <http://www.state.ky.us/agencies/revenue/revhome.htm>

Louisiana: Individuals domiciled in Louisiana are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Resident individuals are entitled to a tax credit for income tax paid to another state on the amount of income earned in the other state and included in the state's taxable income. Louisiana's tax rate ranges from 2 to 6 percent depending on income and filing status. Write: Department of Revenue and Taxation, Forms Division, P.O. Box 201, Baton Rouge, LA 70821-0201. Website: <http://www.rev.state.la.us>

Maine: Individuals domiciled in Maine are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Maine's tax rate ranges from 2 to 8.5 percent depending on income and filing status. Write: Bureau of Taxation, Forms Division, State Office Building, Augusta, ME 04333. Website: <http://janus.state.me.us/revenue>

Maryland: Individuals domiciled in Maryland are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Maryland's tax rate is a graduated tax up to a maximum of 4.785 percent depending on income and county of residence. An individual is also subject to a county income tax rate which is a percentage of the state income tax liability. For the 1998 tax year, Worcester County charges 20 percent, Baltimore, Carroll and Queen Anne - 55 percent, Allegheny and St. Mary's - 58 percent, Prince George's, Caroline, Montgomery, Somerset, and Wicomico - 60 percent. All other counties charge 50 percent. Write: Revenue Administration, Income Tax Division, Annapolis, MD 21411 or call (410) 260-7980. Website: <http://www.marylandtaxes.com>

Massachusetts: Individuals domiciled in Massachusetts are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Salaries and most dividends are taxed at 5.95 percent. Write: Massachusetts Department of Revenue, Supply Forms Section, 100 Cambridge Street, Boston, MA 02204-7033. Website: <http://www.state.ma.us/dor>

Michigan: Individuals domiciled in Michigan are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Michigan's tax rate is 4.4 percent. Write: Department of Treasury, Forms Division, Treasury Building, Lansing, MI 48922. Website: <http://www.treos.state.mi.us>

Minnesota: Individuals domiciled in Minnesota are considered residents and are subject to tax on their entire income regardless of their physical presence in

the state. Minnesota's tax rate ranges from 6 to 8.5 percent depending on income and filing status. Write: Department of Revenue, Forms Division, Mail Station 5510, Saint Paul, MN 55146-2220. Website: <http://www.taxes.state.mn.us>

Mississippi: Individuals domiciled in Mississippi are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Mississippi's tax rate is 5 percent on taxable income over \$10,000. Write: State Tax Commission, Forms Division, P.O. Box 1033, Jackson, MS 39215. Website: <http://mstc.state.ms.us>

Missouri: No tax liability for out-of-state income if the individual has no permanent residence in Missouri, has a permanent residence elsewhere, and is not physically present in the state for more than 30 days during the tax year. The tax rate ranges from 1.5 to 6 percent depending on income and filing status. File a return yearly with an attached "Statement of Non-Residency" (Form 374). File also on Form 40, Schedule NRI, for income of more than \$600 from Missouri sources. Write: Tax Administration Bureau, Forms Division, PO Box 220, Jefferson City, MO 65105-2200. Website: <http://dor.state.mo.us>

Montana: Individuals domiciled in Montana are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Montana's tax rate ranges from 2 to 11 percent depending on income and filing status. Write: Montana Department of Revenue, Income Tax Division, PO Box 5805, Helena, MT 59604. Website: <http://www.state.mt.us/revenue/index.htm>

Nebraska: Individuals domiciled in Nebraska are considered residents and are subject to tax on their entire income regardless of their physical presence in the state with credit allowed for tax paid to other states. Nebraska's tax rate ranges from 2.51 to 6.68 percent depending on income and filing status. Write: Department of Revenue, Forms Division, 301 Centennial Mall South, P.O. Box 94818, Lincoln, NE 68509-4818. Website: <http://www.nol.org/revenue>

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Nevada: No state income tax.

New Hampshire: No personal income tax. No capital gains tax on sale of principal residence, 7 percent on sale of rental property, 5 percent on profits from in-state sources, including the sale of property and bonds. Write: Taxpayer Assistance Office, 61 So. Spring St., P.O. Box 2072, Concord, NH 03302-2072. Website: <http://www.state.nh.us/revenue/revenue.htm>

New Jersey: No tax liability for out-of-state income if the individual has no permanent residence in New Jersey, has a permanent residence elsewhere, and is not physically in the state for more than 30 days during the tax year. Filing a return is not required, but is recommended in order to preserve domicile status. Filing is required on Form 1040 NR for revenue derived from in-state sources. Farms may be requested by writing to: Department of the Treasury, Division of Taxation, PO Box 266, Trenton, NJ 08625-0266. Website: <http://www.state.nj.us/treasury/taxation>

New Mexico: Individuals domiciled in New Mexico are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. New Mexico's tax rate is based upon income and filing status. Write: New Mexico Taxation and Revenue Department, Taxpayer Services, PO Box 630, Santa Fe, NM 87504-0630. Website: <http://www.state.nm.us/tax/>

New York: No tax liability for out-of-state income if the individual has no permanent residence in New York, has a permanent residence elsewhere, and is not present in the state more than 30 days during the tax year. Filing a return is not required, but it is recommended to preserve domicile status. Filing is required on Form IT-203-I for revenue derived from New York sources. Write: Department of Taxation and Finance, Technical Services Bureau, W.A. Harriman Campus, Albany, NY 12227. Website: <http://www.tax.state.ny.us>

North Carolina: Individuals domiciled in North Carolina are considered residents and are subject to tax on their entire income regardless of their physical pres-

ence in the state. North Carolina's tax rate ranges from 6 to 7.75 percent depending on income and filing status. Write: Department of Revenue, PO Box 25000, Raleigh, NC 27640. Website: <http://www.dor.state.nc.us/DOR>

North Dakota: Individuals domiciled in North Dakota are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Tax rates vary according to income and whether a short or long tax farm is used. Write: Office of State Tax Commissioner, State Capital, 600 E. Boulevard Avenue, Bismarck, ND 58505-0599. Website: <http://www.state.nd.us/taxdpt>

Ohio: Individuals domiciled in Ohio are considered residents (including part year) and are subject to tax on their entire income. Ohio residents are given a tax credit to reduce the Ohio income tax due on income taxed by other states or the District of Columbia while an Ohio resident. Ohio's tax rate ranges from 0.743 to 7.5 percent depending on income and filing status. Write: Ohio Department of Taxation, Taxpayer Services, P.O. Box 2476, Columbus, OH 43266-0076. Website: <http://www.state.oh.us/tax>

Oklahoma: Individuals domiciled in Oklahoma are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Oklahoma's tax rate is based upon income and various exemptions. Write: Oklahoma Tax Commission, Taxpayer Services Division, 2501 Lincoln Blvd., Oklahoma City, OK 73194-0009. Website: <http://www.aktax.state.ok.us>

Oregon: Individuals domiciled in Oregon are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Oregon's tax rates range from 5 to 9 percent of taxable income. Write: Department of Revenue, 955 Center Street N.E., Salem, OR 97310. Website: <http://www.dor.state.or.us>

Pennsylvania: No tax liability for out-of-state income if the individual has no

permanent residence in the state, has a permanent residence elsewhere, and spends no more than 30 days in the state during the tax year. Filing a return is not required, but it is recommended to preserve domicile status. File an Form PA40-NR for all income derived from Pennsylvania sources. Pennsylvania does not consider government quarters overseas to be a "permanent place of abode elsewhere," so Foreign Service PA residents abroad in government quarters must continue to pay income tax. Pennsylvania's tax rate is a flat 2.8 percent. Write: Commonwealth of Pennsylvania, Department of Revenue, Taxpayer Services Department, Harrisburg, PA 17128-1061. E-mail: pave@revenue.state.pa.us Website: <http://www.revenue.state.pa.us>

Rhode Island: Individuals domiciled in Rhode Island are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Rhode Island's tax rate for the 1998 tax year is 27 percent of the Federal Income Tax liability. Write: Rhode Island Division of Taxation, Taxpayer Services Division, 289 Pramenade St., Providence, RI 02908-5801. Website: <http://www.tax.state.ri.us>

South Carolina: Individuals domiciled in South Carolina are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. South Carolina's tax rate ranges from 2.5 to 7 percent, depending on income. Write: South Carolina Tax Commission, Farms Division, 301 Gervais Street, P.O. Box 125, Columbia, SC 29214. Website: <http://www.dor.state.sc.us>

South Dakota: No state income tax.

Tennessee: No personal income tax. Tennessee does impose a 6 percent tax on dividends and certain types of interest income received by Tennessee residents. Write: Department of Revenue, Andrew Jackson State Office Building, Nashville, TN 37242. Website: <http://www.state.tn.us/revenue>

Texas: No state income tax.

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Utah: Individuals domiciled in Utah are considered residents and are subject to Utah state tax and the state requires that all federal adjusted gross income reported on the federal return be reported on the state return regardless of their physical presence in the state. Utah's highest tax rate is 7 percent. Write: Utah State Tax Commission, Taxpayer Services Division, 210 North 1950 West, Salt Lake City, UT 84134.
Website: <http://www.tax.ex.state.ut.us>

Vermont: Individuals domiciled in Vermont are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Vermont's tax rate for 1997 is 25 percent of the individual's Federal tax. Write: Vermont Department of Taxes, Taxpayer Services Division, Pavilion Office Building, Montpelier, VT 05609-1401.
Website: <http://www.state.vt.us/tax>

Virginia: Individuals domiciled in Virginia are considered residents and are subject to tax on their entire income regardless of their physical presence in the state. Virginia's tax rate ranges from 2 to 5.75 percent depending on income and filing status. Write: Virginia Department of Taxation, Taxpayer Services Division, P.O. Box 1317, Richmond, VA 23210.
Website: <http://www.state.va.us/tox/taxforms.html>

Washington: No state income tax.

West Virginia: No tax liability for out-of-state income if the individual has no permanent residence in West Virginia, has a permanent residence elsewhere, and spends no more than 30 days of the tax year in West Virginia. Filing a return is not required, but it is recommended to preserve domicile status. Filing is required on form IT-140-NR for all income derived from West Virginia sources. Write: The Department of Tax and Revenue, Taxpayer Services Division, P.O. Box 3784, Charleston, WV 25337.
Website: <http://www.state.wv.us/taxdiv>

Wisconsin: Individuals domiciled in Wisconsin are considered residents and are subject to tax on their entire income

regardless of where the income is earned. Wisconsin's current tax rate ranges from 4.77 to 6.77 percent depending on income and filing status. Write: Department of Revenue, Taxpayer Services Division, 125 South Webster Street, P.O. Box 8933, Madison, WI 53708.
Website: <http://www.dar.state.wi.us>

Wyoming: No state income tax.

State Pension & Annuity Tax

The laws regarding the taxation of Foreign Service annuities vary greatly from state to state. In addition to those states that have no income tax or no tax on personal income, there are several states that do not tax income derived from pensions and annuities. Idaho taxes Foreign Service annuities while exempting certain portions of those of the Civil Service.

In response to the U.S. Supreme Court's decision in *Davis v. Michigan Department of the Treasury*, annuitants in a number of states challenged unequal taxation of state versus federal annuities. In this precedent-setting decision, the court ruled that the policy of the state of Michigan to exempt from taxation the annuities of retired state of Michigan and local government employees while taxing the annuities of retired federal employees residing in Michigan discriminates against federal annuitants and is therefore unconstitutional. Because many states have similar practices regarding the treatment of annuitant income, individuals and groups are still involved in litigation in order to compel their states of residence to refund the taxes they paid on their annuities during the period immediately before the states changed their tax laws to comply with *Davis v. Michigan*. All other states tax Foreign and Civil Service annuities and pensions to varying degrees.

Alabama: Full exemption. Federal pensions are not taxable.

Alaska: No personal income tax.

Arizona: Up to \$2,500 exempt.

Arkansas: Up to \$6,000 exempt.

California: Fully taxable.

Colorado: Up to \$20,000 exempt if average 55.

Connecticut: Fully taxable.

Delaware: Two exclusions: (1) Up to \$2,000 exempt if earned income is less than \$2,500 and Adjusted Gross Income is less than \$10,000; if married and filing jointly, up to \$4,000 exempt if earned income is less than \$5,000 and AGI is under \$20,000. This is applicable if 60 years or older or totally disabled. (2) Amounts received as pension exempted up to \$2,000 if under 60 and up to \$3,000 if over 60.

District of Columbia: Up to \$3,000 exempt, only if 62 years or older.

Florida: No personal income tax, but Florida has an "Intangibles Tax."

Georgia: Up to \$12,000 exempt for those 62 years or older and permanently or totally disabled.

Hawaii: Full exemption, government pensions are not taxed.

Idaho: Foreign Service retirees whose annuities are paid from the FSPS are fully taxed on their pensions. Those persons retired under the Civil Service Retirement Act are exempt up to \$16,104 for a single return and up to \$24,150 if filing jointly. Up to \$16,104 is exempt for unmarried survivor of annuitant. Must be 65 years or older, or 62 years or older and disabled. Amount reduced dollar for dollar by social security benefits.

Illinois: Full exemption, government pensions are not taxed.

Indiana: Up to \$2,000 exemption for most 65 or older, reduced dollar for dollar by social security benefits.

Iowa: Fully taxable. However, there is a partial retirement income exclusion of up to \$5,000 for individual and up to \$10,000 for married taxpayers filing a joint return

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and for individuals who are disabled or are 55 years of age or older, or are a surviving spouse or other survivor of the annuitant. The same income tax rates apply to annuities as other incomes.

Kansas: Full exemption, government pensions are not taxed.

Kentucky: Government pensions attributable to service before 1/1/98 are not taxed. In future, the portion of annuity income attributable to service after 12/31/97 will be taxed at the appropriate rate. There is an exemption for 1998 of up to \$35,000 which will be indexed in future years.

Louisiana: Up to \$6,000 exempt if 65 years or older. (\$12,000 if both filers over 65).

Maine: Fully taxable.

Maryland: For individuals 65 years or older or permanently disabled, federal pensions and annuities, including Social Security, are excluded up to \$15,900. Eligibility determination required. For other annuitants, the total amount is taxable.

Massachusetts: Full exemption, government pensions are not taxed.

Michigan: Full exemption for Civil Service annuities. See above for discussion of U.S. Supreme Court decision in *Davis v. Michigan*. Foreign Service annuities may exclude \$7,500 when filing single and \$10,000 when filing jointly if 65 or older.

Minnesota: Certain persons over 65 with incomes under \$42,000 may be eligible for a subtraction. The maximum subtraction is \$12,000 married joint and \$6,000 single, which is reduced dollar for dollar by untaxed social security benefits, and by one dollar for each two dollars of income over \$18,000 for married and \$14,500 for single.

Mississippi: Full exemption, government pensions are not taxed.

Missouri: Up to \$6,000 exempt if the pension income is less than \$32,000 on a jointly filed return.

Montana: Up to \$3,600 exemption if the pension income is less than \$32,000.

Nebraska: Fully taxable.

Nevada: No personal income tax.

New Hampshire: No personal income tax.

New Jersey: Pensions and annuities are subject to state income tax with the following exemptions for those who are age 62 or older, or totally and permanently disabled, as follows: singles can exclude up to \$7,500; married filing jointly up to \$10,000; married filing separately up to \$5,000 each.

New Mexico: All pensions and annuities are fully taxed.

New York: Full exemption, government pensions are not taxed.

North Carolina: Up to \$4,000 exempt.

North Dakota: All pensions and annuities are fully taxed, except first \$5,000 is exempt less any Social Security payments, but only if the individual chooses to use Form 37 (long form). Individuals are cautioned to check both Form 37-S and Form 37 to ascertain which one yields the lowest tax for the year. Qualifying for the exclusion does not mean that Form 37 is the better form to choose.

Ohio: Gives a tax credit based on the amount of the retirement annuity. If the annuity is below \$500 then there is no credit. Annuity of \$500 to \$1,499 merits a \$25 credit; \$1,500 to \$2,999 merits \$50 credit; \$3,000 to \$4,999 merits \$80 credit; \$5,000 to \$7,999 merits \$130 credit; and any annuity over \$8,000 merits a credit of \$200. The maximum credit per return is \$200.

Oklahoma: Up to \$5,500 exempt on all federal pensions.

Oregon: Generally, all retirement income is subject to Oregon tax when received by an Oregon resident. This includes non-Oregon source retirement income. Retirement income received by nonresidents on or after January 1, 1996 is no longer subject to taxation by Oregon.

Pennsylvania: Full exemption for government pensions and social security.

Rhode Island: Fully taxable.

South Carolina: On retirement income: under age 65 a \$3,000 exemption may be taken; over 65 years of age a \$10,000 exemption may be taken. If you are over 65, a further \$11,500 exemption may be taken on income regardless of source.

South Dakota: No personal income tax.

Tennessee: Full exemption, government pensions are not taxed.

Texas: No personal income tax.

Utah: Under age 65 a \$4,800 exemption may be taken. However, the deduction is reduced \$.50 for every \$1.00 that the Federal Adjusted Gross Income exceeds \$32,000 (married filing joint) or \$25,000 (single). Over 65 years of age a \$7,500 exemption may be taken for each individual. However, the exemption is reduced \$.50 for every \$1.00 that the Federal Adjusted Gross Income exceeds \$32,000 (married filing joint) or \$25,000 (single).

Vermont: Fully taxable.

Virginia: Deductions of up to \$12,000 if over age 65 and up to \$6,000 if over age 62.

Washington: No personal income tax.

West Virginia: Up to \$8,000 exempt, only if 65 years or older.

Wisconsin: Pensions and annuities are fully taxable. However, anyone who started paying into any federal retirement system before 12/31/63 is exempt from tax on income received from that system.

Wyoming: No personal income tax.

James Yorke, who compiled the tax guide, would like to express thanks to M. Bruce Hirshorn, Foreign Service Tax Counsel, for his help in preparing this article.

Letters

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chief of mission position, by the nominee or his/her spouse, shall be considered prima facie evidence that such a contribution was a factor in the nomination of that individual.

Ambassador Maynard W. Glitmon
FSO, Retired
Jeffersville, Vt.

Payment for Ongoing Services

On reading Ambassador Laingen's letter (December Journal) on the selling of ambassadorships, I read the article in the October FSJ which I had overlooked. It contains some excellent ideas for diminishing the abuse of selling ambassadorships. It focuses mainly on nominees who have been large campaign contributors, or who have rendered some outstanding service to a political party or to a president in the past.

It does not address the case of payment for ongoing services. There is one egregious case that I am aware of, in which the unqualified spouse of a congressman was ambassador to a small country for over five years. This can-

gressperson is one of the president's most ardent and outspoken supporters. There may be other such cases. This type of sale is probably more harmful than the reward for past services type.

I hope AFSA and the American Academy of Diplomacy will appose and call attention to such sales.
J. Edgar Williams
FSO, Retired
Carrboro, N.C.

Dateline

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• Two new spring interns are on board and working hard. Harry Kruglik joins the AFSA staff as the Legislative Affairs Intern. Originally from Chicago, Harry is a National Merit finalist and a sophomore at Claremont McKenna College in California. He is majoring in both international relations and history. Petra-Kie Hauck is assisting Harry Blaney, director of the Coalition for American Leadership Abroad. She is a native of Illinois and is majoring in political science at the University of Southern Mississippi.

Inside

THE FOREIGN SERVICE COMMUNITY

• **William H. Luers**, former ambassador to Venezuela and Czechoslovakia, is retiring as president of the New York Metropolitan Museum of Art. After bringing his considerable skills as a professional diplomat to the Met for the last 12 years, Luers is moving on to become chairman and president of the United Nations Association of the U.S.A.

• **John L. Patterson**, retired FSO, has won his second term to the Rhode Island state Senate. Patterson, a Republican in a heavily Democratic state, won by 45 votes in a campaign that stuck to issues and the candidates' qualifications.

• The Foreign Agricultural Service is losing its popular administrator, **Lon Hatamiya**. He has been tapped by Governor Gray Davis to be secretary of commerce and trade for California.

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ARE IRAQI SANCTIONS IMMORAL?

WITH THOUSANDS OF CIVILIANS DYING, AND
SADDAM STILL ENTRENCHED, CAN SANCTIONS
STILL BE JUSTIFIED?

BY STEPHEN ZUNES

The question of whether and under what circumstances the United States should impose economic sanctions on foreign countries has long been a source of controversy. Critics on both the left and the right have advocated and condemned the use of sanctions, often based in part on the ideological orientation of the regime in question. Some conservatives of a libertarian persuasion oppose sanctions on principle since they interfere with the rights of investors. Indeed, with the creation of the World Trade Organization, it has become more difficult to legally justify sanctions on non-economic issues at all. In addition, recent efforts by the United States to enforce its unilateral sanctions against Cuba and Iran on foreign companies have led to heated diplomatic exchanges with our Canadian and European allies.

One of the biggest criticisms of the use of economic sanctions, however, has not been in the legal or political realm, but with regard to ethical questions over their impact on the civilian population. Most people recognize that civilians will, in the short term, inevitably suffer to some degree from economic sanctions. However, it is hoped that this suffering will thereby spur the population to challenge the policies of the government which

Stephen Zunes is an assistant professor of politics and chair of the Peace and Justice Studies Program at the University of San Francisco.

led to the imposition of sanctions and perhaps even lead to the overthrow of the offending regime. Sanctions, then, while not painless, are often seen as a nonviolent alternative to military intervention as a means of applying pressure to recalcitrant regimes. In the case of Iraq, however, ongoing United Nations sanctions — most vigorously supported by the United States — may have actually been more destructive than war, in terms of the number of lives lost as a result. While there is virtually no opposition to the United Nations' strict weapons embargo against Iraq, the embargo against civilian trade has created great controversy due to its humanitarian consequences and questionable political effectiveness. Though overshadowed here in the United States in recent months by renewed military confrontations between the United States and Iraq, the sanctions regime has become the major concern for Iraq and much of the Middle East. Indeed, it was the perceived lack of prospects for lifting the sanctions which prompted Iraq's defiance of United Nations inspectors, prompting the recent military confrontations. The Iraqis have seemed resigned to heavy air strikes, with many expressing the sense that they had very little left to lose.

Sanctions That Bite

Sanctions were originally imposed by the United Nations in August 1990, immediately following Iraq's invasion, occupation and annexa-

F O C U S

tion of Kuwait. There was little controversy within the international community or in the United States about such a course of action. Indeed, many believe that had the U.N. imposed sanctions following Saddam Hussein's 1980 invasion of Iran or his use of chemical weapons against Iraqi Kurds, he would not have been emboldened to invade Kuwait in the first place.

When finally imposed in August of 1990, the sanctions were the most rigorously enforced in history. The CIA estimated in a report that autumn that U.N. sanctions were blocking 90 percent of Iraqi imports and 97 percent of Iraqi exports. (Since the Iraqi defeat in 1991, sanctions have been less effective.) Sanctions alone were insufficient to pressure the Iraqis to withdraw their forces, however. Some argue that the Bush administration's insistence that sanctions would continue even if Saddam Hussein withdrew his forces from Kuwait gave the Iraqis little incentive to comply.

*In the face of
armed assaults,
many Iraqis have
rallied around
their flag.*

Furthermore, the simultaneous preparation for an armed assault caused many Iraqis who might otherwise have challenged the regime over the country's deteriorating economic situation to rally around the flag in the face of an imminent attack. Others, however, are convinced that Saddam Hussein would not have pulled out in any case and that sanctions alone were insufficient to force the Iraqi withdrawal.

The war had a devastating impact on Iraq's civilian infrastructure, as the country experienced the heaviest bombing in world history. Unlike some other countries subjected to heavy air strikes, such as largely rural societies like Vietnam and Afghanistan, the heavily urbanized Iraqis were severely impacted by the sudden absence of clean drinking water, normal distribution systems for basic commodities and — in part due to the fact that they are a largely arid country dependent on irrigation systems severely damaged by the bombing —



AP PHOTO/JASSIM MOHAMMED

Iraqi and Arab workers chant anti-American slogans during a demonstration in front of the U.N. Development Program building in Baghdad on Sunday, Jan. 10, 1999.

severe food shortages.

Sanctions have remained in effect for the eight years since the war as a result of Iraq's less-than-full compliance with several provisions of United Nations Security Council Resolution 687 imposed at the end of the war. This has not only led to enormous human suffering, but many argue that it has been counter-productive to the broader U.S. goal of bringing down the Iraqi dictator.

It was precisely out of Iraq's middle class that forces might have emerged capable of successfully challenging Saddam's regime. Having been reduced to penury, and struggling to survive, the middle class cannot be a base for political opposition. Thousands have emigrated. Indeed, as more and more families become dependent on government rations for their very survival, they are forced to cooperate even more with the government,

and the already-high risks of challenging Saddam's rule have become too great for many. Critics of the current sanctions regime argue that the lifting of non-military sanctions would allow the country to be deluged with business people and other foreigners, creating an environment far more likely to result in a political opening than the current sanctions regime which places the country in impoverished isolation under Saddam's grip.

Public Health Devastation

There has been some limited media coverage in the United States of the hardships the sanctions have inflicted on the once-prosperous Iraqi middle class, such as professors selling their valuable books, families selling their pets and women selling their family jewelry in order to buy basic necessities, as food prices are now 12,000 times what they

were in 1990. Yet it is Iraq's poor, particularly the children, who have suffered the most. Estimates of the total number of Iraqis killed as a result of malnutrition and preventable diseases as a direct consequence of the sanctions have ranged from a quarter million to over one million, the majority of whom have been children. UNICEF estimates that at least 4,500 Iraqi children are dying every month as a result of the sanctions. Indeed, perhaps there has been no other occasion during peacetime when so many people have been condemned to starvation and death from preventable diseases due to political decisions made overseas.

While the repressive nature of Baathist rule under Saddam Hussein in the 1980s is well documented, the Iraqi regime — like a number of fascist governments historically — maintained a comprehensive and

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generous welfare state, generally doing a respectable job of meeting the nutritional, housing and health care needs of its population; indeed, Iraq had the highest per capita caloric intake in the Middle East. Most of the population had direct access to safe water and modern sanitation facilities; there was a wide network of well-functioning and well-supplied hospitals and health care centers. The overall economy was strong, with Iraq considered a "middle income" country, importing large numbers of foreign guest workers to fill empty spots in its growing economy. Now, it ranks as one of the most impoverished countries in the world.

According to a 1997 report by the U.N. Food and Agricultural Organization (FAO), "Four million people, one-fifth of the population, are currently starving to death in Iraq. Twenty-three percent of all

children in Iraq have stunted growth, approximately twice the percentage before the war. Alarming food shortages are causing irreparable damage to an entire generation of children." The FAO further estimates that there has been a 72 percent rise in childhood malnourishment, affecting 32 percent of children under five. The World Health Organization (WHO) estimates that "there has been a six-fold increase in the mortality rate for children under five and the majority of the country's population has been on a semi-starvation diet."

Does Saddam Care?

These deaths are a result of inadequate medical supplies, impure water and nutritional deficiencies. With water purification and sewage systems heavily damaged by American bombing raids in 1991, and with the Iraqis unable to repair

these facilities since the embargo prohibits the importation of spare parts, there has been a dramatic increase in typhoid, cholera and other illnesses which had largely been eliminated in Iraq prior to the 1991 Gulf War. Ambulances and other emergency vehicles, and even their spare parts, are among the items banned. Hospitals are unable to acquire spare parts for incubators, kidney dialysis machines and other equipment. Even materials such as food and medicines not covered by the ban have become difficult to purchase due to the lack of capital. Electricity is irregular and conditions at hospitals are becoming increasingly unsanitary. With tap water no longer safe, a gallon of bottled water now costs as much as 500 times more than a gallon of gasoline.

Iraq's primary source for foreign exchange, oil exports, is of course subject to the embargo, with the

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exception of a limited amount of petroleum which may be sold for food under strict U.N. monitoring. Until recently, Iraq was allowed to sell only \$2 billion in oil every six months to purchase food. About one-third of that was allocated to Kuwait for reparations and to the U.N. for administrative costs. Though the FAO and the WHO have given Iraq high marks for their distribution of food and medicine, the U.N. estimates that about \$4 billion is the minimum needed to meet basic needs for food and medicines. Over initial U.S. objections, the U.N. raised the permitted amount to \$5.2 billion (of which \$3.5 billion actually could go to Iraq) last spring, though the lack of spare parts for its oil industry has made it difficult for Iraq to produce that much oil.

A full quarter of Iraq's school-aged population is no longer in school, in a country which previously had near-universal primary education. For those who can attend school, books and other educational resources are in extremely short supply.

The U.S. has blamed the suffering on the Iraqi regime for its failure to more fully cooperate with the United Nations. Said Secretary of State Madeleine Albright at the National Press Club on May 12, 1998, "Saddam Hussein is the one who has the fate of his country in his hands, and he is the one who is responsible for starving children, not the United States of America." Furthermore, there has been some outcry at the Iraqi government's decision to use scarce resources for the construction of opulent mosques and additional palaces for Saddam Hussein, his family and associates, though the Iraqis claim that these use indigenous materials and are paid for in Iraqi dinars. Albright has justified the sanctions in part as a test to prove if Saddam "really cares

*Next to North
Korea, Iraq
has the most
totalitarian regime
on the planet.*

about his people." Most knowledgeable observers of Iraq recognize that no such test is necessary; Saddam's primary concern has always been his own power. Indeed, Saddam Hussein is ultimately responsible for his people's suffering from the sanctions. But since it has long become apparent that such suffering is not altering Iraqi policy, one must also therefore raise the question of moral culpability on the part of the United States.

Iraq's Totalitarian Regime

Part of the ineffectiveness of the sanctions comes from the nature of Saddam Hussein's regime. It is more than simply another authoritarian Middle Eastern government; indeed, next to North Korea, it is the most totalitarian regime on the planet. Therefore, the ability of the population to organize effectively against the regime or its policies, particularly under dire economic conditions created by the sanctions, is severely limited. Indeed, this is why virtually every recognized Iraqi opposition group has come out against the sanctions regime. The potential political effectiveness of sanctions — as well as their morality — can be judged in part by the willingness of the opposition to have its people endure the hardships imposed. A counter-example would be the case of South Africa, where the black majority had long lobbied for a tough stance by the international community against

the apartheid regime.

Surprisingly, there is little debate in the U.S. Congress regarding the lifting of sanctions. Rather, some politicians would make them tougher. Senate Foreign Relations Committee Chairman Jesse Helms (R-N.C.) has called for a total blockade, including food. Some members of Congress, such as Senator Diane Feinstein (D-Calif.), have begun to publicly question its effectiveness.

Much of the organized opposition has been among some churches, humanitarian organizations and peace groups, which have sent delegations to Iraq to bring medical supplies, often in direct defiance of the sanctions. Such acts of civil disobedience and the stories participants have brought back home to their congregations, civic groups and local media have begun to influence public opinion, though some individuals and organizations have compromised their credibility by citing exaggerated statistics and engaging in apologetics for the Iraqi regime.

As word of the appalling conditions in Iraq has spread within the United States and other countries, pressure has grown for a change in policy. Though the humanitarian imperative has failed to resonate with the Clinton administration or Congress, the fact that the sanctions have had absolutely no tangible benefit in altering Iraqi policy may be enough to persuade U.S. policy makers to liberalize the sanctions regime in order to ease the human suffering.

A Sanctions Quid Pro Quo?

Part of the problem is that the United States has given Iraq little motivation to cooperate with its international obligations. For example, Madeleine Albright declared in March 1997 that the U.S. would veto any U.N. Security Council efforts to lift sanctions, even if Iraq

finally came into full compliance with U.N. Security Council resolutions; only if Saddam Hussein no longer ruled Iraq would the U.S. allow the sanctions regime to end. President Clinton reiterated this position in November 1997. This stand not only goes far beyond the original U.N. mandate — it also gives the Iraqi government no incentive to cooperate: Saddam might be willing to make further compromises on issues of weapons production and inspector access if that would result in lifting sanctions, but not if sanctions would remain intact anyway. Indeed, Saddam's harassment of U.N. inspections was based largely on the realization that he has nothing to lose as long as the U.S. maintains its uncompromising position.

It has long been recognized that for sanctions to work, one needs a carrot as well as a stick, something which the U.S. has largely failed to recognize. Indeed, there has been a historic tendency for governments to ignore the huge body of evidence that punishment doesn't change behavior of other governments as effectively as does reward. It would be far more effective for the United States, in consultation with other members of the Security Council, to offer to lift certain non-military sanctions in return for compliance with inspections and other outstanding issues of U.N. Security Council Resolution 687, and to be specific as to what positive responses could be expected in return for certain improvements in behavior. Former U.N. Special Commission chief Rolf Ekeus has proposed just such a scenario, though the current UNSCOM leader, Richard Butler, has taken a more hard-line approach.

The vigor with which the United States has pursued strict sanctions against Iraq over its failure to comply with sections of one Security

*U.S. policy
gives Iraq
little incentive
to comply with
its obligations.*

Council resolution stands in stark contrast to the U.S. position blocking sanctions against governments allied with the United States — such as Indonesia, Israel, Morocco and Turkey — for their ongoing violations of U.N. Security Council resolutions. This perception of a double standard has led the Iraqis, rightly or wrongly, to determine that the sanctions are punitive and politically motivated. Whereas sanctions against Iraq during the occupation of Kuwait were widely seen by ordinary Iraqis as the fault of their own government, the post-war sanctions are almost universally blamed on the United States and the West. The humanitarian crisis has also led to widespread resentment in the Arab world, even by those very much opposed to Saddam Hussein. Such resentment can spill over to anti-American violence. Indeed, along with U.S. support for Israel and the Saudi royal family, the continued sanctions against Iraq were among the main grievances expressed by terrorist leader Osama Bin Laden.

Morality and Consequences

The morality of a particular foreign policy is tempered by its results. If human suffering from economic sanctions can advance a policy goal that would lead to less suffering in the long term, one could make the case that it was morally justified. Indeed, in an interview on "60

Minutes" regarding the devastating impact sanctions were having on the children of Iraq, Albright declared that "we think the price is worth it." Yet the apparent failure of the sanctions to move Iraq's level of compliance with the international community forward raises serious doubts.

Former U.N. Secretary General Boutros Boutros-Ghali challenged the international community to confront "the ethical question of whether suffering inflicted on vulnerable groups in the target country is a legitimate means to exerting pressure on political leaders whose behavior is unlikely to be affected by the plight of their subjects." Indeed, there is little indication that Saddam Hussein, his inner circle and key elements of the military leadership are suffering any shortages of food, drinking water and medical supplies. The suffering of the civilian population has become an effective propaganda tool to stir up anti-American sentiment, but does not seem to have had an impact in altering Iraqi policy in ways consistent with U.S. interests.

This raises the question as to whether the morality and the political efficacy of the ongoing sanctions regime can be separated. Like the air strikes of recent months, the motivation appears to be more on an emotional level than a rationally calculated strategy. Indeed, the worst mistakes of recent years in foreign policy have tended to come from reactive decisions born out of frustration at impudent regimes which have challenged basic international standards and U.S. policy interests. Diplomatic historians of the future will likely raise serious questions regarding the morality of the sanctions regime against Iraq. They may also come to see it as one of the key errors in U.S. policy which eventually did serious harm to American interests in the Middle East. ■

GERMANY'S NEW DIRECTION

THE NEW SOCIAL DEMOCRATIC-GREEN
GOVERNMENT MEANS THAT EUROPE'S POWERHOUSE
WILL NO LONGER BE TAKEN FOR GRANTED

BY GEORGE M. FREDERICK

Germany's Gerhard Schroeder will not be taken for granted. In the new German government, led by Schroeder's Social Democrats (SPD), the U.S. has a demanding and somewhat skeptical partner. After four days of talks, Schroeder accepted Joschka Fischer, the working class leader of the Green Party, as his foreign minister, making Fischer the most successful Green politician in Europe to date. With the arrival of the new German team, the old U.S. diplomacy based on a Cold War German-American friendship is no longer relevant.

Misleadingly labeled an environmental party, the Greens are much more than a one-issue group. The party's leadership includes activists from many causes, including communist and social democratic traditions. The Greens have a broad international social agenda, and more importantly, they are not in the least in awe of the United States. Nor do they see the U.S. as the world leader.

On election day, 85 percent of Germany's 65 million eligible voters turned out to give Gerhard Schroeder and his party the authority to lead. The

SPD won almost 41 percent of the vote, while Helmut Kohl's CDU/CSU carried a disappointing 35 percent. The largest single voting bloc in the elections was men and women between 21 and 45. The election in effect carried out a generational change, with the 55-year-old Schroeder and Fischer, 49, replacing the long-serving, 68-year-old Kohl.

This Is the New Germany

For these Germans, America at war conjures up images of Saigon and Baghdad rather than Normandy. Joschka Fischer, as leader of the Greens, has been directing a 12-year crusade to harness these voters. The measure of his success is the 47 legislative seats won by the party in October, clinching the coalition deal with the SPD. The Greens, known also as the Alternative List, offer an intelligent choice for politically moderate Germans who find the two established parties do not represent their concerns. Fischer will now offer up alternative politics on the international stage as chief diplomat of Europe's powerhouse.

The agreement that created the Social Democratic-Green coalition government describes the U.S.-German friendship as key to German policy considerations. But in a Europe with 11 administrations led by the political left, including those of Britain, France and Italy, ideological and physical distances may strain the trans-Atlantic friendship. As Fischer made the rounds after his nomination, the foreign minister has made

George M. Frederick, a career FSO, has lived and worked extensively in Germany. From 1994 to 1997 he served as consul in the U.S. consulate general in Hamburg. The views expressed in this article are the author's, and do not reflect official U.S. policy or the views of the Department of State.

reassuring statements in Paris, London and Washington, promising continuity in German foreign policy. Certainly, Fischer and his associates see the United States as an important partner, but not a senior partner.

That sentiment is echoed, if only softly, in SPD foreign policy debates. What American politicians unquestioningly call U.S. leadership appears to many German centrists as willful unilateral action. We are likely to find our German partners more willing to question U.S. motives and judgment than was the case under Helmut Kohl. The SPD and Greens will want reassurances that the U.S. can be counted on to allow Germany, and by extension Europe, to go its own European way.

Perhaps this concern prompted President Clinton to challenge publicly all "progressive leaders of the world" to find a third way. The notion of a "third way," as introduced by British Prime Minister Tony Blair and endorsed by Clinton, originated in the 1980s in British Labour Party circles. The third way (as opposed to *laissez faire* capitalism or intrusive state socialism) consists of an ill-defined policy of "activist government" intervening to make life better for the citizens of the world.

The German coalition government might well answer that Germany has already met this challenge. And the way it has done it has far-reaching international consequences.

The Third Way at Home

Internal policies reveal the philosophical differences between Germans and Americans. Even conservative Germans were skeptical of the 1997 federal welfare reform legislation and the accompanying local welfare reform in the United States. The Social Democrats and Greens openly expressed dismay. Ideological traditions of European social policy supported by both Greens and Social Democrats include the principle of the welfare state. Gerhard Schroeder, as head of state government in Lower Saxony, showed a willingness to intervene in the marketplace, notably in the aircraft and auto industries, to save precious jobs in his state, even when his party advised against such action.

Green politicians too have ideas about an activist third way. Proposals for environmental programs and taxes on energy and industry made it into the governing coalition agreement, only slightly muted by SPD objec-



AP PHOTORUDI BLAHA

German Chancellor Gerhard Schroeder (right) and his Foreign Minister Joschka Fischer at the European Union Summit last Dec. 12

tions. The Greens also supported punitive taxes on polluters, with the resulting revenue directed toward support for the unemployed. The Green Party has always taken an unconventional approach to governing. The Greens are given to long and arduous internal debates on the direction of the party, which has long revealed a division between "fundamentalists," who wish to remain true to the party's pacifist/environmentalist roots, and "realists," who want to achieve power through compromise with the Social Democrats. The Greens' apparently endless introspection in 1994 caused Schroeder, then-chief executive of Lower Saxony, to question the Greens' ability to succeed in national government.

Anti-militarism Abroad

The doctrine of both the Greens and the SPD provides a strong anti-militarist moral compass. Party lead-

ers Schroeder and Fischer have both fought to win German participation in military operations in the former Yugoslavia, but the strong undercurrent of German suspicion of military might remains. This ideological approach to diplomacy has not won the new government support in the German foreign affairs bureaucracy. Just weeks after the new government was formed, rumors circulated in diplomatic circles that senior German diplomats were considering leaving the service rather than serve a diplomacy transfigured by Fischer's view of the world.

In the past 10 years influential movements within the Green Party have called for withdrawal of Germany from NATO and the disbanding of the German armed forces. Fischer's pragmatist faction of the Greens won the day on these issues at the last party congress, but the internal debate continues to haunt the Green grass-

roots. For the United States this split, and the Greens' potential to delay decision-making in German foreign policy, are new factors in our bilateral relationship. Kosovo, NATO expansion, economic policy toward Russia and other key European issues have already inspired controversy within the Greens. It is still uncertain where the Greens' doctrinal arrows will be pointed once they stop spinning. German hesitance could delay or block the deployment of European-based U.S. troops to future trouble spots.

Closing out the "American century," the United States finds its role in European security defined by a new breed of leaders. In the next four years we will call on Germany for tough decisions and support. This new Germany, for which the Marshall Plan is just a fading history lesson, must be re-won with careful and activist diplomacy. ■

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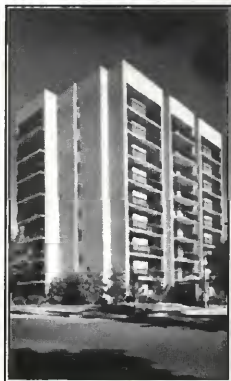
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AN EYE ON BOSNIA

THIRTY YEARS AFTER SERVING IN YUGOSLAVIA,
A RETIRED FSO RETURNS TO OBSERVE ELECTIONS
MANDATED BY THE DAYTON PEACE ACCORDS

BY CHARLES STUART KENNEDY

Like most Americans, I watched in horror as civil war raged in Yugoslavia from 1991 to 1995. I had fond memories of a tour as chief of the consular section in Belgrade from 1962 to 1967.

When an uneasy peace came to that unfortunate, new country, I volunteered to be a monitor for elections mandated by the Dayton Peace Accords.

New elections were called for November 1997 for the Serb Republic. After the Dayton Peace Accords, Bosnia-Herzegovina was divided into the Serb Republic and the Muslim-Croat Federation, with three members of a collective national presidency representing the Serbian, Muslim and Croatian populations. A new government was needed after the two power centers in the republic, one in Banja Luka in the northwest, and the other in Pale in the northeast, had split. The Pale faction, lead by Radovan Karadzic, who is wanted by the International War Crimes Tribunal in The Hague, was made up of Serbian nationalist hardliners. The Banja Luka faction, led by former Karadzic protégée Biljana Plavsic, were pragmatists who wanted to recharge the economy of the Serb Republic and remove the country's international pariah status. The Pale

Charles Stuart Kennedy, a retired FSO, served as chief of the consular section in Belgrade from 1962 to 1967.

contingent had dominated the parliament, but when Plavsic was named president in 1996 the two factions fell out and she was forced to dismiss the parliament in mid-1997.

We were warned to prepare for snowy, mountain conditions, so when our contingent of 50 American, Dutch, French, Italian, British and Irish retirees and graduate students landed in bright sun amid the swaying palm trees of Split, on the Adriatic coast, I felt silly with my long underwear and heavy coat. From Nov. 14 to Nov. 26 we would be in the hands of the Organization for Security and Cooperation in Europe, which was in charge of the elections. For the next three days, we received a short, intensive course on how to set up polling stations, identify legitimate voters, keep from being manipulated and supervise and record ballot counting. Only registered voters were to be allowed to vote. If we found questionable voters, we were to put their ballots in separate envelopes with relevant data written on them and send them to Sarajevo, where they would be evaluated before being opened. If the voter proved to be legitimate, the vote would count.

Avoiding Landmines

We were also given a lecture on how to avoid landmines by a sergeant and a corporal from Britain's Royal Corps of Engineers in rapid, heavily accented English. Though I only understood every third word, their message came

through: Stay on country roads and watch where the local people go. Later, a woman trainer in Tuzla would give us even more important landmine advice: "If you are traveling and have to pee, just stay on the roadside and do your business," she said. "Don't go into the woods for privacy!"

In addition to OSCE election monitors, there would be observers from political parties and other international groups. Our group's trainer was an Irish election official who had been working in Bosnia for a year. Often, we felt the OSCE trainers treated the volunteers like children, but despite this tension, we would later regard the three days in Split as an idyllic interlude.

On Nov. 18, we left on a bus for Tuzla. We drove through Mostar, a town I remembered for its world-famous arched, Turkish bridge over a river that bisected the town. The bridge was gone. Muslims lived in the bullet-pocked, burnt-out houses on one side of the river, while Croats lived in the same destruction on the other side. Near Sarajevo we saw our first NATO patrols when we spotted armored cars flying the Ukrainian flag. All troops were buttoned up with machine guns at the ready. Under the U.N. command, it had been easy for Serb militia to stop and loot convoys, but that temptation was, thankfully, gone.

In Tuzla, a major Muslim area and center for American troops, we stayed at the Dom Pensionera, the House of Pensioners, a type of old-folks home. There, I had a chance to use my 30-year-old Serbian with the retirees, who were delighted to speak to an American, even one using bad grammar and speaking with a heavy accent. We spent two days receiving more briefings on Bosnian politics and U.N. peace-keeping, as well as instruction on using maps and radios. We learned that an international police advisory team was there to help make the Bosnian police force more professional — and also to make sure that they did not become enforcers for ethnic factions. A Russian lieutenant colonel and a captain from the German border police — a team that would have been unthinkable only a few years before — told us that the Bosnian police were too heavily armed, not well

*On the first day of
voting we arrived
early to put up signs
banning smoking
and guns.*

trained and badly divided. Muslim police wore green uniforms, while Croats wore blue and Serbs were decked out in gray.

An American military police captain serving with SFOR, the NATO military arm, told us that American troops were often cast as the "heavies." Though they were well received, he said, they exercised caution on patrol. They wore helmets

and flak jackets, carried weapons at all times and traveled in convoys of at least three humvees with machine guns mounted on most of them. They were an outfit no bully would want to mess with, which was the idea.

Those of us assigned to monitor Tuzla would be dealing with absentee voters, most of whom were Muslims who had been forced from their homes and who were now living in the Muslim-Croat Federation and were unwilling or unable to vote in their former homes in person. According to the Dayton Accords, absentee voters could vote in the locality in which they had lived before the war, or they could vote absentee in designated polling stations. The absentee voters were expected to vote against both the Pale and Banja Luka factions, but no one was sure what their votes would mean to the elections.

Our role as OSCE observers also remained vague. Each Bosnian voting district had a team of from five to six poll workers plus a chairman to operate each station. The OSCE paid the Bosnians, and their chairman had the final word on operation of the polling station. OSCE observers were to countersign reports with the chairman. In addition, there was a polling book in which anyone could make comments about the process. Thankfully, there was little conflict between the OSCE observers and the Bosnian chairmen.

My assignment was Kladanj, a mountain town 40 miles south of Tuzla, where many Muslim refugees from Srebrenica, site of one of the worst massacres of the war, had moved. On Friday, Nov. 21, the day before polling began, I went to the Kladanj town hall to meet the head of the election committee, a judge. The building was just like hundreds of town halls I had visited while posted in Yugoslavia in the 1960s: dark, cold, poorly maintained, with cavernous corridors.

Word processors on desks were the only modern touches. I delivered a short speech in which I said I was part of the international contingent there to help Bosnia hold fair elections in its time of troubles.

After that, I went to my assigned polling station, an elementary school on the outskirts of Kladanj. The polling station was a large, cold classroom. The polling staff consisted of the chairman, an energetic man in his early 40s, and five staff. One, a young man in his 20s

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whose feet had been blown off by a land mine and who walked with a rolling gait because of his artificial limbs, was responsible for keeping the voting queue in order and using an ultraviolet light to check voters' hands to see if they had already voted. The others were women in their 30s and 40s. One checked voters' identifications against a register, one gave out ballots to voters and another squirted voters' index fingers with a mist that would

show up under ultraviolet light. This was to prevent people from voting twice. After that, she directed them to the screened table where ballots were marked. The final member of the team stood by the sealed cardboard ballot box to make sure that each voter deposited only one ballot. The committee had conducted elections before, so they quickly put everything in order. I didn't have to exercise my newly acquired knowledge about polling stations.

No Cigarettes or Guns Allowed

I sat at a table with a sign reading "international observer." In two days of voting our little polling station was also observed by officials from Finland, Indonesia, Nepal, India and Germany, among other countries, and visited by numerous representatives of international agencies, including a Kenyan representing the U.N. High Commissioner for Refugees.

On the first day of voting, Saturday, Nov. 22, we arrived early to put up signs banning smoking and guns. After that, the entire polling staff, with the exception of me, lit up. They continued smoking all day, along with many voters. To the best of my knowledge, no guns were carried into the polling area.

We opened the doors at 8 a.m. to a crowd of 40 people. One of the first voters was a young man whose hand showed traces under the ultraviolet light. He was an auto mechanic, he said, and regularly handled chemicals from engines and batteries. The chairman and I decided that since it was five minutes after the start of official voting and the nearest other polling station was five miles away, we would let him vote.

Most other voters were older, displaced persons. Most young men who had not been killed during the war had left to find work elsewhere, along with many young women. We had been warned not to be upset if a husband and wife chose to fill out their ballots together. One or both were probably illiterate and they were accustomed to helping each other fill out official documents. Some women observers were uncomfortable with joint voting because it implied that the men were telling the women how to vote, but they were not familiar with the customs of Balkan peasants. We allowed husbands and wives to vote together, and sometimes younger members of the family also pitched in. The ballot was complicated, with some 50 choices of parties or individuals. Half the names were in Latin script, preferred by the Federation, and the other half were in Cyrillic, choice of Serbian nationalists. Voters knew for whom they wanted to vote, but they needed help putting their marks in the right places.

The OSCE had given us strict instructions not to let anyone not on the carefully crafted voting list cast a ballot. Still, a few people not on the list claimed they had voted in Kladanj in previous elections. These would-be voters often arrived with husbands or wives who *were* on the list. I felt that they didn't have a nefarious purpose in mind, and, after conferring with the chairman, asked them to check back with us the next day. We heard from OSCE headquarters in Sarajevo that there were indeed problems with the voting rolls, but that they "were trying to resolve it."

In the end, we let these people vote, then sent the ballots to the OSCE for evaluation.

When we closed on the first day at 7 p.m., 365 of the 879 eligible voters in the district had cast ballots, a lower turnout than expected. I was in charge of the ballot box overnight. It was sealed with numbered tape and both the chairman and I wrote our names across the seal. Then, I took the box and all unused ballots and locked them in my hotel room. The next morning polling station workers and observers, including those from political parties, examined the box to make sure that it had not been tampered with, and the balloting resumed.

One political observer, a refugee, told me about his bitterness over the earlier role of U.N. troops, who had done little to stop Serb atrocities. He also complained about the U.S. embargo of military weapons, which meant that at the war's beginning Serbs had inherited the Yugoslavian weapons stockpile and Croats had imported arms from neighboring countries, but Muslims were defenseless, easy prey.

The Sunday turnout was smaller than on Saturday, but by the time the polls closed, 71 percent of registered voters had cast ballots in two days of voting, a better showing than in the United States, where 49 percent of registered voters cast ballots in the last presidential election. As expected, about 85 percent had voted for a coalition of Muslim groups, with the rest voting for a specific Muslim party. After counting the ballots, the chairman and I filled out and signed detailed elections forms, then took them to the town hall, where an OSCE representative was waiting with an armed American escort. The representative took the documents to Tuzla, where they were gathered with other ballots for shipment to the OSCE headquarters in Sarajevo.

On the bus back to Split on a different route through the Serb Republic we passed good grazing and agricultural land that had been abandoned. In the fields were paths marked with white tape, a sign that the area had been mined. After a night in Split, we rose at 4 a.m., ate a hurried breakfast and drove to a small airport crammed with election observers returning to homes in Europe, Canada and the

United States. Since ballots had to be sorted out in Sarajevo, it was mid-January before I learned that neither the Banja Luka nor Pale faction had received a majority of the votes. Expelled Muslims and Croats had voted in large enough numbers to ensure that they would control crucial swing votes in the parliament. The Muslim vote had also been decisive in electing Milorad Dodik, a moderate, who as prime minister might bring positive change.

While the Bosnians had staged free, fair, informed elections, and while they were not fighting, Serbs, Croats and Muslims still had little will to cooperate.

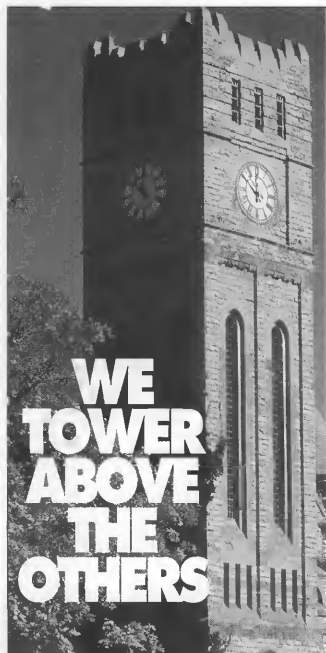
Round Two

Eleven months later, in September 1998, I was back in Bosnia-Herzegovina, this time as an observer for the countrywide elections. For training, I was assigned to Banja Kulasha, a rehabilitation center in the Serb Republic famous for its curative baths. Many young men missing legs were there for treatment, a reminder of the war we were trying to prevent from erupting again.

Our polling area was a section around Derventa, a town close to the Sava River and the Croatian border which had been badly damaged during the war. Prior to hostilities, the town had been equally divided between Croats and Serbs, but Croatian houses had been blown up and their inhabitants had fled across the river.

After training in the rehabilitation center, we moved to the Blind Children's Center in Derventa, where we shared quarters with children suffering from war wounds in a facility built by the Italian Red Cross. My polling station was in the heart of Serbian territory, in Mala Sochanitsa, a place not found on most maps. The station was in a combination school-house and postal and telegraph office in the middle

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of a farming area.

The local staff knew what to do, so I only had to keep a genial eye on things. Most political party observers spent their time preparing and cooking a pig that had been slaughtered as voting started and which we ate at the end of the day.

My interpreter was a young dentistry student from the University of Banja Luka who was bitter because her father, a Serb, had been killed in a Croatian prison camp. Like most young people with whom I spoke, she had no thirst for war. She only wanted to get on with her life.

Voting in Mala Sochanitsa produced an 87 percent turnout, 450 voters over two days. Most were farm folk who arrived in trucks, tractors and beat-up cars, as well as on foot. The ballot was complicated, with four different elections being held at the same time. Since most of them were simple peasants, I assumed they wouldn't be able to decipher the ballots, but I was dead wrong.

Voters elected Serbian nationalist Zivko Radisic of the multi-party Serbian coalition (SLOGA) to the Serbian presidency. Radisic also became first chair of the national presidency. He will rotate with the Muslim and Croatian presidents. Except for diehards, most Serbs wanted moderation. They had no desire to fill the rehabilitation center in Banja Kulasha and the Blind Children's Center in Derventa with more victims. For its part, the OSCE had once again shown Bosnians that it was possible to produce a fair election. Although I think that it will be impossible to restore refugees to their former homes, maybe this new, canton system of government will work in the war-torn area.

In any event, it will be up to a new generation to find a solution and make it work. ■



BOOK REVIEW ESSAY

Is There Independence in Chechnya's Future?

BY BENJAMIN TUA

**Chechnya: Calamity
in the Caucasus**

Carlotta Gall and Thomas de
Waal, *New York University
Press*, 1998, \$26.95,
hardcover, 416 pages.

**Chechnya: Tombstone
of Russian Power**

Anatol Lieven, *Yale University
Press*, 1998, \$35.00,
hardcover, 436 pages.

When Russia launched its ill-fated war against the separatist northern Caucasus Republic of Chechnya in December 1994, few Americans had heard of the republic of one million inhabitants on the western coast of the Caspian Sea.

That changed when Russia's conduct of the unplanned, disastrous conflict and dramatic incursions by Chechen fighters into Russia proper quickly made Chechnya front-page news in the West. With the end of fighting in August 1996, Chechnya slipped out of the media and disappeared from public interest. Two-and-a-half years after the end of the fighting, however, Chechnya's political status is still in question. Continued support for Chechen independence, high levels of violent crime, unresolved disputes between other groups in the region and postwar divisions among the Chechens themselves keep the situation precarious.

Carlotta Gall and Thomas de Waal's *Chechnya: Calamity in the Caucasus* and Anatol Lieven's *Chechnya: Tombstone of Russian Power* add enormously to our understanding of the complex dynamics of the area. The authors, veteran newspaper correspondents with firsthand knowledge of the region, do a superb job of recounting how a small group of historically ignorant, culturally insensitive and racially arrogant men in Moscow made hasty political and military decisions that led to a debacle.

Calamity in the Caucasus is written in a brisk, easy-to-digest style by Gall, a former journalist for the *Moscow Times*, and de Waal, who has reported for *The Times* of London, the *Economist* and the *Moscow Times*. It starts with the brutal, indiscriminate bombardment and ground attack by Russia on Grozny, Chechnya's capital, on New Year's Eve 1994. The assault ended several days later with the destruction of an entire Russian brigade by Chechen fighters, the first of a series of humiliating failures suffered by the Russians.

Roots of the Calamity

Gall and de Waal cover the history of the area, including the role of Islam in Chechen society and Russian-Chechen relations from the early 18th to the mid-19th century. They also devote a chapter to Stalin's vicious 1944 deportation of half-a-million Chechens and Ingush,

who are ethnically related to the Chechens, in sealed boxcars to Kazakstan, where more than 100,000 of them perished within two years from sickness and hunger.

The modern day Chechen independence movement began in 1990, as the Soviet Union was crumbling. Dzhokar Dudayev, a former Soviet general who was an early supporter of Russian President Boris Yeltsin, was elected Chechnya's first president in November 1991. When Dudayev turned against Yeltsin, one of the last chances for a negotiated settlement between the two countries was lost.

An erratic figure, Dudayev had alienated most Chechens by 1994. Before that, however, Chechnya had entered a twilight zone, neither fully in nor totally out of Russia. Chechens still used the ruble and traveled using Russian documents, but continued to declare their republic's independence. Chechnya became a Shakespearean kingdom, a center for criminals and home to an active arms trade. If they had been left alone, the Chechens might well have removed Dudayev. Instead, in July 1994 Kremlin hardliners looking for a small, victorious war to boost Yeltsin's popularity, seized on hijackings perpetrated by Chechens against Russian citizens outside Chechnya to launch an attack.

At a Russian Security Council meeting on November 29 Yeltsin insisted on — and got — a unani-

mous vote in support of invading Chechnya. According to Gall and de Waal, this was a calculated, ruthless decision by a politician who always made up his own mind. Andrei Kozerev, at the time Yeltsin's pro-Western foreign minister, favored the operation. Yevgeniy Primakov, head of Russia's Foreign Intelligence Service who later succeeded Kozerev as foreign minister and who is now Russia's prime minister, opposed it. Deputy commander of Russian ground forces Gen. Eduard Vorobyov refused the command and resigned from the army. Other top generals who opposed the invasion were dismissed or sidelined.

Fortunes of War

When Chechen military fortunes were at their lowest in mid-1995, a Chechen raid into southern Russia led to the first negotiation efforts. Renewed fighting followed several cease-fires, until the Russians stopped the war before the 1996 presidential elections. After Yeltsin's victory at the polls, the Russians resumed full-scale fighting. When a force of 1,300 Chechens retook the center of Grozny in August 1996, Russian Gen. Alexander Lebed quickly negotiated a cease-fire with Chechen commander Aslan Maskhadov. The Chechen counter-offensive had broken the Russians' will to fight, and they withdrew at the end of the year.

Calamity in the Caucasus ends pessimistically, with the authors highlighting Chechnya's bleak prospects for resolving its tangled economic, political and social problems, and concluding that Chechnya is now less independent than before the war.

Gall and de Waal also express concern over the spate of kidnappings of foreigners for ransom in

Chechnya since 1997. In particular, they conclude that it was almost certainly the military wing of the Chechen security service that arrested and executed American aid worker Fred Cuny and his Russian colleagues in March 1995. In contrast, Anatol Lieven's treatment of this sensitive subject in *Tombstone of Russian Power* is more cautious. He notes that Cuny is believed to have been killed near the small town of Bamut in the foothills of eastern Chechnya — in circumstances that remain very obscure.

Lieven's Cautious Approach

Lieven's more cautious approach is not the only caveat to reading his book. *Tombstone of Russian Power*, which covers both the Russian-Chechen struggle and developments in post-Soviet Russia, is an ambitious and complicated work. While it is full of insight and analysis, it suffers from a disjointed narrative and slipshod editing. Lieven, who draws on rich experience as a correspondent for *The Times* in Afghanistan and other post-Soviet hot spots, digresses too much. Fortunately, he also includes fascinating first-hand experiences and demonstrates a command of scholarly literature about Chechnya and Russia.

Lieven's portrait of the Chechen people goes beyond one-dimensional stereotypes. At times his characterization is rhapsodic, but he doesn't ignore their dark side. They can be terrifying, he reports, and their arrogance, along with their "deep and generally unconcealed" contempt for their neighbors, have been partly responsible for lack of support for their independence struggle. Lieven's descriptions of Chechen crooks, gangsters and assorted opportunists are entertaining, yet serious. In one memorable

passage, girlfriends and camp followers of a military group lead by Ruslan Labazanov, a convicted murderer with ties to Dudayev, teeter on high heels, trudging through the Chechen mud in a scene out of a Mad Max movie. Lieven wonders how Chechen traditions, which celebrate kindness, hospitality and religion, can accommodate such people. He concludes that tensions between these two worlds — one ruled by honesty and the other by criminality — will play a role in defining Chechnya's direction.

Lieven neatly captures current Chechen president Aslan Maskhadov and the younger and more controversial senior member of his cabinet, Shamil Basayev. During the war Maskhadov remained the classic Soviet officer, while Basayev looked "more and more the Mujahid," gradually taking on the haggard look of the wounded war commander; his eyes sinking deeper into his head, his beard longer and bushier.

Lieven is scathing in his depiction of Dzhokar Dudayev, whom he blames for closing off opportunities for a negotiated settlement with Russia. He is equally unsparing of Boris Yeltsin, whom he excoriates for his "melancholy pattern of inconsistency, evasion of responsibility and moral cowardice." Gall and de Waal at least give Yeltsin credit for his eventual turnaround on Chechnya.

Lieven's passion occasionally interferes with his analysis. A case in point is his portrayal of Ruslan Khasbulatov, the ethnic Chechen who, as speaker of the Russian Duma, clashed with Yeltsin and wound up in jail. Lieven dismisses Khasbulatov's subsequent efforts to reinstate himself into Chechen politics as purely opportunistic, but Khasbulatov's motives in seeking a leadership role in Chechnya were no more

BOOKS

sordid than those of other, less qualified individuals.

In contrast, Lieven is too kind to Zelimkhan Yanderbiyev, who succeeded Dudayev as president when the latter was killed by a Russian rocket. While Yanderbiyev held meetings with Yeltsin that led to a cease-fire within weeks of assuming the presidency, he later pursued an inflammatory line toward Moscow. In addition, shortly before leaving office in February 1997, Yanderbiyev crudely expelled Tim Guldimann, head of the Organization for Security and Cooperation in Europe's Assistance Group to Chechnya. Another mark against him is his role in the attempted coup last July by Islamic paramilitary groups against President Maskhadov.

Some of Lieven's most sustained

criticism is leveled against the "new Russian" bankers, businessmen and corrupt officials who have taken advantage of the collapse of state authority to enrich themselves through the Russian privatization program. Lieven, who was a visiting fellow at the Institute of Peace in Washington, D.C. from 1996 to 1997, also faults American military analysts of Russia for deficiencies that lead to distortions "with potentially serious consequences for Western policy." His sharpest criticism, however, is reserved for negative Western schools of thought about Russia.

Lieven is guilty of the type of over-simplification that he charges others of committing. His assessment of American analysis on Russia is outdated. Academic and popular attitudes about Russia have shifted from neg-

ative to sympathetic, particularly as a result of Russia's latest economic woes.

Why Russia Failed

There were multiple reasons for the Russian military failure in Chechnya. Chechens easily neutralized Russia's greater firepower and more advanced technology with rocket-propelled grenades fired from buildings in Grozny and Chechnya's mountains. Even when Russians controlled Chechen towns, they were not really in charge because they never conquered the people, a lesson the Russian military should have learned in Afghanistan. The Russians' poor preparation and planning, anarchic decision-making and corruption at all levels demoralized Russian troops and destroyed military discipline. This led to un-

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usually widespread looting, vandalism and random violence by Russian troops during the battle for Grozny from January to February 1995.

Lieven notes that in the areas they controlled, Russians harassed civilians, and maltreated and tortured prisoners, at times with no purpose. He estimates that the Russians killed several hundred young Chechen men who were picked up on the streets. In contrast, Chechen fighters treated their prisoners more humanely. Ultimately, despite being outnumbered 10 to one, the Chechens won because of their steadfast determination to defend their land.

Both Gall and de Waal and Lieven offer estimates of Chechen war casualties — the majority of whom were civilians — significantly lower than the most frequently cited figure of from 60,000 to 70,000. Gall and de Waal report that about 27,000 civilians had been killed by the time Russians completely occupied Grozny in March 1995. Lieven estimates that no more than 5,000 civilians had been killed by the end of January 1995 and that no more than 20,000 had been killed by the end of the war.

Post-War Prospects

Lieven is more pessimistic than Gall and de Waal about the prospects for post-war stability in Chechnya. He believes that the Chechens' egalitarian spirit and unwillingness to submit to authority compound their problems, and he doubts that they will be able to govern themselves effectively. Moreover, he is concerned that post-war kidnappings of Russian citizens and Westerners, in addition to bombings by independent armed groups and bandits, are gravely endangering Chechen hopes for stability.

Particularly disturbing is violence against and kidnapping of Western

aid workers. In December 1996 six Red Cross volunteers were executed in their beds. Chechens say Russians who wanted to alienate foreign aid organizations were responsible for the killings. Some Russian observers say that Chechens interested in embarrassing the current Chechen government committed the murders. A dozen Westerners were kidnapped in Chechnya, Ingushetia and Dagestan in 1997, and another 10 — including an American teacher in Dagestan — were grabbed in 1998. Most have been released, typically upon payment of ransom. However, four technicians from England and New Zealand who had been rebuilding Chechnya's telephone system were abducted in October and executed by beheading in December. In addition, in September a member of the Russian diplomatic mission in Grozny was kidnapped and executed, apparently to embarrass President Maskhadov and exacerbate Russian-Chechen relations. No one knows for sure who is responsible for this wave of kidnappings. All foreign aid organizations have removed their staffs from these Caucasian areas and almost no foreigners remain in Chechnya.

In addition, despite most Chechens' secular orientation, Islamic fundamentalist groups are becoming increasingly politically active, often with violent results. As a result, President Maskhadov imposed a state of emergency in June. In July, Chechen government forces and armed rebels clashed in Gudermes, Chechnya's second largest town, and there was an assassination attempt on Maskhadov. Subsequently, a group of Chechen military field commanders, including Shamil Basayev and Salman Raduyev, called for the President's resignation. In October, the head of Chechnya's

anti-kidnapping unit was assassinated. Although there are strong traditions against Chechens fighting Chechens, Maskhadov has finally stepped up the use of security forces to find suspected kidnappers and make arrests.

Win the War, Lose the Peace

Still, having won the war with Russia, Chechnya could lose the peace. No one will recognize Chechnya's independence without a green light from Russia. So while Chechnya may be de facto independent, it has still to reach a realistic agreement with Moscow about its de jure political status. According to provisions of the Lebed-Maskhadov accords, it must do so by 2001. In addition, radical elements, overly impressed with Chechnya's stunning war victory and their own power, may try to overthrow the government.

The important oil pipeline, which passes through the region, could become an economic development tool for Chechnya. First, however, the Chechens must learn to be good neighbors to and good negotiators with the Russians, who control the pipeline outside the Chechen Republic. Natural bonds with Russia, such as a common language, could help, if the Chechens will tackle the task of building their nation with the same determination with which they fought the war. It is imperative that Chechnya work out a relationship with Russia that gives it the autonomy it desires and that will help facilitate the aid it needs to recover from the devastation of the war. Only then will it flourish. ■

Benjamin Tua, a retired FSO, was a member of the Organization for Security and Cooperation in Europe's Assistance Group to Chechnya in 1997.



IN MEMORY

Richard B. Finn, 80, a retired FSO, died Aug. 17 at Sibley Memorial Hospital in Washington, D.C., after suffering a stroke.

Born in Niagara, N.Y., in 1917, Mr. Finn graduated with a law degree from Harvard University in 1942. He served in the U.S. Navy from 1942 to 1946.

After joining the Foreign Service, Mr. Finn was posted to Tokyo in 1947. Other overseas posts included Yokohama, Tokyo again, Paris and Manila where he was deputy chief of mission. In the department, he held several positions, including Foreign Service inspector and Japan country desk officer. He participated in negotiations in the '70s for returning Okinawa to Japan.

Mr. Finn was instrumental in the early '70s in changing AFSA from a purely professional association to one that also acted as a union engaging in labor management negotiations. He was chair of the legal committee and participated in the representation elections in the foreign affairs agencies which established AFSA as the exclusive representative of the employees of State, USAID and USIA.

Upon retirement from the Foreign Service in 1979, Mr. Finn was an adjunct professor at American University. He also served as the administrative director of Harvard's U.S.-Japan Program. The Japanese government awarded him

an imperial decoration in 1987. Drawing on his experiences in Japan after World War II, he wrote *Winners in Peace: MacArthur, Yoshida and Postwar Japan*, which was published in 1992.

Survivors include his wife, Dallas Rumsey Finn, of Bethesda, Md.; two daughters, Allison Finn of Tallahassee, Fla., and Vaughan Finn of Hartford, Conn.; and four grandsons.



Michael Joseph Gould, 70, a retired FSO, died Nov. 28 at his home in Whispering Pines, N.C.

Before entering government service, Mr. Gould worked in advertising with General Electric, Harris T. McKinney and *Fortune Magazine*. In 1969 he was appointed country director of the Peace Corps in Liberia where he served until 1973. He joined the U.S. Information Agency in 1976 and was posted abroad to Ethiopia, Turkey, Tanzania and New Zealand. After retirement in 1993, he was a member of the Foreign Service Grievance Board for two years.

Survivors include his wife, Jenny Walton Gould, of Whispering Pines; a daughter; two sons; two grandsons; and a sister.



Eric Kocher, 86, a retired FSO, died of heart failure Jan. 2 at his home in Long Island, N.Y.

A 1932 graduate of Princeton University, Mr. Kocher earned an MBA from Harvard Business School in 1934. He worked for several government agencies in Washington during the New Deal era before leaving in 1939 to study playwriting at Yale University. He was drafted into the Army at the start of World War II as a private and rose to the rank of major. From 1945 to 1946 he was director of three displaced persons camps in Austria run by the United Nations Relief and Rehabilitation Administration and his efforts helped reunite families separated during the war.

Mr. Kocher joined the Foreign Service and served as labor attaché in Belgium, consul general in Malaysia and Singapore, deputy chief of mission in Jordan and director of South East Asian Affairs at the State Department. He retired after serving as diplomat-in-residence at the University of Texas at Austin.

He then spent nine years as associate dean of Columbia University's School of International Affairs. His published works include: *Foreign Intrigue: the Making and Unmaking of a Foreign Service Officer and International Jobs — Where They Are, How to Find Them*. His 1957 award for best original play from the American Theater Wing was a source of pride and led to his establishing an annual prize at the Eugene O'Neill Theater Center in Connecticut for

IN MEMORY

the most original play.

Survivors include his wife, Margaret Helburn Kocher; four children, Eric Glenn, Terry, Christopher, and Debra; seven grandchildren; and a sister, Mildred Kocher Crowley of Illinois.

E. Gregory Kryza, 76, a retired FSO, died of a cerebral hemorrhage Nov. 22 in Arlington Hospital in Arlington, Va.

Mr. Kryza was born in 1922 in Detroit, Mich., where he graduated from Sacred Heart Seminary in 1939. During World War II, he enlisted in the U.S. Naval Air Corps and was sent to Oberlin College and the University of Virginia. Upon graduation, he was commissioned as an officer aboard the USS Shenandoah. After the war, he served in the Naval attaché's office in Tangier and Santo Domingo and returned to active duty briefly during the Korean War.

In 1952 Mr. Kryza joined the Foreign Service and was sent as a vice consul to Willemstad, Curaçao. Subsequent overseas posts included Brussels, Belgrade, Nairobi (both at the consulate general and the new embassy after independence in 1963), Kinshasa, and Rio de Janeiro (where he helped move to the new embassy in Brasilia). In the States, he worked in a series of assignments in the Bureau of Near Eastern and South Asian Affairs in Washington, attended the U.S. Air Force War College in Montgomery, Ala., served as a Foreign Service inspector, and in 1974 was appointed executive director of the Bureau of African Affairs. From 1977 to 1980 he was ambassador to Mauritania during a time of brutal regional conflicts which saw five violent coups in Nouakchott.

After retirement in 1980, Mr. Kryza served as executive vice-president of the American Foreign Service Protective Association until 1986. He later became the manager for international development with Blue Cross/Blue Shield of Northern Virginia.

He is survived by his wife, Alice Lame Henry Kryza, of Falls Church; two sons, Frank T. Kryza II, of Dallas, Tex. and Christopher D. Kryza, of Burke, Va.; two grandchildren; and five sisters.

Walter L. Rice, 95, a former ambassador to Australia, died on Dec. 14 in Richmond, Va.

Born in 1903 in Minneapolis. Mr. Rice graduated from the University of Minnesota. After receiving his law degree from Harvard in 1928, he worked as a prosecutor in the U.S. District Court of New York. He subsequently became an assistant to the U.S. attorney general in Washington, D.C. where he worked on several landmark anti-trust cases and helped draft the Federal Anti-Racketeering Act of 1934 for Congress. In 1941 Mr. Rice joined Reynolds Metal Co. as general counsel. He later served as vice president, director, and president of Reynolds Mining Corp.

President Nixon appointed Mr. Rice as ambassador to Australia in 1969 where he served until 1973.

Survivors include his wife, Inger, of Richmond; a daughter, Lisa Kellner, of Woodmere, N.Y.; two sons, John, of Glenwood Springs, Colo., and Don, of Huntington Beach, Calif.; and six grandchildren.

Donald "Mike" Robinson, 91, a retired FSO, died at his home in Hanover, Vt., in February 1998.

Mr. Robinson was born in 1906 in Brooklyn, N.Y., and attended Princeton University. After graduation in 1930, he joined the Foreign Service and served overseas assignments in Canada, the Far East, the West Indies and Europe. During World War II, he was the first program director for Armed Services Network.

In addition to his Foreign Service career, Mr. Robinson was also a playwright, short story writer and novelist.

Survivors include his wife, Margaret Hohmann Robinson, of Hanover; three daughters, Kirby Robinson, of Bethesda, Md., Leslie Robinson, of Portsmouth, N.H., and Kim Robinson, of Whidbey Island, Wash.; a son, Patrick Robinson, of Boston; and seven grandchildren.

Margaret Whiting Swank, 75, wife of retired FSO Emory C. Swank, died of pancreatic cancer on Nov. 15 in Kendal in Oberlin, a retirement community in Oberlin, Ohio.

Mrs. Swank graduated from Macalester College and joined the Foreign Service in 1947. She met her husband in Shanghai and they were married in Tsingtao, China in 1949 just before China's port cities fell to the communists. She accompanied her husband to assignments in Jakarta, Moscow, Bucharest, Vientiane, and Phnom Penh (where he served as ambassador from 1970 to 1973). After her husband's retirement, they moved to Cleveland.

She is survived by her husband, Emory C. Swank, of Oberlin, Ohio; a brother; and a sister. ■

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POSTCARD FROM ABROAD

Last Tango in Argentina

BY WESLEY ANN GODARD

Before my husband and I were assigned to Buenos Aires, most of my knowledge of the tango had been confined to glimpses in movies like *Scent of a Woman*. In B.A., I learned that the tango is much more than a dance.

Born in seedy, immigrant dockside neighborhoods at the turn of the century, the tango grew from the pathos of leaving one's native land for life in an unknown country. Its lyrics tell of unrequited love, poverty, betrayal and longing; its steps are a complex, tantalizing ballet portraying a relationship from resistance to seduction, then unhappiness. Even the traditional instrument of the tango, the bandoneon, a hand accordion invented in Europe to copy organs in poor parishes, is an immigrant instrument.

Any number of barn-like dinner theaters in B.A. offer cabaret-style tango performances, but we were not interested in tourist attractions. Our first tango evening was at the invitation of Cacho, a first generation Italian-Argentine and ardent tango aficionado. After dinner at 10 p.m. in an old neighborhood, we strolled past houses no longer in their prime, but still splendid with ornate wrought iron, to Homero's, a small, smoke-filled bar. Customers had come to listen to Ruben Juarez, a

Wesley Ann Godard was assigned with her FSO husband to Buenos Aires from 1993 to 1997. The stamp is courtesy of the AAFSW Book Fair "Stamp Corner."

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classic tango singer, who though not slim and debonair as in his early photos, still crooned classic songs and played the bandoneon. After the lights came up, I noticed the dinginess of the place and imagined those first dockside tango joints, where owners of *almacenes*, small stores, had added a few tables so their homesick male patrons — there were few immigrant women — could sing their sad songs and dance the tango.

Older friends told us that tango parlors were once common, but that tango is not the preferred dance of younger Argentines. Cacho introduced us to one of the few remaining tango emporiums, which was like stepping into a large 1940s ballroom. The dance floor in the middle was encircled by rows of chairs behind tiny tables. There were several couples and a smattering of young people, but most of the middle-class, middle-aged patrons were single. Cacho explained

that women aspiring to become professional dancers came here to learn the tango from the old masters. Attire ranged from jeans and t-shirts to flowing chiffon dresses and dapper suits.

One tiny, older gentleman with a large melon-shaped, bald head wearing a suit slightly too big for him, had trouble finding a partner. I heard a woman sigh and agree reluctantly to dance with him. "Only once," she warned. He also asked each woman at our table to dance, even though we were obviously escorted. We, too, turned him down, giggling like silly school girls. After we had rebuffed a second man, I realized that we were probably breaking tango etiquette. Why would we be there, if not to dance?

Protocol was as formal as for a cotillion ball. A gentleman approached a lady by bowing slightly and requesting the next dance with a word or an arched brow. The woman nodded assent, then was led onto the floor. The couple assumed a cheek to cheek embrace and glided across the floor, each intent on the music and perhaps some faded dream. When the music ended, the man escorted the woman back to her seat, they exchanged thank yous, and he retreated to his own table. With the next dance, the ritual started again with a different partner. There was little flirting, little pairing off. What was important was the dance.

When we left that night, I knew I had found the tango I had been seeking. ■

Rampaging monsters; War, expropriation, nuclear reaction;

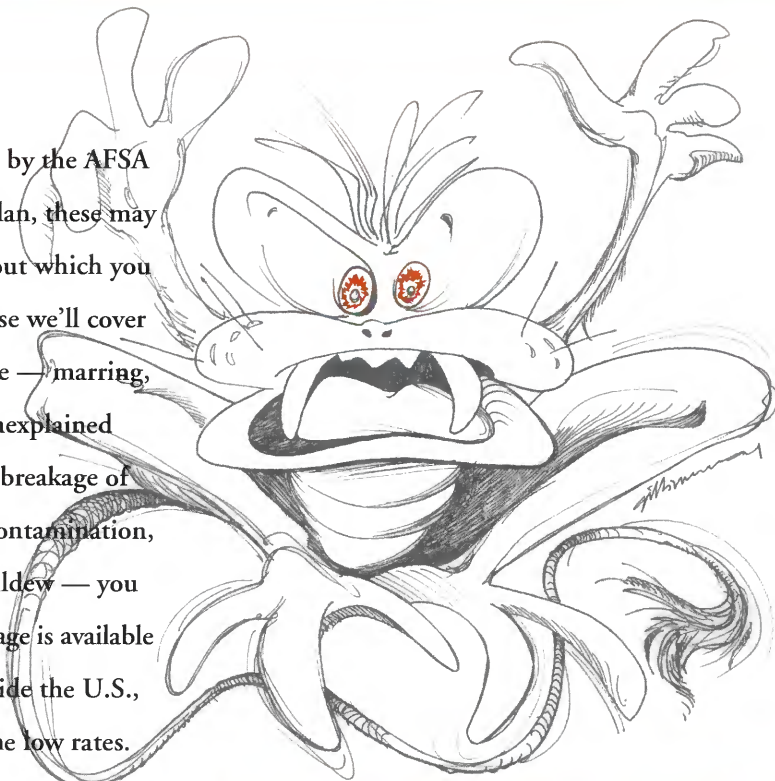
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Come to think of it, rampaging monsters aren't specifically excluded, so we'd probably cover any damage caused by one of them, as well.



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