Case Study II-A

SHORTCHANGED
Short Men, Short Shrift. Are Drugs the Answer?
By NATALIE ANGIER
New York Times, Week in Review, 22 June 2003

Hail America, land of the speedy and home of the shaved, where the list of short things we love keeps getting longer. We love brief wars and abbreviated weapons, instant messaging and prescient gratification. A duchess said you can't be too trim; editors say the same about stories.

But the one thing we don't like short and never have is our men. There is a harsh rule of thumb about male height, and it measures six feet and counting. As study after study has shown, tall men give nearly all the orders, win most elections, monopolize girls and monopolies, and disproportionately splay their elongated limbs across the cushy unconfines of first-class cabins. By the simple act of striding into a room, taller than average men are accorded a host of positive attributes having little or nothing to do with height: a high IQ, talent, competence, trustworthiness, even kindness.

And men who are considerably shorter than the average American guy height of 5-foot-9 1/2? These poor little fellows are at elevated risk of dropping out of school, drinking heavily, dating sparsely, getting sick or depressed. They have a lower chance of marrying or fathering children than do taller men, and their salaries tend to be as modest as their stature. If they are out striving to make their mark, they are derided as "Little Napoleons." Call them whatever you please, and chances are you won't get called on it, for making fun of short men is one of the last acceptable prejudices.

Small wonder, then, that an advisory panel for the Food and Drug Administration has just recommended that the agency approve the use of genetically engineered human growth hormone for healthy children who are "idiopathically" short - that is, children who are at the bottom-most tail of growth curves, yet who, unlike a small subset of very short children, do not suffer from growth hormone deficiency. Children with innate hormone deficiency are given hormone shots to very noticeable effect: without the treatment, they would be true midgets, perhaps under four feet tall as adults; with the shots, they are brought up to low-normal heights.

Yet ever since the biotechnology business began synthesizing potentially limitless supplies of the drug 20 years ago, doctors have been using it in off-label fashion to treat children who for unknown reasons are quite short, maybe in the lowest three percentiles of their age group. The results have been what might be called whelming, in some cases adding as much as 3 1/2 inches to a person's projected final height, in others maybe no more than an inch and change. Still, the scientists on the advisory panel were persuaded enough by the hormone's relative safety and measurable if modest effects to recommend all-around treatment for the seriously subcompact among us.

Whether the F.D.A. takes the advice will not be known until later this summer, if even then. Yet already the moral trichotillomania has begun. Why are we so obsessed with height, particularly among men? Women, after all, often like to be called petite, though women in law, business and other high-powered professions who are below the female average height of 5-foot-5 claim that their diminutive stature makes it hard for them to be taken seriously.

ARE we really willing to subject our kids to buttock or thigh injections three to six times a week, year after year, just so that the local Dudley Dursley will taunt them about their big ears and good grades, rather than their stature? Aren't people like the Dutch, among the tallest populations on earth, with an average male height of over six feet, really the human equivalents of S.U.V.'s, barreling heedlessly along, sucking up more than their fair share of precious resources like oxygen? And who will pay for the treatments anyway, which can run $20,000 a year?

"If the F.D.A. approves the drug for wider use, insurance companies won't have to pay for it, but it may be harder for them to say no," said John D. Lantos, associate director of the MacLean Center for Clinical Medical Ethics at the University of Chicago. "Then the cost of the treatment ends up being collectively subsidized, and we have to wonder, is this the best way to spend limited health care dollars?"

Can't we instead tell our short child, listen, Brunelleschi, the founding architect of the Italian Renaissance, was short, and ugly too; Picasso was only 5-foot-4 and Voltaire an inch beneath him; and one way to stand tall is to do stand-up?

"There's some interesting data that short men are overrepresented among comedians," said Henry B. Biller, a co-author of "Stature and Stigma: The Biopsychosocial Development of Short Males."

To which this 5-foot-3 1/2-inch woman can only sigh, Ha! The data in favor of lofty stature is too mountainous to ignore. For every extra inch of longitude, a man adds 2 percent to his yearly income. Maybe 60 percent of American chief executives are six feet or taller, and according to Nancy Etcoff of Harvard Medical School, author of "Survival of the Prettiest," only 3 percent are 5-foot-7 or shorter. American presidents are also big offenders, a tradition begun by George Washington, who at 6-foot-2 loomed by at least eight inches over most of his contemporaries; and since then, nearly half of our presidents have been of Dutchly dimensions. Famously, the taller of two presidential candidates nearly always wins the election. Carter beat the taller Ford in 1976, but couldn't dodge Reagan's three-inch advantage four years later.

Tall men certainly know the allure of their height. In the personals of a recent issue of New York magazine, for example, fully half of the men seeking women described themselves as tall. Women, by contrast, if they mentioned their height at all, tended to give an exact measurement, perhaps to discourage men below that mark from writing in. Dr. Etcoff notes that in one study of married couples, less than one-half of one percent of the women were taller than their husbands.

Yet ultimately, height may be as much a matter of attitude as of altitude. In one recent study, Andrew Postlewaite, professor of economics at the University of Pennsylvania, and his colleagues Nicola Persico and Dan Silverman, determined that what really counts for a man's professional success in life, heightwise, is not his adult height, but the height he was in high school.

"If you take two people who were 5-foot-6 in high school, and one grew to 5-foot-7 and the other to 6-foot-1," said Dr. Postlewaite, "there would be no predictive difference in their adult income." Whether that is because one's physique in those critical years of puberty sets the thermostat of self-confidence and swagger, or whether short teenagers, who tend to avoid sports and other group activities, fail to master the nuances of team spirit considered crucial throughout most of the business world, Dr. Postlewaite cannot yet say. "Clearly something happens in high school that has important long-term effects," he said.

Maybe you can't go home again, but with homeroom, you can never leave.

Case Study II-B

New York Times
14 October 2002
Steve Lohr
http://query.nytimes.com/search/abstract?res=F30D15F93B5E0C778DDDA90994DA404482

Debate on Intellectual Property

In the 19th century, the United States was both a rapidly industrializing nation and - as Charles Dickens, among others, knew all too well - a bold pirate of intellectual property.

But these days, when it comes to dealing with developing nations around the world, the United States seems to be ignoring its own swashbuckling heritage. Or at least that's the implication of a recent report by the international Commission on Intellectual Property Rights. The report recommends that the World Trade Organization's treaty on intellectual property rights be made much more flexible so that developing nations, from Brazil to Bangladesh, can adopt rules more at their own pace.

The global debate over intellectual property rights - patents, copyrights and trademarks - is focused mainly on forward-looking industries like computer software, pharmaceuticals and biotechnology. But Americans can look back to this nation's 19th-century experience in book publishing, for example, to understand the developing world's viewpoint.

Back then, American law offered copyright protection - but only to citizens and residents of the United States. The works of English authors were copied with abandon and sold cheap to an American public hungry for books. This so irritated Mr. Dickens - whose "Christmas Carol" sold for 6 cents a copy in America, versus $2.50 in England - that he toured the United States in 1842, urging the adoption of international copyright protection as being in the long-term interest of American authors and publishers.

Such appeals proved unpersuasive until 1891, when the United States had a thriving literary culture and a book industry that wanted its own intellectual property protection abroad. So Congress passed a copyright act extending protection to foreign works in return for similar treatment for American authors overseas.

Indeed, the economies that were shining success stories of development, from the United States in the 19th century to Japan and its East Asian neighbors like Taiwan and South Korea in the 20th, took off under systems of weak intellectual property protection. Technology transfer came easily and inexpensively until domestic skills and local industries were advanced enough that stronger intellectual property protections became a matter of self-interest.
But according to the recent report, this kind of economic-development tactic - copying to jump-start an industry - is endangered by the United States-led push for stronger intellectual property rights worldwide.

As part of a sweeping trade deal reached in 1994, the member nations of the World Trade Organization must adhere to a global agreement known as Trips, for Trade-Related Aspects of Intellectual Property Rights. Trips stemmed partly from the prevailing belief during the 1990's that the "American model" - free trade, wide-open capital markets and strong intellectual property protection - was the sure way to global prosperity.

But just as the prescriptions of the International Monetary Fund are now being questioned, as prosperity has proved elusive for countries like Brazil and Argentina, so are the W.T.O.'s intellectual property rules.

"If we cut off imitation strategies for developing countries, we are drastically narrowing the options they have to reach an economic takeoff," said John H. Barton, a professor at Stanford law school who led the commission on intellectual property rights.

Many economists regard the 1994 agreement as a triumph for a few industries - pharmaceuticals, software and Hollywood - that stand to gain a lot from the protections and whose interests were championed by the United States government. "Trips was a matter of powerful companies with intellectual property concerns essentially dictating trade policy," said Keith E. Maskus, a trade expert at the University of Colorado.

The United States does stand to gain the most from stronger intellectual property protections, most of which must be in effect by 2005, under Trips. A World Bank study estimates that American companies would pocket an additional $19 billion a year in royalties, while developing nations like China, Mexico, Brazil and India - net importers of intellectual property - would pay more to the patent holders.

Intellectual property rights are temporary grants of monopoly intended to give economic incentives for innovative activity. Why toil for months or years to develop a new drug or think up a clever software program, the thinking goes, unless there is the potential for a big payoff? The intended result is that consumers will pay somewhat higher prices for an individual drug or software program but will benefit from all the additional innovation in the economy.

That is the theory. Within the United States, there is criticism that the corporate frenzy to patent any technical advance, even business methods, undermines innovation by unnecessarily restricting the flow of ideas. And just last week, the United States Supreme Court heard a challenge to a 1998 law that extended copyrights in this country by 20 years; the law's opponents contend that the extension inhibits public creativity by making it harder for other people to obtain and build upon existing works. But in general, the theory behind intellectual property rights tends to work in rich nations.

The concern about Trips is that it is too much of a one-size-fits-all approach that works to the detriment of developing nations. "It would be fine if we lived in a world of all rich people," said Jeffrey D. Sachs, a development economist at Columbia University. "The danger with Trips is that it will mostly hurt the developing countries' access to ideas."

The report of the intellectual property rights commission, which was sponsored by the British government, includes a long list of recommendations, some of which would be anathema to American companies:

Encourage developing nations to make greater use of compulsory licensing of drugs.
Allow more "reverse engineering" of software programs - that is, copying a product by studying and making educated assumptions about the underlying code.
Permit "cracking" of software used to protect copyrighted digital media, if the country determines that the copy-protection technology limits the fair use of digital text, video or music.

The commission's report comes amid a growing backlash in developing countries against the imposition of a strong global system of intellectual property rights. The lightning-rod issue has been the AIDS epidemic, and the resulting confrontation between developing nations and the pharmaceutical industry.

Facing a public outcry and the threat of compulsory licensing in countries like South Africa, Brazil and India, the pharmaceutical companies began cutting prices by 80 percent or more on drugs for use in treating AIDS-related ailments in developing nations two years ago.

The World Trade Organization, at its meeting last November in Doha, Qatar, issued a declaration that public health matters must be weighed equally with intellectual property rights. As part of the Doha declaration, the trade organization allowed the world's least developed nations, mostly in Africa, to exempt pharmaceuticals from patent protection until 2016. (The intellectual property rights commission recommends that exemption for the poorest nations be extended to all fields of technology.)

Whether the AIDS episode was a single, isolated case or a sign of a changing relationship between the developing counties and the pharmaceutical industry is uncertain. But emboldened developing countries could invoke the public health argument for diseases like heart disease and diabetes - and the increasing sophistication of generic drug makers in India and China could give them alternate sources of supply.

"H.I.V.-AIDS is what made everybody think about this," said Dr. Jim Yong Kim, a professor at the Harvard Medical School and an expert on health projects in poor countries. "But I think access to medicine will be on the table much more broadly in the developing world."

The pharmaceutical makers insist that they responded quickly to the AIDS crisis, working cooperatively with the United Nations and other international agencies. But the industry says focusing on low-cost drugs alone ignores the more significant chronic hurdles to treating diseases of all kinds in developing nations - lack of public health infrastructure, education, financing and political will. There are 35,000 people in Africa being treated under the international program begun two years ago, while an estimated 30 million people have H.I.V. in Africa.

"There is plenty of supply," said Harvey E. Bale Jr., director general of the International Federation of Pharmaceutical Manufacturers Associations in Geneva. "Access is not the issue."

Those who defend the Trips global standards for intellectual property protection say that a strong patent system not only fuels innovation but provides the best way for developing nations to attract investment and encourage a rapid transfer of technology. China, for example, has steadily given foreign companies a greater measure of protection for intellectual property and last year signed on to Trips, when the nation joined the World Trade Organization.

"There is no doubt that has played an important role in attracting R. & D. investment in China," said Brad Smith, the general counsel of Microsoft. In June, Microsoft announced that it would spend $700 million over the next three years in China in education, training and research, and in investments in local companies.

In the end, the debate over intellectual property rights, like the controversy over I.M.F. policies in developing nations, may be more a dispute about speed than direction. Free trade, open financial markets and intellectual property rights are economic goals worth pursuing. But that is not to say that the preferred path is necessarily the straight line of ideological purity.

Trips, as it stands, reflects "a mentality borne of the American triumphalism of the 1990's," said Mr. Sachs of Columbia. "There is a widespread sense that that approach to development policy has to be recalibrated."

Case Study II-C

Published on Sunday, July 20, 2003 by the New York Times
The Rigged Trade Game

Put simply, the Philippines got taken. A charter member of the World Trade Organization in 1995, the former American colony dutifully embraced globalization's free-market gospel over the last decade, opening its economy to foreign trade and investment. Despite widespread worries about their ability to compete, Filipinos bought the theory that their farmers' lack of good transportation and high technology would be balanced out by their cheap labor. The government predicted that access to world markets would create a net gain of a half-million farming jobs a year, and improve the country's trade balance.

It didn't happen. Small-scale farmers across the Philippine archipelago have discovered that their competitors in places like the United States or Europe do not simply have better seeds, fertilizers and equipment. Their products are also often protected by high tariffs, or underwritten by massive farm subsidies that make them artificially cheap. No matter how small a wage Filipino workers are willing to accept, they cannot compete with agribusinesses afloat on billions of dollars in government welfare. "Farmers in the United States get help every step of the way," says Rudivico Mamac, a very typical, and very poor, Filipino sharecropper, whose 12-year-old son is embarrassed that his family cannot afford to buy him a ballpoint pen or notebooks for school.

The same sad story repeats itself around the globe, as poor countries trying to pull themselves into the world market come up against the richest nations' insistence on stacking the deck for their own farmers. President Bush deserves credit for traveling to Africa and trying to focus attention on that continent's plight. But meanwhile, struggling African cotton farmers are forced to compete with products from affluent American agribusinesses whose rock-bottom prices are made possible by as much as $3 billion in annual subsidies. Sugar producers in Africa are stymied by the European Union's insistence on subsidizing beet sugar production as part of a wasteful farming-welfare program that gobbles up half its budget.

Instead of making any gains, the Philippines has lost hundreds of thousands of farming jobs since joining the W.T.O. Its modest agricultural trade surpluses of the early 1990's have turned into deficits. Filipinos, who like referring to their history as a Spanish and American colony as "three centuries in the convent followed by fifty years in Hollywood," increasingly view the much-promoted globalization as a new imperialism. Despair in the countryside feeds a number of potent anti-government insurgencies. Leaders who hitched their political fortunes to faith in the free market have grown bitter.

They include Fidel Ramos, who was Washington's staunch ally when he managed the Philippines' economic opening as president in the mid-1990's. Now, Mr. Ramos blames rich nations' unfair trade practices — especially their "hidden farm subsidies and other tricks" — for much of the suffering in the countryside. Given how long the world's economic powers have been trying to persuade the rest of the world to embrace a more open global economy, Mr. Ramos said in an interview, he was taken aback by their unwillingness to level the competitive playing field. "Poor countries cannot afford to be on the short end of this deal for long," he said. "People are in real need. People are dying."

Mr. Ramos's plea could have emanated from any number of countries in the developing world, home to 96 percent of the world's farmers. It is a plea that needs to be heeded, before it is too late.

The United States, Europe and Japan funnel nearly a billion dollars a day to their farmers in taxpayer subsidies. These farmers say they will not be able to stay in business if they are left at the mercy of wildly fluctuating prices and are forced to compete against people in places like the Philippines, who are happy to work in the fields for a dollar a day. So the federal government writes out checks to Iowa corn farmers to supplement their income, and at times insures them against all sorts of risks assumed by any other business. This allows American companies to then profitably dump grain on international markets for a fraction of what it cost to grow, courtesy of the taxpayer, often at a price less than the break-even point for the impoverished third-world farmers. If all else fails, wealthy nations simply throw up trade barriers to lock out foreign commodities.

The system is sold to the American taxpayer as a way of preserving the iconic family farm, which does face tough times and deserves plenty of empathy, but it in fact helps corporate agribusiness interests the most.

By rigging the global trade game against farmers in developing nations, Europe, the United States and Japan are essentially kicking aside the development ladder for some of the world's most desperate people. This is morally depraved. By our actions, we are harvesting poverty around the world.

Hypocrisy compounds the outrage. The United States and Europe have mastered the art of forcing open poor nations' economies to imported industrial goods and services. But they are slow to reciprocate when it comes to farming, where poorer nations can often manage, in a fair game, to compete. Globalization, it turns out, can be a one-way street.

The glaring credibility gap dividing the developed world's free-trade talk from its market-distorting actions on agriculture cannot be allowed to continue. While nearly one billion people struggle to live on $1 a day, European Union cows net an average of $2 apiece in government subsidies. Japan, a country that prospered like no other by virtue of its ability to gain access to foreign markets for its televisions and cars, retains astronomical rice tariffs. The developed world's $320 billion in farm subsidies last year dwarfed its $50 billion in development assistance. President Bush's pledge to increase foreign aid was followed by his signing of a farm bill providing $180 billion in support to American farmers over the next decade.

A fair shot, more than charity, is what poor nations need. According to International Monetary Fund estimates, a repeal of all rich-country trade barriers and subsidies to agriculture would improve global welfare by about $120 billion. An uptick of only 1 percent in Africa's share of world exports would amount to $70 billion a year, some five times the amount provided to the region in aid and debt relief.

The rigged game is sowing ever-greater resentment toward the United States, the principal architect of the global economic order. In the aftermath of 9/11, Americans have desperately been trying to win the hearts and minds of poor residents of the Muslim world. Somehow, we expect other nations to take our claims to stand for democracy and freedom more seriously than they must take our insincere free-trade rhetoric.

The beleaguered Philippine island of Mindanao is crawling with Communist and Islamic fundamentalist guerrillas, and links between Al Qaeda and the local insurgents have made the island a battlefield in President Bush's war on terrorism. There is talk of sending in American troops. But to farmers on Mindanao, home to more than two-thirds of the Philippines' corn production, subsidized American imports loom as large as any other threat. Since the Philippines joined the W.T.O. eight years ago, American corn growers have received an astonishing $34.5 billion in taxpayer support, according to an analysis of government data by the Washington-based Environmental Working Group. This helps explain how America is able to export — the less polite word in the patois of trade would be dump — corn at only two-thirds its cost of production.

The resentment is intense. "The common view here is that the United States, our former colonial master, is a destructive force," said Lito Lao, the chairman of the Alliance of Farmers group in the Mindanao province of Davao Oriental. Farmers' despair, he adds, fuels the Marxist New People's Army insurgency.

The global economy is supposed to change the world for people like Rudi and Nelly Mamac, who live with their seven children in a two-room shack on the edge of a massive plantation in Davao Oriental. The Mamacs are lucky if they clear the equivalent of $1 a day. Mr. Mamac, the sharecropper, was ready to imagine the better future promised by the great global trade game. He wishes he could afford a television and, when drawing a blank upon being asked about life beyond his corn-and-coconut-filled existence, he will wave vaguely, somewhat apologetically, toward the corner of their living space where they imagine the tube should stand.

But none of their dreams are happening. Arnel Mamac, 12, already skips plenty of school days, when his family cannot afford to buy rice. His parents don't want him making the two-mile trek on an empty stomach. One thing the Mamacs seem to realize, even without the benefit of a TV, is that the global economy they are forced to compete in is no level playing field. "It's very unfair that the American government takes so much care of its farmers while abusing those in the third world," Mr. Mamac says.

The United States and its wealthy allies will not eradicate poverty — or defeat terrorism, for that matter — by conspiring to deprive the world's poor farmers of even the most modest opportunities. And the threat of a devastating antiglobalization backlash set off by a widespread resentment of "northern" trade practices is enormous. Acknowledging the imminent crisis, W.T.O. negotiators labeled the current round of trade liberalization talks, begun in Doha, Qatar, in late 2001, the "development round." Any success depends on a commitment by the United States, Europe and Japan to reduce barriers to agricultural imports by 2005, and to cut subsidies. But several deadlines have already been missed. The European Union and Japan are particularly reluctant to make the painful reforms needed to make trade a meaningful two-way street, and the Bush administration has little credibility to prod them along, given its own outrageous farm subsidies. So a crucial September meeting of the W.T.O. in Cancún threatens to be a reprise of its Seattle meeting in 1999, when the last round of trade-liberalization talks stalled, and protesters outside famously threw their anti-globalization fest.

Back on Mindanao, it's a shame Rudivico Mamac cannot have his TV set to watch all those trade delegates gather in picturesque Cancún come September. After all, what they really will be discussing, notwithstanding all the mind-numbing trade jargon, is whether a global economy has room for the world's poorest farmers.

Case Study II-D

Hannah Wolfson, Associated Press, Los Angeles Times, September 8, 2002, Part 1, Page 1.

In May, 2002, workers in a county garbage sorting center in Storm Lake, a small town in Iowa made a gruesome discovery: the body of a newborn boy, which had been dismembered by the sorting machines. The body was so damaged that identification of the body was impossible.

Police officials reasoned that the child had been abandoned in a dumpster at birth, probably by the mother. Unable to determine the baby's identity, the police decided to see if there were any women who had been pregnant and now were not pregnant but did not have a baby. The first step in this process was to identify all the women who have been pregnant at the appropriate time in this same town of 10,000 residents. Police subpoenaed the records of Planned Parenthood to obtain the names of women who had received positive results on pregnancy tests in the previous nine months.

Planned Parenthood refused to comply with the subpoena, arguing that a woman's decision about her pregnancy is among the most private of matters. Those who came to Planned Parenthood to determine whether they were pregnant ought to not be subjected, nine months later, to police officers knocking on their doors and asking details about the outcome of their pregnancy. They also point out that there is no guarantee that the woman even got a pregnancy test or that she was a local resident, so the search of the records could turn out to be futile.

Case Study II-E

Country X, located in Latin America, has recently adopted a policy of strictly limiting the collection of biological specimens, both plant and animal, within its borders. Under the new regulations individual scientists and companies must apply for permits that, in one case, cost $600,000, and can take more than three years to obtain. Formerly Country X had no policy in regard to collection of biological specimens for research by foreign scientists. During the 1950's and 1960's a major American drug company developed two drugs that turned out to be effective for treating certain types of cancer from plants found in the jungles of Country X. Country X did not share at all in the Company's profit.

John R, a scientist with the National Institute of Health in Washington, DC, believes that experimentation with another native plant of Country X could lead to a significant breakthrough in regard to treatment of other kinds of cancers. He has been waiting for Country X to process his permit application for two and a half years now, and fears the plant may become extinct by the time he obtains permission to collect it.

Other nations, which, like Country X, historically did not restrain the collecting of biological specimens within their borders, have begun to impose such restrictions. One driving factor in this regard is the perception of many nations that genetic engineering has significantly increased the potential for commercial use of genes. For example, researchers at the University of Wisconsin have isolated a substance 2,000 times sweeter than sugar from a West African berry. If a table sweetener is developed from this substance it would be produced, in all likelihood, in genetically modified bacteria, which would eliminate the need to use the berry. Another driving factor in the new restrictive policies of several nations is the patenting of genetically modified plants and animals in the United States, which has been allowed since 1980 under a major decision of the U.S. Supreme Court. Some nations take the stance that if, for example, a company genetically engineers a seed taken from a farmer's field, patents the engineered seed, and makes a profit, then, in all fairness, the company should pay substantially for the original seed.

Many scientists agree with the preceding point of view in principle, but complain that existing rules are much too restrictive. One study, conducted by researchers at Columbia University, concluded that in the Philippines, since that nation enacted its permit regulations in 1995, only two permits have been granted out of thirty seven applications. Drug companies contend that some nations overestimate the value of raw genetic resources. They note, in this regard, that in developing a drug a company may have to invest $500 million dollars over fifteen years.

At the Earth Summit in Rio De Janiero in 1992, a convention on bio-diversity was developed which states that nations have sovereignty over their genetic resources, and are entitled to "fair and equitable sharing of their benefits." The Clinton Administration supports the bio-diversity convention, but the U.S. Senate has never ratified it.

Case Study II-F

ACLU Asks Kansas Court to Overturn 17-Year Prison Sentence of Bisexual Teenager
August 11, 2003

TOPEKA, KS - Arguing that excluding gay teenagers from the Kansas "Romeo and Juliet" law is unconstitutional after the recent Supreme Court decision striking down sodomy laws, the American Civil Liberties Union today asked a state appeals court to free a bisexual teenager who is serving 17 years in prison for having oral sex with another young man.

Matthew Limon is appealing a 17-year prison sentence he received because shortly after he turned 18 he performed consensual oral sex on another teenager at a residential school for developmentally disabled youth where they both lived in Miami County, Kansas. If he had instead performed oral sex on a female of the same age, he would have received no more than 15 months in jail under the Kansas law. But because the "Romeo and Juliet" law applies only to heterosexuals, Limon was convicted under the much harsher state sodomy law.

"The Supreme Court clearly felt, as we do, that a great injustice has been done to Matthew Limon," said Dick Kurtenbach, Executive Director of the ACLU of Kansas and Western Missouri. "Laws that punish lesbian, gay, and bisexual people far more harshly than heterosexuals for the same thing are simply discriminatory and wrong, and we hope that the Court of Appeals will agree."

Limon is serving 17 years in prison, instead of the 13 to 15 months he would have faced if he were heterosexual. The Kansas law makes sexual relations with a minor a lesser crime if both people are teens, but it only applies to opposite-sex relations. In June, the U.S. Supreme Court vacated Limon s conviction and instructed the Kansas Court of Appeals to give it further consideration in light of the historic ruling on sexual intimacy in Lawrence v. Texas. The "Romeo and Juliet" law is similar to the Texas sodomy law because it treats the sexual conduct of lesbian and gay people differently.

"The Kansas court justified Matthew s conviction on the basis that the Supreme Court had upheld anti-gay sodomy laws in its 1986 Bowers v. Hardwick ruling," said Tamara Lange, Limon s attorney from the ACLU s Lesbian and Gay Rights Project. "Now that Bowers has been overturned, the Kansas Court of Appeals should recognize that this young man should not spend more time in prison just because he s bisexual."

Under the Kansas law, consensual oral sex between two teens is a lesser crime if the younger teenager is 14 to 16 years old, if the older teenager is under 19, if the age difference is less than four years, if there are no third parties involved, and if the two teenagers "are members of the opposite sex."

Follow-up on story

Court: laws treating gay and straight teen sex should be equal
Kansas high court rejects harsher treatment of illegal gay sex

Friday, October 21, 2005; Posted: 9:55 p.m. EDT (01:55 GMT)

TOPEKA, Kansas (AP) -- The Kansas Supreme Court on Friday unanimously struck down a state law that punished underage sex more severely if it involved homosexual acts.

The court said "moral disapproval" of such conduct is not enough to justify the different treatment.

In a case closely watched by national groups on all sides of the gay rights debate, the high court said the law "suggests animus toward teenagers who engage in homosexual sex."

Gay rights groups praised the ruling, while conservatives bitterly complained that the court intruded on the Legislature's authority to make the laws.

The case involved an 18-year-old man, Matthew R. Limon, who was found guilty in 2000 of performing a sex act on a 14-year-old boy and was sentenced to 17 years in prison. Had one of them been a girl, state law would have dictated a maximum sentence of 15 months.

The high court ordered that Limon be resentenced as if the law treated illegal gay sex and illegal straight sex the same. He has already served more than five years.

Limon's lawyer, James Esseks of the American Civil Liberties Union's Lesbian and Gay Rights Project, said: "We are very happy that Matthew will soon be getting out of prison. We are sorry there is no way to make up for the extra four years he spent in prison simply because he is gay."

Kansas Attorney General Phill Kline said in a statement that he does not plan to appeal.

Landmark Texas decision cited
A lower court had ruled that the state could justify the harsher punishment as a way of protecting children's traditional development, fighting disease or strengthening traditional values. But the Supreme Court said the law was too broad to meet those goals.

"The statute inflicts immediate, continuing and real injuries that outrun and belie any legitimate justification that may be claimed for it," Justice Marla Luckert wrote for the court. "Moral disapproval of a group cannot be a legitimate state interest."

The Kansas court also cited the landmark 2003 U.S. Supreme Court decision that struck down a Texas law against gay sodomy.

Limon and the other boy, identified only as M.A.R., lived at a group home for the developmentally disabled. Limon's attorneys described their relationship as consensual and suggested that they were adolescents experimenting with sex.

Kline's office described Limon as a predator with two previous such offenses on his record. Kline contended that such a behavior pattern warranted a tough sentence and that courts should leave sentencing policy to the Legislature.

Kansas law prohibits any sexual activity involving a person under 16.

However, the state's 1999 "Romeo and Juliet" law specifies short prison sentences or probation for sexual activity when an offender is under 19 and the age difference between participants is less than four years -- but only for opposite-sex encounters.

Matt Foreman, executive director of the National Gay and Lesbian Task Force, said the Texas decision and Friday's ruling "shore up the principle that gay people are entitled to equal protection."

"But no one's quite sure how firm that foundation is," he said.

Mathew Staver, attorney for the conservative Orlando, Florida-based Liberty Counsel, said the different treatment was justified by the state's interest in protecting children and families. He also said the court does not have the right to rewrite the statute.

"That's a legislative function," he said. "This is clearly a sign of an activist court system."

Patricia Logue, a senior counsel for the gay rights organization Lambda Legal, said she hopes the decision will slow efforts in various states to enact legislation targeting gays.

"A lot of the reasoning used here by the state comes up again and again," she said. "What the court is saying is, `If you've got a better reason, you would have told us by now. The ones you've come up with are not good enough, and they amount to not liking gay people.'"

Case Study II-G

$16 Million in Fines Paid by Archer Daniels Midland for Violations of the Competition Act in the Food and Feed Additive Industries

OTTAWA, May 27, 1998 - The Competition Bureau announced today that Archer Daniels Midland Company (ADM), a United States corporation, pleaded guilty to having participated in price-fixing and market sharing conspiracies and will pay fines totalling $16 million.

This is the largest fine ever imposed under the Competition Act.

The offences relate to the participation of the firm in an international conspiracy to fix prices and allocate market shares in the lysine and citric acid markets worldwide. Archer Daniels Midland was fined $9 million for price fixing and $5 million for market sharing in the lysine industry. In the citric acid conspiracy, the company was fined $2 million. The company has also agreed to cooperate with the Bureau in ongoing investigations into these and other food and feed additives.

"The penalty levied today sends a message to business that conspiracy offences will not be tolerated in Canada, nor will Canada be a safe haven for those who would try to exploit Canadian consumers and business," said Konrad von Finckenstein, Q.C., Director of Investigation and Research. "Competition law agencies around the world are increasingly cooperating to combat global cartels. This type of criminal behaviour is unacceptable and perpetrators cannot expect to escape sanction in Canada by carrying out their illegal conduct outside the country."

The charges relate to the period from 1992 to1995 and are the result of an extensive criminal investigation conducted by the Competition Bureau into a scheme designed to inflate prices of lysine and citric acid and divide world markets, including Canada.

In addition, the Federal Court of Canada imposed a prohibition order on the company under the Competition Act to ensure that the company does not repeat these offences.

Lysine is an amino acid feed additive used in hog and poultry feeds worldwide. Annual sales of lysine total $960 million worldwide, with Canadian sales of all producers reaching approximately $89 million over the period of the conspiracy. Archer Daniels Midland sold $48 million worth of lysine during the period.

Citric acid is an ingredient in a variety of consumer products. It is used in the food and beverage industry as a flavour enhancer and preservative to prevent food spoilage and to reduce the risks of food poisoning. It has recently found application in the manufacture of environmentally friendly detergents as a replacement for phosphates. Worldwide sales total some $1.7 billion. Total Canadian sales are estimated at some $104 million during the period in question, with Archer Daniels Midland accounting for $17 million of that amount.It should be noted that the vast majority of citric acid is consumed by Canadians as an ingredient in processed foods and beverages such as tinned vegetables, fruit juices and soft drinks.

As a result of these conspiracies, feed companies and farmers paid millions more to buy lysine. Similarly manufacturers of processed foods, soft drinks and detergents paid millions more for citric acid. These additional costs ultimately caused Canadian consumers to pay more for chicken, pork, soft drinks, processed foods and other products.

Hoffmann-La Roche and BASF Agree to Pay Record
Criminal Fines for Participating in International Vitamin Cartel
Roche Agrees to Pay $500 Million, Highest Criminal Fine Ever
Swiss Executive Agrees to Plead Guilty and Serve U.S. Jail Time

Department of Justice News Release, May 21, 1999
WASHINGTON, D.C. -- A Swiss pharmaceutical giant, F. Hoffmann-La Roche Ltd today agreed to plead guilty and pay a record $500 million criminal fine for leading a worldwide conspiracy to raise and fix prices and allocate market shares for certain vitamins sold in the United States and elsewhere, the Department of Justice announced. A German firm, BASF Aktiengesellschaft, also will plead guilty and pay a $225 million fine for its role in the same antitrust conspiracy, the Department said.

In separate one-count criminal cases filed today in U.S. District Court in Dallas, the Department of Justice charged the corporations with conspiring to fix, raise, and maintain prices, and allocate the sales volumes of vitamins sold by them and other unnamed co-conspirator companies in the U.S. and elsewhere. The cases also allege that the companies allocated contracts for vitamin premixes for customers throughout the U.S. and rigged the bids for those contracts.

The conspiracy lasted from January 1990 into February 1999 and affected the vitamins most commonly used as nutritional supplements or to enrich human food and animal feed -- vitamins A, B2, B5, C, E, and Beta Carotene. Vitamin premixes, which are used to enrich breakfast cereals and numerous other processed foods were also affected by the conspiracy, the Department said.

"These prosecutions demonstrate that we will not allow international cartels to prey on American consumers in our globalized economy," said Attorney General Janet Reno. "Those currently engaged in or contemplating similar conduct should take note of the high cost of getting caught ñ $500 million is not only a record fine in an antitrust case, but it is the largest fine the Justice Department has ever obtained in any criminal case."

The Department today also charged Dr. Kuno Sommer, former Director of Worldwide Marketing, Hoffmann-La Roche Vitamins and Fine Chemicals Division, with participating in the vitamin cartel and for lying to Department investigators in 1997 in an attempt to cover-up the conspiracy. Dr. Sommer, a Swiss citizen, has agreed to submit to the jurisdiction of the U.S. District Court in Dallas, plead guilty to both charges, serve a four-month prison term, and pay a $100,000 fine.

"This conspiracy has affected more than five billion dollars of commerce in products found in every American household," said Joel I. Klein, Assistant Attorney General in charge of the Department's Antitrust Division. "During the life of the conspiracy, virtually every American consumer paid artificially inflated prices for vitamins and vitamin enriched foods in order to feed the greed of these defendants and their co-conspirators who reaped hundreds of millions of dollars in additional revenues."

Including today's cases, there have been nine prosecutions in the ongoing investigation of the worldwide vitamin industry and the latest in a series of international conspiracy cases filed by the Department's Antitrust Division in the last several years. Hoffmann-La Roche, BASF, and Sommer are cooperating with the investigation.

The Department also confirmed the announcement by Rhone-Poulenc, SA, the French Pharmaceutical Company, that it has been cooperating with the investigation under the Antitrust Division's Corporate Leniency Program. Under the Leniency Program, a company may qualify for protection from criminal prosecution if it voluntarily reports its involvement in a crime and satisfies certain other criteria.

"The cooperation of Rhone Poulenc, together with information being provided by others, led directly to the charges filed today and the decision of the defendants not to contest the charges and to cooperate with our investigation," said Gary R. Spratling, the Antitrust Division's Deputy Assistant Attorney General for criminal enforcement. "Rhone Poulenc conspired with Hoffmann-La Roche and BASF, but the information provided by Rhone Poulenc was what the Division needed to crack the largest antitrust conspiracy uncovered to date." Spratling also said that once Hoffmann-La Rouche and BASF decided to step forward and accept responsibility for their actions, they each provided a level of cooperation nothing less than exemplary.

According to the charges, Hoffmann-La Roche and BASF agreed with the world's other major vitamin manufacturers to suppress and eliminate competition in the U.S. and elsewhere. The criminal cases charge that Hoffmann-La Roche, BASF, and Sommer, with unnamed co- conspirators:

Agreed to fix and raise prices on Vitamins A, B2, B5, C, E, Beta Carotene and vitamin premixes;
Agreed to allocate the volume of sales and market shares of such vitamins;
Agreed to divide contracts to supply vitamin premixes to customers in the U.S. by rigging the bids for those contracts; and
Participated in meetings and conversations to monitor and enforce adherence to the agreed-upon prices and market shares.
The two-count criminal case against Sommer charges him with participating in the same vitamin conspiracy and lying to the Department of Justice by providing false, fictitious and fraudulent information to investigators when he was questioned about the vitamin conspiracy.

Klein said, "The prosecution of Dr. Sommer should send the message that foreign borders will not serve as a sanctuary from prosecution for individuals who conspire to steal from U.S. businesses and consumers. Those who lie, obstruct, and attempt to cover-up the truth in our investigations will be prosecuted and punished for those crimes as well."

The defendants in all three cases are charged with violating Section One of the Sherman Act, which carries a maximum fine of $10 million for corporations, and a maximum penalty of three years imprisonment and a $350,000 fine for individuals.

Sommer was also charged with providing false statements to a government official, a violation of 18 U.S.C. ß 1001, which carries a maximum penalty of five years imprisonment and a $250,000 fine.

The maximum fine for both corporations and individuals may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

At sentencing, the court will determine the appropriate sentence to be imposed under the U.S. Sentencing Guidelines and whether to accept the plea agreements and impose the agreed- upon sentences. The dollars received from this fine will be deposited into the Crime Victims Fund, which is used to provide financial compensation and direct services to victims of crime and training and technical assistance for victim advocates, criminal justice professionals, and allied professionals across the country. The fund is supported by fines paid by federal criminal offenders, not taxpayers, and is administered by the Office for Victims of Crime (OVC).

The three cases are the result of an investigation conducted by the Antitrust Division's Dallas Field Office and the Federal Bureau of Investigation in Dallas.

Case Study II-H

SEC alleges nationwide stock fraud scheme
By Associated Press
Wednesday, August 11, 2004

STAMFORD, Conn. - The U.S. Securities and Exchange Commission filed a civil lawsuit Wednesday alleging a nationwide scheme to manipulate and inflate the stock price of a small technology company in Fairfield.

The SEC is suing the company, Competitive Technologies, Inc., its former chief executive, Frank McPike, and six brokers who worked around the country, some at major brokerage firms. The lawsuit, filed in U.S. District Court in Hartford, alleges that the prolonged scheme resulted in CTT's stock trading at far above its true value. Unsuspecting investors bought the stock at inflated prices of over $20 per share at its peak before it fell to $3 per share after the manipulation stopped when the investigation came to light, the SEC alleges.

The scheme, which resulted in substantial losses to investors, was designed to enrich the defendants, who had large holdings in the company, according to the lawsuit.

``A compelling characteristic of this case is that it involved brokers operating in a coordinated effort on a national scale,'' said Martin Healey, assistant district administrator at the SEC. ``The significance of the case is that it goes to the very core of the integrity of the markets.''

The SEC is seeking civil penalties, injunctive relief and an order permanently barring McPike from serving as an officer or director of a public company. Healey would not comment on whether there is a criminal investigation as well, while the defendants said they were not aware of a criminal probe.

``The company is now reviewing the filing to determine its response options,'' said Johnnie Johnson, a spokesman for CTT.

A telephone message seeking comment was left Wednesday for McPike at his home.

CTT, which began operating in the early 1980s, went public within 10 years and began acquiring the right to market technologies that appeared poised for large profits, such as a a test for cardiovascular disease. But the company, which has 17 employees and about $6 million in revenue, did not achieve the spectacular growth anticipated, according to the lawsuit.

The alleged fraud, which took place from at least 1998 through 2001, involved several manipulative practices, according to the SEC. On almost every trading day, the defendants ``painted the tape'' - a practice that involved making multiple small purchases at arranged times to increase stock prices and give the misleading appearance of investor interest in the stock, according to the lawsuit.

The defendants also placed numerous orders at or near the close of the market to inflate the reported closing price and made prearranged matched trades to offset sales of the stock with buys at the same price, according to the SEC. The defendants allegedly placed hundreds of purchase orders in both their own accounts and their customers' accounts, raising the closing stock price on most days, and used the company's own stock purchase plan to offset selling pressure.

``Anyone who purchased the stock during that three-year period potentially was victimized by the conduct,'' Healey said. ``There was significant trading over that three-year period.''

The lawsuit alleges violations of the Securities Act. Chauncey Steele, who was accused of orchestrating the scheme while working as a broker with Prudential Securities, was also accused of violating the Securities

Exchange Act by falsifying order tickets to indicate his customers had bought the stock when he had solicited the purchases.

``We're cooperating with the SEC,'' said Jim Gorman, spokesman for Prudential Financial. He declined further comment.

Steele, who resigned in 2001, traded so extensively in the company's stock that Prudential prohibited him from soliciting further purchases, according to the lawsuit.

Thomas Kocherhans, one of the brokers named in the lawsuit, rejected the allegations. He said the stock rose and fell because of the stock market bubble, not fraud.

``It's a ridiculous claim,'' Kocherhans said. ``I lost my lifetime savings in this stock. ``This stock has been a nightmare to me. The SEC has been harassing me for 10 years.''

Others named in the suit were Richard Kwak, a broker at Morgan Stanley Dean Witter; John Glushko, a broker at Finance 500, Stephen Wilson, a broker at Shamrock Partners, and Sheldon Strauss, who worked for various brokerages.

Telephone messages also were left for other brokers named in the lawsuit. Andrea Slattery, spokeswoman for Morgan Stanley, was not immediately available for comment.

Shares of CTT dropped 11 cents, or 2.74 percent, to $3.90 Wednesday on the American Stock Exchange.

Case Study II-I

Enron scandal: The real crime
By Leslie Feinberg

Virtually the entire capitalist political and economic establishment are decrying the captains of Enron as pirates and are ready to throw them overboard. The problem is, the ship has already sunk.

Enron was more of an ocean liner, actually. Just a month before the Houston-based energy colossus took on water like the Titanic and filed for Chapter 11 bankruptcy protection on Dec. 2, it ranked seventh on the Fortune 500 list. The transnational corporation marketed electricity and natural gas, delivered energy and other physical commodities, and--ironically--supplied financial and risk management services to customers around the world.

Since its founding in 1985, Enron's holdings had become a worldwide network, including 25,000 miles of natural gas pipeline in the United States and 8,000 miles more in South America, water treatment plants in Britain, power plants in Italy, Poland, Turkey, Guatemala, Nicaragua, Puerto Rico and the Philippines, a 65-percent stake in a giant power plant in India and much more.

The 40-story new glass skyscraper housing company headquarters towered over Houston. In 1999, Enron agreed to spend $100 million over three decades to put its name on the city's major league ballpark.

But after the company went under, it would have taken more than 15 shares of its stock to buy one hot dog at Enron Field.

Now Enron is infamous for being by far the most enormous bankruptcy this country has yet seen, and its bosses are being denounced far and wide as villains.

Villains they are. Some 4,500 workers are out on the streets. And 11,000 employees watched Enron shares plunge from $90.75 in August 2000 to a close of 26 cents on Nov. 31. Their 401K pension funds--savings from their life's work--were invested in the stock. They saw their retirement funds wiped out.

Company executives refused to let the workers dump the stock as it took a nosedive. But these upper echelons of Enron didn't get hurt in the crash. Company Chair Kenneth Lay gently floated to earth with a golden parachute. He reportedly cashed in $123 million worth of stock options in 2000 and got his hands on another $25 million last year. And only a storm of censure forced Lay to surrender his demand for $60 million in severance pay following Enron's ruin.

Other executives also made out like bandits. Enron handed out more than $100 million in bonuses in November to some 600 top company heads. (CNN.com, Jan. 12)

William Lerach, a lawyer for shareholders suing Enron, charged that 29 top executives and directors of the corporation dumped about $1.1 billion in stock during a period when "they have now admitted they were overstating the reported profits of Enron by $600 million and the stockholder equity of the company by $1.1 billion.

"Let's be direct here," he stressed. "These books were cooked by Lay and the other top executives who put hundreds of millions of dollars in their pockets, while the employees of Enron were victimized and hundreds of other investors lost billions of dollars." (CNN, Jan. 14)

Houston, we have a problem

Now the Enron financial fiasco is really hitting the fan, stirred up by Democrats hoping to create a "Watergate" as a political and investigative undertow against the Bush administration momentum - or at least a "Whitewater."

The particulars certainly are odiferous. A congressional subcommittee released a letter written by Sherron Watkins to Lay last August. Watkins was an Enron vice-president for corporate development.

In the correspondence she warned about the vulnerability of Enron to auditing exposure, in particular regarding three off-the-books subsidiaries reportedly used as fronts to pump up profits that may have enriched Enron executives while camouflaging the parent company's losses. "I am incredibly nervous that we will implode in a wave of accounting scandals," she purportedly wrote.

Now, in retrospect, Watkins is being widely hailed as an icon of business ethics. It's hard to think of those two words connected to each other. Just how much morality is involved in the cutthroat culture of big business is revealed by the widening scope of the Enron scandal.

The Arthur Andersen firm- one of the Big Five monopoly accounting giants - is taking so much flak that it was forced on Jan. 15 to fire its partner in charge of the Enron audit. The partner, David Duncan, had ordered auditors to shred Enron's electronic and paper accounting documents on Oct. 23, the day after the energy corporation disclosed that the Securities and Exchange Commission had begun an inquiry. This bombshell information, now headlines in all the media, was revealed in the Jan. 13 issue of Time magazine.

The move to fire Duncan, notes the Jan. 16 Wall Street Journal, "was seen as an effort by Andersen to isolate the Enron affair to its Houston office and shield itself from more serious charges. New evidence emerged that Anderson's Chicago headquarters knew details about controversial Enron financial arrangements that contributed to the energy company's downfall."

The order to hurriedly wipe out the email and paper trail was issued just four days before Enron made its first public disclosure about its financial problems, a staggering $618 million loss for last year's third quarter.

Thousands of e-mails and other electronic and paper trails reportedly vanished, lost to investigators and former employees hoping to sue to recover part of their lost retirement savings. There are currently some 47 class actions against Enron, its executives and directors filed by shareholders and employees.

Sherron Watkins, by the way - like many other Enron executives, including its treasurer and general counsel - came to Enron after working at Arthur Anderson. (New York Times, Jan. 16)

The law firm of Vinson & Elkins is also being hit with shrapnel in the blowup surrounding its client Enron. The prestigious law firm, with an army of 860 attorneys and nine offices worldwide, ranks as one of the 25 largest in the United States.

Vinson & Elkins, says the Jan. 16 New York Times, "is often described much like its client: hugely powerful, international in scope and rich with connections from the statehouse to the White House." The firm showed great generosity in its contributions to the 2000 Bush run for the Oval Office: almost half its 341 partners doled out for W. (Wall Street Journal, Jan. 16).

Enron reportedly asked the firm to look into the issues Watkins raised in her letter to Lay. In a nine-page response dated Oct. 15, Vinson & Elkins attorneys concluded that Enron's efforts to keep debt off its books was "creative and aggressive," but that the energy conglomerate had done nothing wrong. But within weeks, Enron had to divulge that improper accounting - much of it revolving around its secret partnerships - had resulted in overstating its earnings by almost $600 million over five years. (New York Times, Jan. 16)

All these exposures are being generated directly or indirectly by six Senate committees, two House committees and the Securities and Exchange Commission - all of which are investigating different facets of the economic disaster--and a criminal inquiry by the Justice Department.

Partisan wrangling and finger pointing is dominating the news. Who knew what, when? The real question is: Is there an impartial one in the bunch?

The best politicians money can buy

Enron gave lavishly to candidates on the hustings. And one good turn deserves another.

The energy trading transnational prospered from deregulation of the energy industry when George Bush was governor of Texas. In turn, Ken Lay and his corporation gave $2 million to Bush's campaigns for governor and president. Lay even lent Bush his corporate jet. (CNN, Dec. 12)

After his 2000 election, Bush made Lay, then CEO of Enron, his chief energy advisor. With the foxes in charge of the chicken coop, in the winter of 2000-2001 Enron and other energy traders took advantage of recent electricity deregulation in California and forced prices up more than 1,000 percent.

Bush's top economic advisor Lawrence Lindsey was an Enron consultant. Chief White House political advisor Karl Rove owned between $100,000 and $250,000 in Enron stock. And until he was named Republican National Chair last December, Marc Racicot was Enron's Washington lobbyist.

Two of Enron's lobbyists were influential members of the informal kitchen cabinet of Tom DeLay, the majority whip leader of the House Republicans. Wendy Gramm, wife of Sen. Phil Gramm, R-Texas, was a member of Enron's board of directors. (CNN, Dec. 12)

Atty. Gen. John Ashcroft, his chief of staff David Ayres and the U.S. attorney's office in Houston had to withdraw publicly from the Justice Department investigation because of "possible conflict of interest." Between 1999 and 2001, Ashcroft's race for office and political committees received $60,999 in hard and soft contributions from 29 Enron executives, Enron Corp., and the company's political action committee, according to the Center for Public Integrity.

The center, which tracks political campaign contributions, said Enron executives and board members chipped in almost $800,000 to Bush, the national political parties and members of Congress between 1999 and 2001. And in the same time frame Enron forked over $1.9 million in soft-money contributions.

So now the fraud inquiry is under the direction of Dep. Atty. Gen. Larry Thompson. Thompson, it seems, was a lawyer at King & Spaulding. Yes, it represented Enron.

And while three quarters of Enron's $5.8 million in political gives since 1990 went to Republicans, the rest enriched the hope chests of the Democrats. (The Independent, Jan. 13) Tom DeLay's spokesperson Stuart Roy describes Enron as "an equal-opportunity political donor and an equal-opportunity employer, as well, hiring lobbyists who were both Republicans and Democrats and giving money to both sides, including a third of House Democrats and half of the Senate Democrats." (New York Times, Jan. 16)

So forgive the incredulous when they express deep scepticism about what the White House and Congress and the Attorney General's office did or did not try to do to help bail out their munificent friends at Enron.

What capitalism is all about

Sen. Joe Lieberman, a Connecticut Democrat who heads the Senate Governmental Affairs Committee investigating Enron, said recently on CBS's Face the Nation that "the death Enron experienced was not a natural death." After denouncing Enron's alleged skullduggery and fraud, he concluded, "This is not capitalism as we want it to be."

Wake up and smell the overpriced cappuccino. Corruption, graft, fraud - these are the fetid waste products capitalism excretes.

Karl Marx identified the source of that foul stench in the third volume of his germinal work titled succinctly "Capital." As if he were writing today, Marx observed that financial corruption is revealed when the financial bubble bursts. But Marx, unlike Lieberman and his associates in the Loop, could also explain why the bubble bursts, emitting such a stink.

Enron did die a natural death - if you can call "natural" the relentless capitalist competition for mega-profits and people be damned. It was the victim of the world crisis of excess that results when galloping production for profit outraces consumption.

In February 2001, President Bush followed the counsel of his energy advisor Kenneth Lay and refused to place any cap on California's skyrocketing electricity prices. But even that massive handout couldn't save Enron. All the king's horses and all the kingmen either didn't or couldn't save this huge transnational from ultimately failing financially.

The glut in the energy market has driven down prices all over the planet. And as the recession has extended its reach from Japan to Argentina--to Houston--demand for energy has fallen, further affecting prices. Enron wasn't the first and it won't be the last to drown in a sea of abundance.

What does it leave in its wake? Lost jobs, unemployed workers, wiped out dreams of comfortable retirement after a lifetime of work, rolling power outages based on greed, tripled home heating and electric bills.

CEOs can be lawless? That's not a news flash. The real crime is the underlying laws of the capitalist economy.

Case Study II-J

Published on Saturday, February 16, 2002 in DAWN (Karachi, Pakistan)
Enron Scandal: The Long, Winding Trail
by Huck Gutman

Who owns the government of the United States? The answer should be simple: the people do. After all, the root of 'democracy' is 'demos,' the Greek for common people. As America's greatest president, Abraham Lincoln, said on a momentous occasion, the nation had a government "of the people, by the people, for the people."

But in the United States today, the answer to that question is not so simple. Money, more than ideas or ideology, determines elections in America. Most of the money in American politics comes from wealthy donors and large corporations, who make large 'contributions' to candidates of both major political parties and to the parties themselves. When these people pay for something, they expect something back. What they get is something called 'access.'

Since the start of Mr George W. Bush's career in politics, the largest donor to his electoral campaigns has been a man named Kenneth Lay. "Kenny Boy" is how Mr Bush often referred to his friend, indicating the warm and intimate relation between the two. Recently, though, Mr Bush does not return Kenny Boy's phone calls. In fact, he would rather not acknowledge that he knows Mr Lay. The reason? The company of which Mr Lay was president, Enron, has just crashed in the largest and most spectacular bankruptcy in American history.

News about the collapse of Enron dominates the American media. It sometimes seems as if Enron is a centipede with a multitude of legs: every day another shoe or two drops, dominating the evening news. Here is a summary of the major events.

Until last summer, Enron was a high-flying corporation, generating cash and new business at every turn. Originally a gas pipeline company, it metamorphosed into the world's largest trader in gas, electricity, water, and all sorts of post-modern commodities such as bandwidth. But when in October Enron was forced to disclose that, well, its bookkeeping had been too creative, its soaring profits were suddenly wiped out by losses and charges it had failed to record properly. Investors began to have second thoughts about Enron, whose stock, having reached a high of 98 dollars a share, plummeted.

Suddenly Enron found itself in a huge credit crunch, and the corporation imploded. It turned out that many Enron executives had sold tens of millions of dollars of their stock while the public went on buying shares in the company, assured by these same executives that all was well. Worse, Enron executives had authorized a change in the company's pension plan that froze workers' retirement funds in Enron stock as the price nose-dived. While executives sold their stock, the workers woke up to find that their pension plan was worthless.

Enron's accounting firm, Arthur Anderson Inc., had difficulty explaining how it gave a clean bill of health to a company that later revealed it had all sorts of hidden losses. In a stunning development, it was revealed that after the civil investigation of the accounting process was announced, Anderson had shredded documents and erased computer files about the accounting at Enron.

Meanwhile, Mrs Wendy Gramm, the woman who, as a former chief government regulator of the energy business, deregulated electrical power so that Enron could speculate in electricity, turned out to have joined the corporate board of Enron shortly after she resigned her government position. Her husband, Mr Phil Gramm, was an enormously influential Republican senator. He received $97,000 in campaign donations from Enron in the past dozen years.
The Republican Party, which had the responsibility in the recent past of passing legislation that would ease

Enron's path into the shady side of business, received $1.2 million in the 2000 election. The Democratic Party, which under President Clinton had supervised the laws and policies that Enron often wanted changed so that it could flourish, received $500,000. Mr Bush received $113,800 from Enron.

It is quite clear that there were three levels of failure in the American system: corporate, fiscal, and political.

The corporate level involves the sudden and spectacular failure of a deeply corrupt Enron. Enron's undoing can partially be attributed to its continued hunger for expansion into new areas. It strove to become the world's largest trading market for every sort of commodity, and it outreached itself. Many of the markets it established did not work. But the greatest contributors to the demise of Enron were its corrupt practices.

Its vaunted cash flow came from spurious accounting. It would sell a subsidiary that was losing money to another company - a shell company which Enron set up, owned and financed. That way, the losses were erased from Enron's balance sheet, and in their place was a 'cash inflow' from the shell company Enron had created. (The balance sheets never indicated that Enron had lent this money to the shell company in the first place, that it was repaying itself and counting the repayment as income.)

Equally corrupt was Enron's practice of booking the entirety of energy transactions as capitalization, rather than the amount of money Enron made from the sale. To understand the magnitude of its dishonesty, consider how outrageous it would be if a bank decided to book every deposit in its keeping as profit, rather than as a fiscal obligation to its depositors.

Why did Enron's management engage in such dishonest and ultimately disastrous practices? Because a certain stratum of American culture is money-mad, and the stock market rewards companies whose revenue seems to grow rapidly. A corporate culture which values results and not ethics created the matrix in which Lay and his confreres could build up an elaborate Ponzi scheme and be admired for doing so.

(It is worth noting that Americans as a whole have significantly different values than the corporate managerial class. Although there are indeed ordinary citizens who want to get rich quick, the huge majority of Americans work enormously hard for their money. Americans, by a significant degree, labour longer hours with less vacation than workers in any other developed nation. They struggle to send their children to college, to pay their medical bills, to care for their aging parents.)

On a second level, the Enron affair is a fiscal failure. How could the accountants not see the fraud and corrupt management, which made Enron a house built of cards? That, after all, is the job of accounting firms: to make sure that management's figures are accurate and trustworthy. But Anderson was making as much money from consulting for Enron as it was for auditing its books, for a total of $52 million in fees last year. So the consultants said, "Here is a tricky way in which you can make your balance sheet look better."

There is now a quiet crisis on Wall Street. If one of the Big Five - the small group of five accounting firms who vet the books of all major American corporations - was so spectacularly obtuse and corrupt about Enron's books, who knows what the true fiscal condition of any corporation might be? If the knowledge on which stock investments are made is hollow, then investors will take their money elsewhere: into commodities, real estate, and government bonds.

There are no direct links - yet - between the contributions and the course of Enron's remarkable rise and equally remarkable fall. What we know is that Enron fed lots of money into the political system, and the political system responded by providing a lot of the things that Enron wanted. Electricity was deregulated, transmission lines reorganized, and supervision eliminated.

When Enron did not like the chairman of the Federal Energy Regulatory Commission (FERC) that supervised much of its business, Mr Lay told him to change his views or he would lose his position. (Shortly after, when his term expired, he was not reappointed.) Thereafter, Mr Lay proposed a short list of members for the FERC to President Bush. Two of his choices for the FERC were appointed after Mr Lay recommended them to Vice-President Dick Cheney; one of them, Mr Pat Wood, is the current chairman of the commission.

Mr Clinton's secretary of commerce, Mr Ron Brown, helped initiate the disastrous Dabhol power project, in which Enron saddled India's Maharashtra state with unneeded electricity and usurious rates. Mr Cheney met secretly with Enron last spring, taking their private recommendations as a major shaping force in the nation's energy policy and acceding to their request that he pressurize India to go forward with Dabhol. The American Congress has just brought suit against the vice-president, a signal event in American history, to compel him to reveal who was at those secret meetings and what was discussed in them.

Without bribery American-style, through political donations, many of the laws and regulations that helped Enron grow from a small natural gas pipeline company to an American behemoth might never have been passed. In 1992, Congress passed and the president signed the Energy Policy Act. That legislation opened electric utility companies' wires to electricity traders such as Enron.

Campaign finance reform, stalled by the Republican House of Representatives and the Republican president, now has a chance of passage in the wake of the Enron fiasco. This reform will go a small way, though not nearly far enough, to get big money out of politics and to return the American government to the hands of the people.

In the interim, what America is undergoing is the largest political scandal in its history, a scandal which holds a mirror up to American society. In that mirror, the nation sees corporations gone berserk, dishonest fiscal procedures, and a government tainted by money and special interests.

The writer is Professor of English at the University of Vermont and a regular columnist.