The Supreme Law of the Land vs. Federal Judges

(This ad is a sequel to the one published in this journal on 12/1/2004)

From pop culture to government, the rest of the world is nowadays copying the US. If the US shows no respect for the law, neither will the rest of the world.

The purpose of this advertising is to show through the example of four law suits:

1- how the **Supreme Law of the Land** has lost its stature,

2- how judicial decisions on international matters can have much positive effect on the outside world,

3- how federal judges shy away from their responsibilities in this respect, and let the government interpret the law as it pleases.

In addition, since many federal judges deliberately tuck their unjustifiable decisions in a non-publishable format to avoid scrutiny, the publication of some of these decisions herein will be a reminder that there is always a free press to expose their misdeeds.[1] The remainder of this article will include tedious discussions on points of law.

The Treaty of Amity as Supreme Law of the Land

The 1955 Treaty of Amity between the United States and Iran was ratified in the wake of the CIA sponsored coup d'état that removed the democratically elected government of Mohammad Mossadegh and placed Iran under the despotic rule of the Shah.[2] Eighteen similar treaties have been ratified with countries as diverse as Italy, Germany, Thailand and Korea. As recognized by courts,[3] the treaty with Iran has certain characteristics that, according to Articles II and IV of the US Constitution, confer to it the status of the Supreme Law of the Land. At the center of this treaty is the *freedom of commerce* between the US and Iran.

In 1987, in a bizarre reaction to the Iran-contra scandal, President Reagan invoked the International **Emergency** Economic Powers Act ("IEEPA"), and imposed sanctions on Iran. Since then, each President has regularly renewed it. We are therefore confronted with an awkward situation in which commerce with Iran is both encouraged and banned by law.

To resolve the conflict between two incompatible statutes, there is a principle in law referred to as "last in time." The idea is that the older statute is probably more or less dormant, and therefore the later one should take precedence. In the case of the Treaty of Amity, however, neither the US, nor Iran, consider it as dormant, since they both constantly refer to it in an ongoing lawsuit at the International Court of Justice at The Hague.[4] The constant reference to the Treaty in The Hague has made it in effect "last in time."

It is perhaps for this reason that in response to a lawsuit that I had instigated against the President (as the one who issued the Sanction Order), the Attorney General chose another tack. It relied on *Beacon Products Corp v. Reagan,* in which Beacon Products sought indeed an injunction against the political process that led to the trade embargo imposed on the Republic of Nicaragua.

Judge Melinda Harmon of the Houston District Court, copied the government's response verbatim, and claimed that my objection raised a *political* question and was therefore "nonjusticiable." In other words, the political decisions of the government could not be questioned in court.

My objection, though, was not about the President's *political* decision **but about the applicability of IEEPA *as a matter of law*.** It was about the time-limit inherent to the IEEPA and the actions and/or inactions of the government that negate the very definition of "state of emergency." *Beacon* had emphasized that: "The President's IEEPA powers may be exercised *only* when a state of national emergency has been declared". In other words, the *state of emergency* is the very basis and the prerequisite of an IEEPA decree. But "emergency" is undefined in the law, and in such a case, the Supreme Court has ruled that: "In the absence of such a definition, [one must] construe a statutory term in accordance with its ordinary or natural meaning."[5]

The ordinary meaning of emergency as defined by the *Oxford Dictionary* is: "a sudden state of danger, conflict, etc requiring immediate action." Immediacy in this definition obviously implies a *short-term* situation, and certainly not one that can linger on for several years.

If no matter what the circumstances are, and how long the state of national emergency is maintained, the sole arbiter for emergency evaluation is the Government, then, Congress has set no limiting condition at all in the IEEPA. *The Government can do as it pleases, because it can always claim that its decisions are political in nature.* This should not be.

By no stretch of imagination **an emergency situation should last 15 years, *especially in view of an existing Treaty of Amity between the US and Iran.*** For, whatever assessment the President had made in regards to the Iranian situation that led him to impose sanctions, it must have led him to terminate the Treaty of Amity as well; because one cannot consider the same person simultaneously as friend and foe, and one must not proclaim freedom of trade on the one hand and restrict it on the other. The Treaty of Amity and the Sanction Order cannot co-exist. Since the President did not terminate the treaty, he cannot logically claim a state of national emergency.

If there was a real state of emergency, the least the President could have done was to terminate the Treaty with a one-year's notice (as stipulated in the Treaty itself). An emergency situation during this one-year period would have been understandable, but not beyond it. If the Treaty has not been terminated, it means that, in effect, there is no emergency.

The non-termination of the Treaty undermines the validity of the declared "state of national emergency" and therefore the basis and the very validity of the Sanction Order. My objection was thus justiciable (i.e. had to be accepted) *as a matter of law*.

Unable to counter the logic of the above arguments, judges HIGGINBOTHAM, SMITH, and CLEMENT of the 5th Circuit stuck an "unpersuasive" label on them and pushed them aside. Federal Judges who cannot articulate a logical reasoning should not sit on the bench.

Sanctity of the written word

One should emphasize that the Treaty not only grants the right of free trade to the governments, but to all of their subjects. The sanctions therefore, deprive both Americans and Iranians of a right conferred by the Supreme Law of the Land.

A point in case is the 600 million dollars deal that Conoco signed with Iran in March of 1985. Washington forced Conoco to cancel this lucrative contract; it eventually landed in the hands of a French company.[6] Because of the Treaty of Amity, Conoco had every right to refuse compliance, and should have.

More than a lost contract, what was at stake was the sanctity of the written word. If a treaty signed by the United States of America is not worth the paper on which it is written, if the Supreme Law of the Land cannot to be trusted, it will induce a state of lawlessness that will not be confined to foreign affairs alone. It will lead to more Enron and Worldcom fiascos as respect for the letter of the law diminishes.

After the rejection of the Appeal panel, the whole rostrum of the 5th Circuit was solicited to review the matter (*en banc*). Not one had the courage to reconsider the matter.

Ineffectiveness of sanctions

As a tool of foreign policy, sanctions have a long history of application: a history that reveals some effectiveness at the threatening stage, but utter failure upon implementation. Two centuries ago, Napoleon miserably failed to economically isolate the British Isles through its Continental Blockade. And in modern days, as numerous studies have demonstrated, US sanctions have been ineffective.[7] The obvious reasons are as follows:

1. Sanctions usually play into the hands of the government that they are meant to weaken, as they create a state of emergency that allows it to impose draconian measures on its subjects and increase control.

2. The flow of goods never stops as other suppliers step in, selling the same goods at a higher price. But instead of the free market, the government controls the flow of goods and uses it as a mean to enrich its own supporters.

3. Meanwhile, helped by government propaganda, the population takes the sanctions as a national affront and closes ranks behind leaders that it would otherwise not support.

4. As a result, corruption increases in the target country, but through a "reverse osmosis effect," sanctions sometimes affect the country that imposes them as well. Indeed, as the stakes are high, intermediaries make lucrative offers to whoever is willing to find a way to circumvent sanctions. People are not all born saints and eventually give in to temptation.

5. As it usually turns out, the real victims of the sanctions are the population of the target country as well as the US companies who loose business and see foreign competitors grab their markets with increased profits.

6. In sharp contrast to sanctions, the open door policy towards China has allowed the expansion of the Chinese private sector at the expense of the government sector and has created an economic boom that has drastically moved China towards greater democracy and rule of law. Two key factors of the Chinese success story argue for the implementation of the same strategy towards Iran. The first is the long tradition of trade and entrepreneurship in China and the second the strong Chinese Diaspora that facilitated contact and communication between mainland and overseas market, especially the United States. The same conditions exist for the Iranian economy in which a strong merchant class has survived throughout the vicissitudes of history and can now be complemented by an active Iranian Diaspora which can facilitate communications with the mother country and help to orient industry and exports towards foreign markets.[8]

These were points that I had raised in my original complaint. They are fully vindicated by what we saw after the invasion of Iraq: of how the sanctions against Iraq had resulted in further enrichment of Sadam Hussein who built himself one gaudy palace after another; and how in the meantime, the population got impoverished. More importantly, as I had predicted (point 4 above), the recent investigations of the "oil for food" scandal clearly show that the sanctions on Iraq resulted in corruption tides that reached the shores of America as well.

The force of AIPAC

As late as 1977 Congress opposed sanctions. In fact, when in reaction to the Arab boycott of Israel, the American Israel Public Affairs Committee ("AIPAC") pressured Congress to impose sanctions, the latter refused, because it saw them as "extraterritorial measures that impermissibly impinge on the sovereignty of other nations".[9]

The question then is: *If the sanctions are not in the interest of the American people, if they go against the Supreme Law of the Land, and if they go against principles that Congress previously held, why has Congress allowed it to continue for so long, and even expanded it*?

Unfortunately the main source of pressure for sanctions against Iran is AIPAC; the same AIPAC which ten decades ago, had argued before the House that the Arab boycott constituted "a harassment and blackmailing of America, an interference with normal business activities ... that the boycott activities were contrary to *the principles of free trade* that the United States has espoused for many years … and the Arab interference in the business relations *of American firms with other countries* is in effect an interference with the sovereignty of the United States." And yet, AIPAC pressured Congress to even provide punishment for *overseas companies* who did business with Iran. Wasn't this an "interference with the sovereignty" of countries like England and Germany who had business relations with Iran?

To be supportive of a close ally such as Israel is one thing, but to compromise one's principle and let one's foreign policy be dictated by it, is another matter. When it suits it, AIPAC can turn 180 degrees on a dime. Shame on Congress that instead of upholding the law and the principles of free trade, it trades the interest of the American people for the diktats of a pressure lobby. And shame on judges who do not uphold the law.

Similar jurisdictional issues

One may think that the federal judges' disregard for the law only arises to protect the Federal Government against intruders like me. Their decisions in regards to three suits that I had brought against the Government of the Islamic Republic of Iran, however, fare no better: they show a systematic lack of respect for the letter of the law, as well as the use of childish tricks and judicial evasion to avoid responsibility.

In suits brought against a sovereign state, whether against Iran or the USA, the main issue is one of jurisdiction, because sovereign states enjoy a formidable amount of immunity from prosecution. Therefore, the first step for any suit against a sovereign state is to find a breach in the immunity barrier, in order to gain jurisdiction in a US court.

In the case of foreign states such as Iran, their immunity is controlled by the Foreign Sovereign Immunity Act ("FSIA") which stipulates several exceptions. Two of these were applicable to my cases. The first is the treaty exception, which in effect honors the provisions of a previously ratified international treaty. The second is a commercial exception: if the event that triggered the lawsuit pertains to a commercial activity, which has a "direct effect" in the USA at the time of occurrence, then the sovereign immunity is lifted.

Case1

In the aftermath of the 1979 Islamic Revolution, the Government of Iran promulgated a nationalization decree that brought many companies under government control and, at the same time confiscated the properties of many industrialist families. My family was among the few whose industries were "officially" nationalized but whose name did not appear amongst the "confiscated" ones. As a result, by the stipulation of the nationalization decree, we were entitled to a "fair" compensation. It took fifteen for the Islamic Republic of Iran to recognize that obligation.

In 1992, the Iranian corporation Sazman-e Gostaresh va Nowsazi-ye Sanaye Iran (SNGI), which had inherited all the "nationalized" companies, proposed a "2/3 swap," i.e., it would give back to each shareholder 2/3 of its previous shares and withhold 1/3 as a revolutionary tax! But at the same time, through an internal memo, it imposed a ban on payment to all members of my family. In 1998 I sued Iran for not honoring its own law, and avoiding the payment of the compensation stipulated therein.

The series of judgments issued for this case (1) and its sequel (2) show an incomprehensible –but systematic– pattern of bad decisions that were each *negated subsequently,* one way or the other:

In 1998, the same Judge Melinda Harmon, chose the easy way out and flatly stated that Iran's action was not "commercial," even though, the Supreme Court had emphasized that the test for commerciality is its very "nature" and not a declared purpose.[10] In our case for instance, the Iranian government took over our company, but kept it as a *public* company, and bought and sold its shares on the Tehran Stock Exchange. The government of Iran was clearly engaged in a commercial activity, and the declared "nationalization" had to be disregarded.

Her decision was vacated by the 5th Circuit (Judges DAVIS, DUHE and BENAVIDES), who in turn argued that there was a state of continuous non-payment to the Soudavars since 1979, and therefore no "direct effect" in the US. While this argument had a certain logic to it, the 5th Circuit's opinion concerning the Treaty of Amity was pure judicial evasion: through a *mistranslation*, it turned SNGI into an organ of government and subject to sovereign immunity, even though it was a full-fledged corporation whose immunity should have been waived by article 11 of the treaty.[11] The 5th Circuit achieved this by attributing to SNGI a wrong translation: "*Department* of Expansion and New Development of Iran," even though for the last forty years, the official English translation of SNGI has been "Industrial Development and Renovation Organization." Interestingly, in its response to this lawsuit, Iran had objected to its Ministry of Industry being named as a defendant: it had argued that the Ministry was a *department* of government and enjoyed immunity. But it did not argue the same for SNGI, because it very well knew that SNGI was a corporation and not a *department* of government.

Case 2

In 1999, Iran offered a new compensation formula for "nationalized" companies, and concurrently, lifted the ban on payment to Soudavar family members. The 1999 offer thus created a new event that *directly* affected the wealth of a legal resident of the US. The compensation formula, though, was ten times less than what Iran had allowed in similar cases for American shareholders. Case 2 was filed to remedy the inadequacy of Iran's new offer.

This time, I changed venues and sued Iran in the District Court of Washington DC. After *a delay of 24 months* for just deciding the jurisdiction issue, Judge Bates, opined that "expropriation and financial loss occurred in Iran when plaintiff lived there and had his property there" and nothing had changed since the last time. In essence he was insinuating that the ban on payment was still there.

This was of course flatly negated by the fact that, in the interim, my son (who was a co-plaintiff in the case 1) had considered the wait too long, and by March of 2002 (i.e. 4 months before the long awaited decision and unbeknown to the court) had opted for, and received compensation.

On appeal to the DC Circuit decision, judges Edwards, Sentelle, and Garland (by evoking *Republic of Argentina v. Weltover)* argued that: "because appellant rejected the offer, and Iran has not assumed any obligation to make payments in the United States" direct effect was not achieved. One wonders whether they were knowingly trying to evade the issue as the 5th Circuit had done, or they were really unable to understand that landmark Supreme Court decision. For, in *Weltover*, the payments in the USA was a necessary condition for two *foreign* firms to claim direct effect *here*. The decision of the Appellate Court in *Weltover* (which the Supreme Court affirmed) had clearly indicated that if the plaintiffs had not been foreign based , "direct effect" would have been a non-issue. In fact, many decisions of the DC Circuit, clearly show that high and low foreign offers that alter the wealth of a US resident have a direct effect here.

Case 2 and the Treaty of Amity

No matter how bad the decision of the 5th Circuit had been in case 1, I could not rely on article 11 of the Treaty of Amity anymore. Instead, for the DC Circuit, I invoked Articles III and IV of the treaty in tandem.

Article IV gives the right to obtain compensation for confiscated properties from the nation-

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1- It is regrettable that the NY Times, refused to print my previous ad, stating that they were "unable to assess the factual nature of much of the material" in it, even though, most of the information therein was based on their own articles.

2– For a complete account of the 1953 coup in the words of the CIA operative Donald Wilbur, see http://www.nytimes.com/library/world/mideast/041600iran-cia-index.html

3- *McKesson v. Isl. Republic of Iran*, (D.C. Cir. 2001)

4- See the ongoing *Case concerning Oil Platforms (Islamic republic of Iran v. United States of America)* ICJ- Dec. 12, 1996, General list 90.

5- *FDIC v. Meyer,* US (1994) at 475

6- H. Alikhani, *Sanctioning Iran, Anatomy of a Failed Policy,* New York, 2000, p.289

7- See for instance, G. HUFBAUER, *The Snake Oil Diplomacy; When Tensions Rise, the US Peddles Diplomacy*; Washington Post, July 12, 1998.

8- Interestingly, back in the 13th century, it was Persian merchants who reoriented the production of the Chinese kilns - which had suffered from a crumbling market due to the Mongol invasions - towards the Persian Lands. Their initiative led to the creation of the now famous Chinese blue-and-white porcelain, in a marriage of Cobalt blue from Iran with the traditional Chinese white porcelain.

9- Alikhani (2000), p.312.

10- *Republic of Argentina v. Weltover,* US (1992).

11- Neither of the two parties to the lawsuit had bothered to translate SNGI.

als of one country from the government of the other. Article III confers jurisdictional rights to Iranians in the US **"in all degrees of jurisdiction"** and **"upon terms no less favorable than those applicable to nationals"** of the United States **"or of any third country."** Therefore, if a US citizen has the right to sue Iran through Article IV or any other vehicle, then nationals of Iran in the United States shall have equal rights and jurisdictional stature.

Since courts have confirmed the rights of US citizens to sue Iran for compensation of property taken by Iran, then an Iranian must have the same jurisdictional rights here.

Unable to grasp this simple Aristotelian syllogism, Judge Bates, resorted to label sticking. He opined that the treaty was not for "protecting nationals against their own sovereign," even though no article of the treaty allows, explicitly or implicitly, such an interpretation. One cannot read in a text more than what is written in there. The equal jurisdictional rights of Iranians and Americans is imbedded in there, but not the preclusion sited by Judge Bates.

As for the DC Circuit, it preferred to hide behind a decision of the Supreme Court (quoted out of context) by stating that the Treaty of Amity "does not satisfy the treaty exception to the FSIA because the treaty does not "expressly conflict" with the FSIA." It is a wrongful statement. Clearly, articles III and IV confer jurisdictional rights that are not to be found in the FSIA: that is the very definition of what the Supreme Court meant in the quoted passage.

Case 3

This case was about some properties supposedly sold on my behalf by the notorious Bonyad-e Mostazafan in Tehran. The Bonyad had used an edict from the a Revolutionary Court to proceed with a transaction that was purely commercial in nature.

The same jurisdictional arguments as in case 2 drew the same responses from Judge Bates and the DC Circuit, who this time, went so far as even undermining the foundation of a previous decision of their circuit.

But the more important aspect of this case was the issue of fraud and its effect on sovereign immunity.

To allow the Bonyad to proceed with its scheme, an Islamic Revolutionary Court invoked a decree by the Supreme Leader, i.e. Mr. Khamenei, who supposedly had authorized to sell properties of those who, like me, were residing in the "Land of the Infidels" (meaning America in their jargon)! I had repeatedly sought to obtain a copy of this decree: from various courts, from the office of the President of Iran, from the Iranian Parliament. To no avail. No one had it. Typically, the Bonyad and the Islamic Revolutionary Court engage into various schemes to generate illicit money for the benefit of the ruling clerical oligarchy of Iran, but because of a strong Iranian tradition in bureaucracy, some legal basis had to be invoked. The problem though was that in our case, they invoked a decree that did not exist.

Although a US court cannot, and must not, second guess the merits of a foreign court ruling, it must nevertheless ascertain that it is dealing with an official ruling, and not one based on a fictitious decree. A baseless and fraudulent decree cannot be considered as sovereign. Since I had alleged fraud, the duty of proving the sovereign nature of the Bonyad operation had shifted to the defendants.[12] All Iran had to do was to provide a copy of the decree. It did not.

The notion that fraud undermined sovereignty, although not a difficult one to grasp, seemed to be beyond the intellectual reach of Judge Bates and the judges of the DC Circuit, for neither of them even bothered to respond to the issue.

An express instruction at the end of the DC Circuit judgment, that "this disposition will not be published," was of course a convenient way to dissimulate the shortcomings of their incongruent decision.

Justice as a necessary tool of foreign policy

I have seldom seen so hospitable, kind, and fair-minded people as Americans. However, it is a shame that the foreign policies of the USA do not reflect this.

The American system of government is based on checks and balances. It has served it well for internal policies, but when it comes to foreign policy, checks and balances practically do not exist. Foreigners do not have congressmen to write to, nor can they vote an elected official out of office. The only avenue left for them is judicial recourse, and that should be viewed as a positive alternative. Il still remember (as a 7 year old) the outburst of joy in the streets of Tehran on July 23rd, 1952, when the decision of the International Court of Justice in The Hague was made public. A year before, when Iran nationalized its petroleum industry, Britain had obtained an injunction from the same International Court, and had impounded tankers carrying Iranian oil. With the new ruling, the injunction was lifted and Mossadegh immediately invited Britain to start discussions on compensation issues. The decision bought respect for the International Court, and nurtured high hopes for the future of international justice.

Since the matter was being resolved according to international law, it should have attracted US approval. Instead, the CIA concocted the 1953 coup that toppled Mossadegh and brought back the Shah. Thirty years later, all opposition to the regime had been crushed, and important institutions such as the institution of justice and free press were anihilated. The road was clear for a small group of militant clergymen to take over a defenseless country. It also paved the way for an Islamic militancy in the image of the hate-monger that was Khomeini.

How different the world would have been today, if Eisenhower had exercised more control on the secretive Dulles brothers in the early days of his presidency.

Justice as fairness

While the US did not directly oppose the 1953 decision of the International Court of Justice, it did so three decades later. In response to a Nicaragua complaint against the USA, the Court ruled that by fostering an armed insurgency the US was interfering into the internal affairs of a sovereign state. Instead of honoring that decision, President Reagan chose to turn his back and walk away. He could do so because technically the decision of the The Hague Court was non-biding. The damage though to international justice was immeasurable.

International law and order cannot exist if its main guardian, the USA, does not honor it.

If laws are to be respected, whether domestic or international, they must project an image of fairness. The great American thinker, John Rawls thought that legislators should not legislate according to their status but from a theoretical state, enclosed in a black box, from which they do not how they will emerge: rich or poor? aggressor or victim? Only then can they legislate in fairness.

If a law is unfair, biased, and lacks reciprocity it tarnishes the image of the US. Consider for instance the Flatow Amendment, which on its surface was meant to punish states who engage in international terrorism, but in fine print, is so written as to only apply to Iran. More importantly, its application toward the USA is not permitted.

Congress passed the Flatow Amendment for Stephen Flatow (the father of a young American girl who was the unfortunate victim of a bombing incident in the occupied Gaza strip) to be able to sue Iran on the accusation that Iran had financed this bombing.

Judge Lamberth of the DC District court awarded some 30 million dollars as solace to the parent and brothers and sisters of the victim, plus 225 million as punitive damage, even though the FSIA expressly forbids punitive damage in the case of foreign states. To circumvent the punitive damage restriction, Judge Lamberth first recognized the Iranian secret service as an independent entity and not as a *department* of the government, and then, accepted an "estimate" figure of 75 million dollars as the annual budget of that entity, which was then multiplied by three to dissuade it from further similar activities.[13]

What is important here is how reality is twisted by judges to suit their purpose. In my case (1), the 5th Circuit transformed a corporation into a department of government in order to give it sovereign immunity. In a case against Saudi Arabia, in which the Saudi police had allegedly "shackled, tortured and beaten" a citizen of the United States, the Supreme Court ruled that "a foreign state's exercise of the power of its police has long been understood … as peculiarly sovereign in nature." I am not sure how one can consider the police as sovereign and not the secret services as Lamberth did.

More importantly, Lamberth's opinion emphasizes that the exercise of jurisdiction must comply with "fair play and substantial justice." It would thus be fair that the daughter of the ex-Foreign Minister of Iran in 1953, Dr. Fatemi, be awarded 90 billion dollars by the USA. Because, Dr. Fatemi was hung for the sole offense of insulting royalty, by those who had received CIA money to unseat him and his government.[14] The CIA's budget being approximately 30 billion dollars, by the reasoning of Judge Lamberth, 90 billion dollars is perhaps the correct amount to be assessed in order to prevent the government of the USA to derail democracy in other countries.

A fair and well-reasoned verdict is what people expect from the courts of the United States, whether it is to uphold the Treaty of Amity as Supreme Law of the Land or to protect the rights of Iranians. The image of a just America is far more important than the successful defense of wrong policies in court. Indeed. paradoxical as it may seem, the United States looses in victory but wins in defeat, for the former would portray the US as a bully who twists the treaties to its liking, and the latter would stand as a victory for the principles that have forged the USA into the great nation that it has become. If the courts uphold the Treaty of Amity and censure US policies, the goodwill and the respect that it will attract from the people of my country, as well as many others, outweighs by far the benefits attributed to the ineffective trade sanctions and senseless FAA policies.

Abolala Soudavar – Houston
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For detailed court proceedings see:
www.soudavar.com

12- *Phaneuf v. Republic of Indonesia*, (9th Cir.1997).
13- *Flatow vs, Islamic Republic of Iran*, DC Distr. 1998
14- http://www.nytimes.com/library/world/mideast/072352iran-world.html

DIPLOMATIC DISPATCHES

Nora Boustany

Honoring a Giant Among Global Scholars

Political sociologist **Seymour Martin Lipset** was recognized Monday night by the National Endowment for Democracy and the Canadian Embassy with the inauguration of a lecture series in his name, described as a "new forum for discourse on democracy and its progress worldwide."

Fernando Henrique Cardoso, Brazil's former president, delivered the first speech in the series, which honors the American scholar for a seminal and insightful body of work over 50 years on democracy and comparative analysis.

Lipset, who suffered a stroke several years ago and was not in attendance, was presented with the endowment's Democracy Service Medal by the organization's president, **Carl Gershman**, earlier Monday at his home.

Cardoso said he first made contact with Lipset in the 1960s and contributed to Lipset's 1967 book, "Elites in Latin America," edited with **Aldo Solari**. Cardoso discussed the rewarding experience of engaging in the broader debate launched by Lipset on the "ethic or values orientation of elites in Latin America" and his argument at the time that "the relative backwardness of Latin America could not be fully explained by economic factors alone."

The lecture series, co-sponsored with the Munk Center for International Relations at the University of Toronto, will include future events in the United States and Canada.

"Lipset has inspired, taught and mentored several generations of leading political scientists and sociologists," said **Larry Diamond**, a senior fellow at the Hoover Institution and a professor at Stanford University, speaking at a dinner hosted by Canadian Ambassador **Michael F. Kergin**.

Diamond praised Lipset for his strong belief in "reason, moderation, tolerance, pragmatism and restraint as the bedrock values of democracy and of a decent society" and for "his constant search for equilibrium—between consensus and conflict, between ideological extremes, even between political parties in the United States." Kergin said Lipset had made major contributions to the study of Canadian society and Canada-U.S. relations.

Gershman also paid tribute to Lipset, describing him as a leading thinker and author on comparative analysis and study of the democratic order. "What is remarkable about this work is that it is distinctly American and profoundly international at the same time," Gershman said, adding that the body of Lipset's prolific work has been called "the sociology of a patriot."

Other prominent guests at the lecture and dinner included **Roberto Abdenur**, the Brazilian ambassador; **Robert Litwak**, director of international studies at the Woodrow Wilson Center; former U.N. ambassador **Jeane J. Kirkpatrick** and editor and commentator **Irving Kristol**, both senior fellows at the American Enterprise Institute; sociologist **Amitai Etzioni** of George Washington University; **Hillel Fradkin**, senior fellow and director of the Center for Islam, Democracy and the Future of the Muslim World at the Hudson Institute; **Francis Fukuyama**, professor of international political economy at Johns Hopkins University; and **Enrique Iglesias**, president of the Inter-American Development Bank.

BY RAFAEL CRISOSTOMO FOR THE WASHINGTON POST

Sen. Paul S. Sarbanes, left, speaks with Fernando Henrique Cardoso, who delivered the first Seymour Martin Lipset lecture at the Canadian Embassy.

A Nosy Question

Richard Axel, winner of the 2004 Nobel Prize in Physiology or Medicine with **Linda Buck**, said during a celebration Dec. 1 at the Swedish Embassy that he had a question: "Can a dog violate the U.S. Constitution?"

Axel, of Columbia University, and Buck, of the Fred Hutchinson Cancer Research Center in Seattle, were cited by the Nobel committee for "their discoveries of odorant receptors and the organization of the olfactory system."

So, Axel wondered: If a driver is stopped for speeding, can police use dogs to sniff his or her car for explosives or marijuana? Supreme Court Justice **Ruth Bader Ginsburg,** a fellow Columbia graduate who was seated next to him at dinner, did not give a conclusive answer.

Axel said he recently spent two days at the Homeland Security Department, discussing "dog alternatives." Well-trained dogs, he said, are capable of accurate sniff detection for only three or four hours a day. They should be trained for one smell at a time, although they can be retrained for two or three others, he said.

Axel, Buck and fellow Nobel laureates were hosted at the traditional event by Swedish Ambassador **Jan Eliasson**. He joked about Sweden's dark afternoons, but said his country would accord the Nobelists superstar status at a banquet this Friday in Stockholm.

Axel said in an interview that he was working on "building a nose outside the head on a chip that would detect not one or three substances, but 100,000. I want to build my own nose."