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equations preclude any sort of diplomatic or nonmilitary settlement of the Kosovo matter: You don't negotiate peace with a Hitler; unconditional surrender and total capitulation are the only acceptable terms.

"The bottom line," says Albright, "is that more and more people are asking [the] question, 'Is it going to be possible to deal with somebody that is behind all this?' " Never mind that the United States sat down to deal with Milosevic long after he committed worse crimes in Bosnia—and that the United States routinely negotiates cheerfully with far more murderous heads of states. To ask such a question after invoking Hitler is to answer it in the negative.

There is another reason to worry over this latest cycle of reductio ad Hitlerum: Every false invocation not only cheapens the original referent, it distorts our vision and undermines America's ability to act meaningfully in the world. If Milosevic is Hitler, then the planet is thick with such monsters. In such a landscape, it becomes increasingly difficult to identify the situations calling for U.S. involvement, much less its proper terms.

Neither of the predictable results of such a mindset—hopelessness and disengagement on the one hand, hubris and overreaching on the other—is likely to bring more peace to the globe. Better, then, to drop the Hitler rhetoric and get on with a legitimate debate over both the Balkans and U.S. foreign policy.

Nimble Fingers

Congress wants to exempt the Amish from child labor laws. Why not everyone else?

By Michael W. Lynch

Last month a waist-high waitress, who looked no older than 10, served my buddy his grilled chicken sandwich as we lunched less than a block away from the White House. As she shoulder-pressed the plate onto our table, the three of us dining blurted out simultaneously: child labor violation! We considered turning in the establishment but concluded that it must be a school holiday and at least one of her parents must own or work at the restaurant. At any rate, we said as we dug into our food, it's good for her.

Such scenes are common in areas with lots of small, family-owned businesses. I used to see my classmate, Sandy Kwong, doing her homework behind the cash register at her parents' Chinese restaurant. She was one of our class's top performers in the six years we shared elementary school teachers, so I know the interruptions to cash out tabs and count change didn't hold her back. When I worked in San Francisco, tender little hands would often take my legal tender in the afternoons at a deli near my office. Many teens, and even pre-teens, labor in the child-care industry as neighborhood babysitters. Others raise cash by mowing lawns, trimming hedges, and pulling weeds.

Are any of these common scenes also crime scenes? Most likely. Under rules spawned by the Fair Labor Standards Act of 1938, it's illegal for children under 14 to work in any commercial establishment. Adolescents can start working legally at 14, in limited jobs for limited hours. At 16, the hours increase and job options expand, but even 16- and 17-year-olds are restricted from working in 17 industries deemed hazardous by the U.S. Department of Labor.

If a child's mother or father—an aunt or uncle won't do—is the business' sole owner (not a partner or major investor) then the child may work, so long as it's not considered a hazardous or manufacturing occupation. My classmate Sandy was legal, and the young Washington waitress may be legal, if a parent owns the restaurant. Babysitting is legal so long as kids keep it under 20 hours a week and don't work for a company. It's illegal for individuals not yet 16 to operate just about any power-driven machinery, but the DOL turns a blind eye to kids who work for themselves.

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The lawn mowers therefore are violating the law only if they work for a landscaping company and pay taxes. Some of the provisions are mind-boggling. One has to be 18 years old to drill a hole in a piece of wood. But aiming the drill bit at a piece of drywall is legal, provided one doesn't run it into a wood stud and isn't on a construction site.

Child labor laws causes few problems for most people, since incomplete enforcement means many small, family-owned businesses operate unharassed. (In 1998, the Department of Labor found some 5,500 child labor violations, the majority of which were for hour restrictions for 14- and 15-year-olds. Approximately 4 million teenagers work outside the home on someone's payroll.) But in the fall of 1996, when the department began an enforcement sweep of Pennsylvania sawmills, it turned up an unlikely group of outlaws: the Amish. Of the 30 mills the DOL inspected, nine were cited for violations of child labor laws. Three of the mills were owned by Amish.

The Amish take seriously the idea that one shouldn't let school get in the way of one's education. For an Amish youth, eighth grade is the end of formal schooling, after which the school of hard knocks takes over. They call it "learning by doing," which has traditionally meant going to work on the farm. But change comes even in Amish country. High land prices are increasingly forcing the Amish to turn to other trades and crafts, chief among them sawmills, furniture making, and welding shops. The problem is that Amish youth can't legally work in sawmills until they are 18, due to two labor regulations dating back to 1941.

After the 1996 busts, the Amish did what any law-abiding group of Americans under siege by the feds would. They first tried reasoning with the DOL, asking for an exemption. This didn't work. The DOL's position, as stated in an April 1998 letter, is that "we have concluded that it would be inconsistent with [the law] and dangerous to their health and well-being to allow youth—including Amish youth—to be employed in sawmills in any circumstances." Having failed to sway regulators, the Amish went to Congress.

In 1998, the House passed a bill that would effectively exempt Amish youth from DOL regulations, provided the minors are supervised by Amish adults and don't operate any power equipment. A companion bill, sponsored by Sen. Arlen Specter (R-Pa.), died of neglect in the Senate. This year, the House passed the bill on March 2, and Specter is expected to sponsor another companion bill. The White House has expressed "deep concerns" regarding the bill, and both the DOL and the Department of Justice oppose it. Their opposition is revealing.

A cursory glance indicates the Amish are a special case. Their lifestyles are outside the American mainstream and they have already secured exemption from compulsory education after the eighth grade. This is in fact the DOJ's position: that to grant an exemption to the Amish would be to favor a particular religious sect, and therefore violate the First Amendment's Establishment Clause.

The DOL echoes this objection, worrying aloud that its enforcement officers will have to inquire into religious beliefs to enforce the law. The DOL is also concerned that "this proposal could lead to requests to open up other hazardous workplaces to child labor for select communities and [we] see no clear governing principle to determine where such actions may be appropriate."

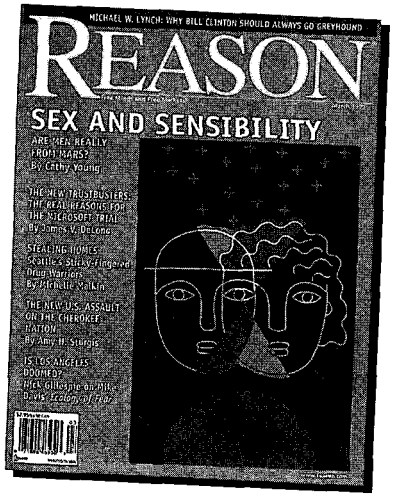
These, of course, aren't the DOL's only concerns. It spills more ink over safety. It points out, for example, that in 1996 the "lumber and wood products" industry had 25.6 deaths per 100,000 workers, five times the national average across all industries. Officials point to particular instances of dismemberment and death in sawmills, where employees have been suffocated by sawdust, been run over by loaders, and lost arms and fingers while running saws, to justify their stand. There's no denying it's dangerous work.

Despite themselves, the DOJ and DOL are onto something important. Why not broaden the exemption to anyone whose parents owns any business or are willing to supervise them at work? The crux of the issue is simple. Who is better suited to decide what is best for children or adolescents: their parents or government employees?

There's nothing magic, after all, about turning 14, 16, or 18, the three main cutoffs for child labor laws. Some 30-year-olds are far too absent-minded to be safe on a shop floor, at the controls of a piece of heavy equipment, running a saw, or with an oxygen-acetylene cutting torch in hand. Others may be trustworthy in such situations before they are old enough to shave.

The issues of freedom transcend the Amish example. Consider this quote from Chris Blank, chairman of The Old Amish Order Steering Committee, who was making his case to the House Committee on Education and the Workforce in April 1998. Said Blank, "It is a long standing Amish belief and tradition to instill good work ethics in our children at a young age and to start training a child at a fairly young age to become a self-supporting, respectful and law-abiding citizen." Replace "Amish" with "American," and the quote reads just as well.

Try this trick with another statement from the House committee report, "The current child labor laws thus directly and significantly interfere with the ability of Amish families to carry out an important part of their beliefs, culture and lifestyle." It would be nice if the government universally applied such a noninterference principle. ◆



More Sensible Sex Discussion

Cathy Young's article ("Sex & Sensibility," March) was the most sensible discussion of gender differences I've run into in a long time.

One addition: You can't use gender stereotypes (or their absence) to predict what fields women will enter when the glass ceiling is lifted. You have to look at where they were before. Hence, bookkeepers became accountants (myself among them). Nurses went to medical school. Legal secretaries went to law school. Engineering secretaries didn't become engineers because, by and large, there was no clear and obvious progression from one to the other. The progression from mechanic to technician to engineer was and still is a largely male career path from bottom to top.

The next rush was women entering professions traditional to the men in their families: Policemen's daughters became cops and soldiers' daughters joined the armed services. Again, these were things they were familiar with, if only (this time) at second hand.

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Microsoft's Misdeeds

I greatly enjoyed James V. DeLong's piece on antitrust ("The New Trustbusters," March). I'm afraid he's right about the rebirth of antitrust activism—and this may be just the beginning. I knew I should have taken all the light bulbs with me when I left the Federal Trade Commission in 1989.

However, Mr. DeLong's visceral opposition to antitrust enforcement has prevented him from properly analyzing the Microsoft case. He says the government is trying to prove that Microsoft is a meanie and that the government hasn't successfully proved that Microsoft is a monopoly. Wrong on both counts.

Microsoft so obviously has a monopoly that denying it doesn't pass the laugh test —even in Washington. More than 90 percent of PCs are shipped with Microsoft Windows installed; Microsoft's prices have risen faster than hardware components; and entry into the PC operating system market is clearly all but impossible. If that doesn't indicate the existence of a monopoly, then there are no monopolies.

Second, the government has been trying to prove not that Microsoft is a meanie (Microsoft has made that case), but that the meanie engaged in restrictive practices which produced no economic efficiencies. According to press accounts of the trial, the government seems to have had considerable success in making that case.

Antitrust law says there are certain restrictive practices which, when engaged in by monopolists, are illegal. Even "public choice" theorists like Mr. DeLong who realize that the history of antitrust enforcement is dark indeed should be able to understand that a good case comes along every now and then.

Daniel Oliver
Chairman (1986–89)
Federal Trade Commission
Washington, DC

"The New Trustbusters" didn't address what I consider to be Microsoft's most insidious practice: shrink-wrap licensing. Microsoft may not be the only company that uses this method, but its licenses are among the most restrictive.

It is impossible to buy a laptop without paying for Windows. Even VA Research, a vendor that specializes in Linux, includes Window disks and manuals when you buy a "naked" laptop (no operating system) from them. This is because all the laptop manufacturers have a per-processor licensing arrangement with Microsoft. Microsoft gets paid even if Windows is not installed or used. (Licensing applies to desktops and servers as well, although you can avoid it by building your own.)

According to Microsoft's End User Licensing Agreement (EULA), you cannot sell, rent, or lend the software because it is licensed to that particular machine. Also, you are not allowed to use the software if you do not agree with the license. So non-Window users are in the position of paying for Windows even if they do not use it.

For now, there seems to be a legal out for non-Windows users. A clause in the EULA states: "If you do not agree to the terms of this EULA, PC Manufacturer and Microsoft are unwilling to license the software product to you. In such event, you may not use or copy the software product, and you should promptly contact PC Manufacturer for instructions on return of the unused product(s) for a refund."

It's simple enough: Return Windows for a refund. However, it is not so simple in practice. Microsoft's position is that the licensing agreement is between you and the manufacturer and you have to contact the manufacturer for the refund. The

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