Editor’s Corner

by Mackubin T. Owens

This issue of Orbis is dedicated to the life and work of Harvey Sicherman, the late esteemed president of FPRI. Harvey was a remarkable man who left a significant legacy as attested to by the outpouring of praise from friends and colleagues in the wake of his untimely death in December.

Most of the articles in this issue are from Harvey’s own pen, but we begin with tributes to Harvey by three individuals with close FPRI connections, who knew him extremely well: Walter McDougall, the eminent historian and a past editor of Orbis; John Lehman, Secretary of the Navy during the Reagan administration, and Dov Zakheim, former Undersecretary of Defense, as well as former Deputy Undersecretary of Defense.

We then turn to Harvey’s own remarkable work. The first section offers a selection of Harvey’s articles, E-Notes, and addresses. The second section features insightful profiles on various leaders from the Greater Middle East.

I must say that “editing” this issue is the easiest editing challenge I have ever faced. The fact is that even the best writers need an editor. But Harvey’s graceful and elegant prose sets him apart from “most writers.” Reading his remarkable work is an intellectual pleasure of the highest order.

The issue concludes with an essay by my predecessor as editor of Orbis, James Kurth, on a topic of great interest to Harvey: political economy; and a review essay on the American way of war by Frank Hoffman.

My own tribute to Harvey appeared in the last issue of Orbis, which went to print shortly after his death. I will not try to duplicate it here except to reiterate my conclusion: Harvey “left us far too soon. It does not ease the mournful burden borne by Harvey’s family and friends to observe that his legacy will long outlive him. He was truly sui generis. R.I.P.”

Impromptus and Asides

As we mourn Harvey’s passing we celebrate the death of Osama bin Laden, which took place just before this special issue went to print. Some may think it unseemly to
celebrate anyone’s death but there are some moral monsters abroad in the world whose actions are so heinous that celebration by civilized people is the appropriate response to their demise.

While most Americans have indeed celebrated bin Laden’s death at the hands of U.S. special operations forces, some have been wringing their hands about the fact that bin Laden was denied the sort of procedural justice that is the right of American citizens when accused of a crime. But bin Laden was not an American citizen or even a foreigner protected by the traditional understanding of international law, or a “criminal” in the everyday sense of the word. He and his ilk are subject to a distinction first made by the Romans and subsequently incorporated into international law by way of medieval and early modern European jurisprudence, e.g. writings on the law of nations by such authors as Hugo Grotius and Emer de Vattel.

The Romans distinguished between bellum, war against legimus hostis, a legitimate enemy, and guerra, war against latrunculi—pirates, robbers, brigands, and outlaws—“the common enemies of mankind.” The former, bellum, became the standard for interstate conflict, and it is here that the Geneva Conventions and other legal protections were meant to apply. They do not apply to the latter, Guerra—indeed, punishment for latrunculi traditionally has been summary execution. In terms of this older—and I believe more appropriate understanding—Osama bin Laden was a latrunculus to which, until recently, no international code has extended legal protection. His killing was, therefore, justified.

The death of Osama bin Laden does not signal the end of the terrorist threat to the United States and the West. The character of al Qaeda is such that the extermination of one individual will not necessarily cripple the array of terrorist cells affiliated with the organization. But it does serve notice on those who would attack the United States, indiscriminately murder thousands of Americans, and then praise themselves for the murder.

The civilized world needs to distinguish between legitimate combatants on the one hand and latrunculi on the other. This distinction makes it clear that the United States has nothing to apologize for in killing Osama bin Laden.