

Foreword by Robert Katz

Hola!

Whether by chance or intent, you have landed in the digital equivalent of a neighborhood in Buenos Aires, Argentina. You are not alone. An informal gathering of men and women from various parts of the globe welcomes you. They vary too in age and interests, in the work they do and in the lives they lead, but what they do have in common is a keen sense of fair play and a will to apply it to the work encapsulated in the name of this Internet domain. Two fundamentals unite them: a commitment to right an egregious wrong, and a belief that a time of mindless political correctness is running out and that a reversal of misfortune is in their hands.

This is the spirit that moves them, but who is the person who merits such care and concern? He is a man in the second decade of a Kafkaian nightmare, a prisoner in the place where he was born and a hounded fugitive in the land of his greatest triumphs, the USA.

Step into his shoes for a moment. Walk his walk around his block. Expect to wonder whether anyone, anywhere, can feel secure in his or her own home.

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On May 19, 1995, the nearly perfect world of 47-year-old Ricardo Asch, a celebrated scientist at the University of California, was blown out of its orbit into free fall. A researcher, physician and educator at the university's Irvine campus, he was chief of its Center for Reproductive Health. This latest appointment had elevated him from an employee to a participant in a joint venture that had made him, if not quite a fortune, affluent enough to own race horses, luxury homes in Newport Beach and Del Mar, and a red Ferrari with a vanity plate reading "DR GIFT."¹ G.I.F.T. formed the acronym for Asch's

¹ It takes more than an Italian sports car and beachfront property to cut a figure of wealth in "OC" – two letters widely understood as a reference to Orange County's reputation as one of the richest communities in the U.S. A ten-year-old red Ferrari would impress few people in OC, where valet-parked, private jets abound and only one of its 32 cities has a public airport. Yet the Ferrari and all other deflated status symbols were invariably attached to allegations of criminal behavior. In a later interview, Asch told me that keeping a low public profile

all leads, would publish and Web-post more than 230 articles – "without having to make a single correction," the paper would later boast. In the absence of much needed corrections, the egg-theft scandal flourished. It shocked the scientific community no less than the public, not to speak of the victims, imputed or real. A sordid picture soon emerged: three unscrupulous physicians, foreigners – Asch and his two partners, José Balmaceda and Sergio Stone, were all from Latin American countries – engaged in a wicked conspiracy to steal healthy women's eggs, conceal their disappearance, fertilize and transplant them in other women with faulty reproductive systems. In an outraged community not celebrated for its tolerance, the "genetic time bomb" of the offspring of women whose eggs had been purloined someday meeting and falling romantically in love with their unknown siblings of the opposite sex was frequently tossed into the fray.

Not a shred of evidence linking the suspects to their alleged misdeeds had come to light, but the chain of events unleashed now thrived on hearsay not proof. The university, instead of seeking truth, sought silence, using public funds to cover up public information. They got caught. The muckrakers at the *Register*, a team of young reporters, had begun to dream of the exploits of Woodward and Bernstein, and, with an eye on the deadline for the next year's Pulitzers, they rushed to disclose that UCI had paid \$1 million in "hush money" to the clinic workers who had served as the newspaper's "deep throats."

Where muck is raked, the forces of law and order cannot be far behind. Before long, seven state and federal criminal investigations were under way. In that gathering storm Asch, consulting with his wife and their five children, thought it wise to leave the country. Shortly afterward the FBI raided his home and office in September of 1995

A third leg of the juggernaut had descended by now. Lawyers, for whom there is no Pulitzer, were nevertheless gripped by a similar fever. They went among the thousands of women who had been treated by Asch and his colleagues to advise them. Tens of millions of dollars were at stake, they said, and that was enough for some 40 women, who signed on, unleashing the dogs of litigation against Asch and UCI. The grounds went far

beyond malpractice, nearer to the crime suggested in the grammatical whopper of the initial breaking news: alleged now were theft, battery (non-consensual appropriation of women's body parts), violation of civil rights, and a plot to commit "genetic rape." TV-movie-of-the-week rights went on the block.

A federal grand jury handed down sealed indictments – that legal equivalent of hidden weapons of mass destruction. Asch and his family – the five children, three of whom born in the U.S. – relocated in Mexico, trying to rebuild their shattered lives; Balmaceda, Asch's long-term associate, returned to his native Chile. The third partner, Sergio Stone, he too born in Chile but now a U.S. citizen, placed his faith in his adopted land. He had been charged with minor administrative irregularities which remained to be proved and had nothing to do with the egg-stealing accusations.

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If the Irvine fertility scandal were a morality play it would end now with a final scene called "one year later": champagne and high-fives in the newsroom of the *Orange County Register*; for truth be told, the celebration took place as described: the newspaper did indeed win one of the most coveted of the Pulitzers, the prize for investigative reporting.

Apart from the victims and those hoping to be on the receiving line of the promised millions, it did in fact end there – or so it appeared to be. For me, however, it was a beginning.

I first met Ricardo Asch in Mexico City over the Cinco de Mayo holiday of 1996. I had read about the case and some friends in Los Angeles had introduced me to his lawyers. More than the absence of any proof of wrong-doing, it was patently unthinkable that a sane man in his position would behave as was alleged. Had these three learned hombres all gone loco? Time and circumstance had taught me that no one can know an absolute truth, but it was as plain enough that Asch, Balmaceda and Stone were in legal parlance not guilty beyond a reasonable doubt. One would have to look elsewhere to find insanity.

The America Asch had left behind him was in a punishing mood. Historians will later try to tell us why, but while waiting we can

safely state a few facts. The perennial culture wars in the U.S. flared up in the nineties. It was the same-old worm renewing itself. What had begun in America primeval as witch-hunts and lynchings had been transformed by 300 years of American culture into witch-hunts and lynchings by other means and appellations. George Orwell's *1984* had loomed on a bleak horizon but by the time that year had come and gone, Big Brother, revealing himself as just one more toothless charlatan behind the curtains of Oz, was cast aside to await a lesser calling in a lesser TV world of oxymoronic but relatively benign "reality shows" Yet this was not a time for celebration.

Indeed, the only thing bridged by that all-but-forgotten "bridge to the 21st century" was the vast morass of old-fashioned intolerance and bigotry. Those "bridge" years, say, from 1996 until the millennia-mania of Y2K was behind us, remain the place to look for the cruelest of the closing days of the cruelest century. True, horror-stories of injustice are as timeless as the shadows in which they lurk, but ask any cop on the beat, any courthouse reporter, and you'll learn that there are whole seasons of unrighted wrongs. I was working on two such cases when I went to Mexico City to meet the Asch family. I came away with only one case on my mind. My earlier conviction, drawn from my reading of the legal papers, that Asch could not be found guilty by virtue of reasonable doubt now seemed in need of revision.

If there are two sides to every story, there are many times that number of layers, tiers of complexity, correcting and replacing error with fact. Breaking-news journalism, however, has neither place nor time for anything but mere soundbites – from both sides, whenever possible – but in terms of fair play, soundbites are never more than a noise whose bark is worse than its bite. Soundbites – adored by editors, sweated over by their creators and sent into battle like soldier ants – are meant to conceal not reveal. They are the product of a hidden agenda. It was clear from the start that Asch – with his 60-page resumé of a luminous career on four continents – was no soundbite man. The tapes and notes I brought back from our first interview, showed him to be a quite conventional subject. What you get from such an interviewee is offered only when a relationship of trust has been established, and that takes time.

Our talks had lasted the better part of three days, Asch growing more and more introspective. A month had not yet gone by since the *Register* had won its Pulitzer by the very tactics it had attributed to Asch, harvesting, in this instance, the man and his family without his consent. Even the paper's chief editor, I later learned, had withheld going public with such an unlikely tale, but once consent was obtained, the erroneous front-page story lit up a virtual harvest moon. I could detect no rancor in Asch's straightforward recounting of his ordeal, but his lawyer, Orange County resident Lloyd Charton, later showed me his notes on how he observed the newspaper's campaign. From the outset, the paper had rushed to judgment. "The headlines read fertility fraud," he said, "a placard for every newsstand and billboards were created with huge bold color-print advertising the [the *Register's* coverage of the] fertility fraud. From that time onward the *Register* spared no amount of ink to cast Dr. Asch in the most evil light possible."

Transcribing my interview tapes, hearing them again and again, I sensed that the absence of evidence against Asch would yield few benefits. Indeed, it was this very deficiency – lack of proof – that had forced the combatants into another ring, a venue where evidence is pooh-poohed and political correctness is the measure of innocence, a malicious standard that declares guilt by reason of being accused. It was a familiar scenario, the very essence, or the stink, of McCarthyism. To be sure, from the viewpoint of a single case, at stake was "only" the fate of one man and his family, but the odor of tyranny does not rise case by case. It is suddenly everywhere. This was 1996. the political plague rats were coming up from the sewers.

Some weeks after our first encounter, Asch and I met again, this time in Italy, where as an honorary professor at the University of Genoa he lectures frequently throughout the country.. Later that summer our talks continued, now on the Tuscan shores that look out on Elba, the island of Napoleon's exile, of course, but more recently a place of banishment for the enemies of Mussolini's Fascist regime. My interviews reached into every corner of Asch's life at UCI and the fertility center, his family, his friends and colleagues in Italy. He is a man without guile, selfless in giving, selfless when he receives (as is easily

discovered elsewhere on these Web pages). This was not simply the other side of the story. It was that too but it ran deep and rang true; it had the stuff, the power to demolish that flimsy sensation-seeking missile of a fertility-fraud story that had needed no corrections. No corrections? This was the story that needed telling. But it was not the story told. Those movie-of-the-week rights mentioned above, now brought forth a scabrous TV film, *For the Future: The Irvine Fertility Scandal*, made by seasoned professionals, most of whom will probably be content to remain unnamed. The libelous portrayal of Dr. Asch was an outrage to the truth, a cheap shot flouting the generosity of the First Amendment.

The MOW phenomenon had one good feature: when its "week" was up, it was gone, rarely to be seen or heard from again. It was a few MOW's later that I set out to tell the story of another Irvine scandal, the one in which Asch and his associates had been snared by a concatenation of social forces: a prestigious university seeking to cover up breaches of the public trust; a team of young reporters crazed by Pulitzer fever, lawyers with a treasure-map fallen into their hands, and finally the prosecutors, driven by the same dream of those they send to prison: breakout, fame and fortune. Many publishers and editors, as well as their counterparts in the electronic media, much prefer stories with depth not merely sides. Insofar as they do battle with the constraints imposed by custom and commerce they are the unsung heroes of truth, rewarded only by the number of times they succeed.

This was not one of those times. That fall of 1996, all my attempts to interest the media in the Asch affair fell flat. My story is untellable, I am advised by those very unsung heroes. The truth of the moment was stark and cutting, expressed to me more or less in these words: "Asch and his friends are important only if guilty." My interlocutors did not dispute the facts of the case. Instead they added a fact of their own, one that spoke to the prevailing political climate. "To believe anything else but the 'American' version," it was said, "is tantamount to asking people to believe the say-so of a couple of wetbacks who made good and blew it."

I made the rounds again a year later. I had a new approach. I'd

learned that people at the *OCR* had been having second thoughts about how they won the Pulitzer. They were said to be taking their distance from their more aggressive colleagues and management had begun making overtures to Asch's lawyers, apparently recognizing that some corrections had been and still were needed. Does the *Register* deserve the Pulitzer? Does the Pulitzer deserve the *Register*? I asked my media friends, only to receive variations on the wetback theme. In the meantime, Asch was moving on with his life. Our correspondence waned, dried up. Years passed. Has time healed all things? The answer arrived in an email. It is from Asch, addressed to me, dated August 29, 2004:

Unfortunately, I have some bad news to share with you. About three weeks ago, Silvia and I returned from a trip to Europe, and as soon as we arrived we learned from a phone call to the house that her mother had taken critically ill, was sinking into a coma and perhaps had only a few hours to live. Silvia immediately called Argentina, but could speak only with the someone who said that they mother's doctor, who replied ambiguously, saying that he couldn't tell how long she would live. We decided to go at once to Buenos Aires, and left the next day accompanied by our older daughter Barbara. When we landed a few hours later, we were met at the airport by police officials with Interpol credentials. I was handed a document and placed under arrest by authority of an international warrant for my capture, issued in Washington some days earlier and requesting my extradition to the United States.

Has he been set up? By whom? The nightmare continues. He spends the next 48 hours in a Buenos Aires jail ("an experience I wouldn't wish on my worst enemies," he writes). Finally his lawyers get him out. Surrendering his passport and posting a sizable bail has convinced a judge that he is not a flight risk.

I begin to catch up. Nearly a decade has passed. Sergio Stone has been convicted of a misdemeanor. Those Federal grand jury sealed indictments have been opened. Asch and Balmaceda are wanted for a felony: mail fraud – those insurance claims, a crime against private property. What happened to the harvest, the eggs? Shall you not reap as you sow? Asch is prepared.

I must tell you [he writes to me], for years I have lived with the fear that something like this may happen. Now I live without the fear but with the hope that at last there will be a day where justice will prevail I want to fight the USA to win this extradition trial if I can, and see if I can be done with this once and for all

It is now February 2006. I begin to detect change. I am still catching up with the events in between and perhaps have a fresh perspective. I can date this change back to Mary Dodge and Gilbert Geis's book, a still neglected, but nonetheless major work of sorting out the truth.² For me, the change becomes most evident when at long last the mainstream media begins to stir: two *Los Angeles Times* stories on February 14 and 18 of this year. I call it the collapse of the juggernaut. These are powerful stories in which UCI is definitively exposed as a cesspool of covered up scandal pre-and-post-dating the misdeeds attributed to Asch, Balmaceda and Stone. The unproven charges against these men pale before such documented federal crimes committed by UCI, ranging from the \$700 million Medicare billing fraud to the 32 patients awaiting organ transplants who died last year, the *Times* reported, "because no full-time surgeon was on staff and viable organs were turned down." When the Orange County campus of University of California, one of the world's greatest educational institutions, is shown to have paid nearly \$25 million in "hush money" to settle claims of dubious authenticity, it is safe to say that the payer will invariably seek out scapegoats. Add to this a tainted Pulitzer and the crime and punishment of lead counsel in the fertility case, Melanie Blum, disbarred, convicted and sent to prison in 2004 for bilking the ill-gotten gains from her clients in the case. Finally, there are the sour-notes of the axe-grinding prosecutor, who told the *Times* interviewer, "It is my great hope that these guys will be brought to justice before I retire." Nothing personal, you see.

In March of this year, I go to New York, see the media people, or as many of them still around when I first proposed this story. The old rejections have been scrapped. PC, insofar as it may be said to have been the new McCarthyism is dead. Its still not an easy story to tell, I'm told, but the resistance is gone.

I begin to tell it here, to the newcomers to this web site and to all who seek a third-dimension to a story that "must" have two sides. Not easy? Si senior, but for the first time I realize that a

² *Stealing Dreams: A Fertility Clinic Scandal*. Boston: Northeastern University Press, 2003. It is not unusual for scholarly works to receive scarce public notice, but in this case, where two well-known criminologists become the authors of the first to attempt at deconstructing a dangerous myth, neglect was perhaps built in.

part of the story – something entirely new – has been overlooked. The number of victims has to be revised. Subtract those who invented their woes, but add this new category: the women who could not receive the GIFT, denied the services of Asch and his team, denied them even now. Add, the men, too, the husbands. To those imagined mothers and fathers who were not to be,, one must add the unborn children, of course. And, then, while you're adding, be sure to add the un-grandparents to that list. I certainly will. I'm one of them.

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Robert Katz is the award-winning author of more than a dozen books as well as the screenplays for several motion pictures, three of them based on his own works. His essays and investigative reporting have appeared in numerous publications (including *The New York Times*, *The Washington Post*, *Esquire* and in anthologies, such as *What If? 2*, *Eminent Historians Imagine What Might Have Been*). He has also been a consultant to CBS's "60 Minutes," ABC's "PrimeTime Live" and The History Channel. A longtime resident of Italy, Katz is the author of several of groundbreaking works of 20th-century Italian history, from the international bestseller, *Death in Rome*, published in 22 editions and 10 languages to his latest book, *The Battle for Rome: The Germans, the Allies, the Partisans, and the Pope, September 1943–June 1944* – acclaimed by *The New York Times* as a "definitive account of a tragic time." In 1986, as a visiting professor at the University of California at Santa Cruz, he introduced a popular seminar in investigative journalism, returning annually as a fellow of its Adlai E. Stevenson College. He is also a fellow of the John Simon Guggenheim Foundation, a member of the American Academy of Motion Picture Arts and Sciences and has twice been elected a Knight of Mark Twain.

For future coverage of Ricardo Asch and his supporters' struggle for justice – please visit the author's website. Originating in Italy and online since 2003, [TheBoot.it, Robert Katz's History of Modern Italy](#), is an interactive resource providing free access to

much of the research on which the author's past and ongoing works are based. The focus is Italy, but the range is global.