The scandal is not that lawyers who defended the rule of law are now in the Justice Department but that lawyers in President Bush's Justice Department, with senior members of his cabinet, authorized war crimes and have thus far been given a free pass. The latest development is that the department will not refer Yoo and Bybee, who wrote two 2002 memos authorizing torture, to their state bars for disciplinary action. The Justice ethics office wrote a scathing report concluding that both men had violated their professional obligations to provide objective and independent advice. But David Margolis, a senior Justice official, vetoed the referral, saying that they merely used "poor judgment."

The question Americans need to ask is not whether a Justice Department lawyer in an earlier job defended the Constitution on behalf of an unpopular client. Rather, we should be asking why the government adopted a deliberate program of torture and cruel, inhuman and degrading treatment and has not held anyone accountable, apologized to the victims or acknowledged its wrongdoing. That is the real scandal. DAVID COLE

David Cole, The Nation*'s legal affairs correspondent, is the author, most recently, of* The Torture Memos: Rationalizing the Unthinkable.

Banking for the People

Even if financial services reforms are finally enacted at the federal level, it is unlikely they will create a banking system that serves the interests of Main Street America or the great mass of citizens who do the work and pay the taxes yet reap few of the benefits of this nation's immense wealth. But what if that great mass of citizens owned the banks?

COMMENT

That's a question that a growing number of candidates and legislators across the country are answering with proposals to create state-owned banks. Though these initiatives borrow from an old model—North Dakota has run a successful state bank since 1919—they are a response to a new reality: the hundreds of billions of public dollars plowed into big banks by the federal bailout have done little to free credit for job creation or economic development in recession-ravaged communities. So, taking a cue from Nobel Prize–winning economist Joseph Stiglitz and other critics of private-bank bailouts, latter-day populists are proposing to put public money to work for the public good.

Oregon Democratic gubernatorial candidate Bill Bradbury is calling for the creation of a Bank of Oregon, which would keep money in the state and invest in sustainable development. "It is time to declare economic sovereignty from the multinational banks that are responsible for much of our current economic crisis," says the former State Senate president and secretary of state. "Every year we ship over a billion dollars in Oregon taxpayer dollars to out-of-state and multinational banks in the form of deposits, only to see that money invested elsewhere. It's time to put our money to work for Oregonians."

Michigan's Virg Bernero, a leading candidate for the Democratic nomination for governor in that hard-hit state, is another public-banking proponent. "We can break the credit crunch and beat Wall Street at their own game by keeping our money right here in Michigan and investing it to retool our economy and create jobs," says the populist mayor of Lansing. In Illinois, Green Party gubernatorial nominee Rich Whitney, who won 10 percent of the statewide vote in 2006, proposes depositing all state tax revenues and pension contributions in a state bank. "Instead of using state funds as a means to further enrich private banks, a state-owned bank could earn additional revenue for the state while at the same time help spur economic development in Illinois," he argues.

It is not just candidates who are talking up bold remedies to the challenges created and perpetuated by "too big to fail" banks. Legislators from Vermont to Virginia, from Michigan to Washington State, are proposing to start state banks. They take inspiration from the Bank of North Dakota, created ninety-one years ago by radical Non-Partisan Leaguers to serve as the depository for all state tax collections and fees. The nation's only state-owned bank avoided subprime lending and the derivatives markets during the recent real estate bubble and now has $4 billion under management. It maintains the faith of its founders and, in the words of bank president Eric Hardmeyer, continues to "plow those deposits back into the state of North Dakota in the form of loans. We invest back into the state in economic development type of activities." What that means, according to Ellen Brown, author of the book *Web of Debt*, is that North Dakota has avoided the credit freeze "by creating its own credit [and] leading the nation in establishing state economic sovereignty."

That sounds good to Massachusetts Senate president Therese Murray, who wants her state to look into creating its own bank. Washington House finance committee vice chair Bob Hasegawa, a Seattle Democrat, has formally proposed a State Bank of Washington. "Imagine financing student aid, infrastructure, industry and community development. Imagine providing access to capital for small businesses, or otherwise leveraging our resources instead of having to do it with tax incentives," he says. "Imagine keeping our resources local instead of exporting them as profits, never to be seen again—that's what this bank could do."

The movement to create state-run banks is part of a broader push to put public money to work for the people. In Los Angeles the City Council voted unanimously on March 5 to ensure that taxpayer money is invested only in banks that have established track records of helping families stay in their homes, lending to small businesses that create jobs and eschewing toxic interest-rate "swaps" that saddle communities with excessive fees and interest rates. Pennsylvania's auditor general, Jack Wagner, is leading a campaign in that state to get local governments and school boards to stop risking public funds with investment banks that engage in deals Wagner describes as "tantamount to gambling with public money." Urging these initiatives on is the Service Employees International Union, which is waging a national campaign to stop investing in unaccountable banks. "It's time for Wall Street banks to stop focusing on their profits and start doing their part to help our cities and families recover," says SEIU secretary-treasurer Anna Burger.

The prospect of what might be done with all the money that has flowed from the federal Treasury to private banks has some players talking of taking the North Dakota model national. At a *Nation* magazine "Meltdown" event a year ago, Stiglitz suggested, "If we had used the $700 billion to create a new financial institution, allowed it to lever 10 to 1, which is very modest compared to the 30 to 1 that we were doing—10 to 1 would have generated $7 trillion of new lending capacity, far in excess of what our country needs. So the issue here is not about lending. It's really about saving the bankers. And what we confused was saving the banks versus saving the bankers and their shareholders." Yet as Washington struggles with the task of imposing basic regulation on big banks, the action will be in the states. How likely is that? Hardmeyer used to doubt that the North Dakota model would ever be adopted elsewhere. Now, he says, "when I look around the country, it's not quite as far a leap as I once thought it was." JOHN NICHOLS

Calvin Trillin, Deadline Poet

Future Governor Races in New York; A Voter Speaks

Our sights have been lowered.
Our backing is firm
For anyone likely
To serve out his term.

Chile Shaking

COMMENT

The most treacherous aftershock of Chile's devastating earthquake was the yawning divide between rich and poor—a fissure that has been mostly papered over by several decades of denial and delusion. One needed look no further than the Twitter torrent gushing from the broken country within hours of the temblor. As swarms of desperate Chileans sacked and emptied the shelves of every market and pharmacy in the hardest-hit, isolated southern region, there was a virtual tsunami of tweets, laden with class- and race-charged epithets, demanding that the army shoot to kill all "delinquents," along with a flurry of nostalgic pleas for a return to military dictatorship.

Indeed, with the veneer of social order crumbling almost as fast as the half-million to 1.5 million homes of wood, adobe and other substandard materials, outgoing President Michelle Bachelet ordered tank regiments and thousands of combat troops into the affected areas, producing chilling scenes, reminiscent of the Pinochet era, of nervous conscripts pointing their rifles at the backs of detained "vandals." At one point an eighteen-hour-a-day curfew was clamped down on the battered city of Concepción, as if its population were suspects rather than victims.