

Next: Free Movement of Labor?

By Brian Toohy

[Editor's Note: *This item is of note because of its topic — the view of the outgoing and incoming presidents of Mexico, and of six Central American countries' presidents, that there should be free trade in labor under NAFTA and GATT — was not reported in the United States during the time leading up to Congressional vote last December on the GATT treaty. Note that the report comes from Australia, where one of our colleagues clipped it. The point is that the American press, which generally supported GATT, was apparently loath to report anything that might have argued against passage. We reprint this for its historic significance even though the meeting it discusses is now old news.*]

The discomforting logic of the case for freeing up trade in labor is about to make it onto the international agenda.

So far, tough restrictions on migration have remained sacrosanct in a world in which barriers to the free movement of capital and merchandise have been falling amid much applause.

Now, the next step in the logic of market liberalization — lowering barriers to the free movement of labor across borders — will be raised at the summit of western hemisphere leaders in Miami on December 8-11.

The summit will bring together 33 leaders of North, Central and South American countries. (Cuba's Fidel Castro will be the only one missing.)

The aim of the summit is to bolster moves to free up trade and investment between western hemisphere countries following the example set by Canada, the U.S. and Mexico in establishing the North American Free Trade Agreement (NAFTA).

As far as the U.S. is concerned, free trade in labor is not supposed to be on the agenda in Miami. But the new California law (Proposition 187) barring health and education services to children of illegal migrants has insured that the topic will be raised.

The Honduran president, Carlos Reima, has announced that he and five other Central American leaders will ask President Clinton to review the

California law.

Although the outgoing Mexican president, Carlos Salinas, acknowledges that Clinton has no power to overturn a state law, he argues that Proposition 187 violates the spirit of NAFTA.

Salinas' attitude is of continuing importance as he is a leading candidate to head the new World Trade Organization which will start policing the General Agreement on Tariffs and Trade (GATT).

According to Salinas, the time has come to negotiate a freer flow of migrant labor in much the same way as NAFTA negotiated a freer flow of goods and investment.

"Salinas' attitude is of continuing importance as he is a leading candidate to head the new World Trade Organization which will start policing the General Agreement on Trade and Tariffs next year."

The new Mexican president, Ernesto Zedillo, who takes office today, made it clear in a meeting with Clinton in Washington last week that he shares Salinas' views on migration.

Under NAFTA — and the Asia Pacific Economic Co-operation forum (APEC) — trade in services, such as banking, law and insurance is to be liberalized. But this is not supposed to extend to cross-border trade in low-skilled labor — only to its output.

Washington officials hope that NAFTA will eventually boost Mexico's economic growth sufficiently to entice its workers to stay home rather than cross the border illegally to look for work in the U.S.

Meanwhile, illegal immigrants remain politically unpopular within the U.S. despite the fact that many Americans take advantage of the cheap farm produce and personal services they provide.

The decline in living standards experienced by middle- and low-income Americans over the past 15 years has created understandable resentment about paying taxes to deliver education and health care to families of illegal immigrants.

Although average wages have been falling in the U.S. in real terms since 1979, they still have a long way to go before they converge to Latin American standards.

Given that the Mexican minimum wage of US\$4.25 a day is only equivalent to the U.S. hourly minimum, the incentive to slip undetected across the Rio Grande is likely to exist for many years to come.

Any long-term tendency for wages to converge may be further delayed if the new Republican House Leader, Congressman Newt Gingrich, can implement his promise of a national deportation system that is "very efficient and very fast."

The difficulty of finding jobs for returning deportees has prompted Mexican business leaders to call for greater downward flexibility in local wages and conditions.

A cut in wages is not what Mexico's workers were promised under NAFTA, so it is little wonder that its political leaders want to link liberalized migration laws to free trade.

As Mexico is also a member of APEC, the debate is not likely to be confined to the western hemisphere. The Mexicans will find that the U.S. is not the only country where many of the most vociferous proponents of the free movement of goods and capital are reluctant to extend this principle to labor.

Within Australia, for example, some commentators and politicians who are quick to brand attempts to limit import of goods produced with child labor as "disguised protectionism" are also among the most fervent supporters of extremely tight limits on the importation of migrant labor—child or adult.

Australian opinion leaders will have to start confronting the logic which says that if one factor of production, capital, is to be highly mobile in the global marketplace, then so too should labor. ■

Invoking the Deity

Before a recent Democratic Party dinner in Southern California, the Rev. Jerald Stinson of Pilgrim United Church of Christ in Carlsbad, California prayed. According to the Fall 1994 issue of *The Witness*, a bi-monthly publication of the "confessing" movement within the UCC (P.O. Box 102, Candia, NH 03034, (800) 494-9172), the *San Diego Tribune* reported Stinson's prayer as beginning with a long, inclusive address to God:

Eternal Spirit of love, known to us by many names, pictured with many images, described by many metaphors — revealed to us by Moses and Jesus, by Mohammed and Buddha, by wise native American sages and Hindu mystics — cherished in the parenting images of both father and mother, source of nurture and sustenance, worshipped in the many diverse traditions of the world's living religions...

But the body of Stinson's prayer was notably exclusive of the possibility that people with whom he disagreed on immigration issues might have a righteous point or two to make, as he asked God:

...to turn our bombs into school books, to turn our fear of others into dialogue, to turn our English-only, immigrant-bashing narrowness into a celebration of the beauty of diversity...

Court Strikes Down Arizona Official English Law

On December 7, 1994, a federal appeals court in San Francisco struck down the Arizona Official English constitutional amendment, saying that government employees have a First Amendment-protected right to choose the language they will use on the job. The U.S. District Court of Appeals for the Ninth Circuit decided that a government may "encourage" the use of English by government workers performing official actions, but may not compel it.

The constitutional amendment was adopted by the voters in November 1988 after an initiative drive led by Arizonans for Official English. The initiative declared English the official language of Arizona, and said that almost all official actions had to be in English. Government workers were required to use English for official acts.

Four Arizona courts have upheld the constitutionality of the initiative. The Arizona Attorney General has also said that the initiative was constitutional if it only applied to official acts.

The day after the election, Maria-Kelly Yniguez filed suit in federal court to have the law declared unconstitutional. Yniguez was a state worker who wanted to write official documents in Spanish even though her supervisor couldn't read Spanish.

The federal trial court in Phoenix agreed with Yniguez and declared the initiative unconstitutional in 1990. The then-governor of Arizona, Rose Mofford, who had opposed the Official English initiative, refused to appeal the decision. Arizonans for Official English and its chairman, Robert Park, then intervened in the case to defend its initiative.

The appeals court decision, written by Judge Stephen Reinhardt, is the first to find a First Amendment right to choice of language on the job. Reinhardt found that choice of language is speech, protected by the First Amendment. "Language is by definition speech, and the regulation of any language is the regulation of speech." Yet most observers believe that the First Amendment protects only the *content* of speech, not the mode of expression.

Reinhardt also said that a state must provide services in a language other than English if it is "normal" to do so, and if government services claimants want those services. Many other courts have

found that in the Equal Protection and Due Process clauses of the Fourteenth Amendment do not require government to provide services in languages other than English. Reinhardt overruled these 14th Amendment cases in his decision.

Reinhardt declared that providing non-English information protects the claimants' "right to receive" information. Prior cases held that the 'right to receive' information applies only to commercial advertising, not to government services.

This new First Amendment right to choice of language will affect every language-related law in the country. Current non-English activities (like bilingual education and bilingual ballots) would be protected by the new First Amendment rights. Current state declarations that English is the official language would be vulnerable to lawsuits that they unconstitutionally affect government workers' free speech rights. New Official English declarations would be barred by the first amendment.

This is not Reinhardt's first attempt to strike down an official English rule. In 1988 and 1993, he wrote opinions which would have allowed employees to hurl racist insults in Spanish at their co-workers. In the 1988 case, involving an Orange County, California municipal court clerk, Reinhardt suggested hiring bilingual supervisors to replace the African-American employees who were concerned about the racist insults. Both earlier Reinhardt opinions were rejected by the U.S. Supreme Court.

Arizonans for Official English Chairman Robert Park says he intends to appeal Judge Reinhardt's decision to the U.S. Supreme Court, if necessary. As a first step, Arizonans for Official English has asked other judges on the 9th Circuit Court of Appeals to review Judge Reinhardt's decision.

Mr. Park is also chairman of English Language Advocates (ELA). He may be reached at 4870 Butterfly Drive, Yavapai Hills, Prescott, AZ 86301. Phone (602) 778-5811, fax (602) 778-2432. Tax-deductible contributions to ELA to pay for the appeal are urgently needed and may be sent to ELA, 316½ E. Mitchell St., Suite 4, Petoskey, MI 49770. Copies of the court's 23-page decision are available for \$5.00.

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Toward 150 Million Americans

Book Review by Daniel C. Abel

A friend of mine, a part-time stand-up comedian, has but a single version of his performance. It is far easier to find a new audience, he explained, than a new routine. Similarly, most of the content and message of *How Many Americans?* is not new to population scholars. What is fresh is that the authors, both population experts, have written a provocative analysis of both present and projected population growth and the resulting societal and environmental effects that is very convincing, and have packaged it in a thoroughly readable, compact publication. If this book finds its way into the hands of the public, educators, and policy makers, then perhaps at long last meaningful, reasoned discussion of population — the real parent of all environmental issues, if you will excuse the pun — can begin.

The approach of the authors is simple and direct. They examine the current population of the U.S. (261 million) and assert that by any standard we have already exceeded our carrying capacity by as many as 100 million. A 4-page section entitled *The Statistics of Degradation* presents a litany of population-related environmental problems (e.g., acid rain, erosion, loss of old-growth forests). Critics might find the presentation oversimplified and superficial and the conclusions too sweeping (e.g., *Our agriculture and household wastes are poisoning the wetlands and wiping out our coastal fishery* [p. 15]), but hardly controversial.

Here is where the authors truly do the non-specialist reader a service. Many Americans, even the college-educated, display a fear of numbers that hinders their ability to understand complex issues, including environmental ones. The consequences of this fear are an inability to evaluate critical data, and a reliance on others, such as sophistic radio talk-show hosts and demagogues, for opinions. In *How Many*

Americans? only the most essential, widely-accepted numbers are given, and they are repeated frequently enough so that they should become incorporated into the reader's memory, or at the very least become familiar. They include: current annual rate of population growth in the U.S., 1.3%; total fertility rate for non-immigrant Americans, 1.9; for first-generation immigrants, 2.7; current yearly immigration: about 1 million, plus 300,000 illegal aliens who settle permanently in the U.S. illegally each year. (The Total Fertility Rate [TFR] is the *completed* family size — the total number of children born. Replacement fertility is an average of 2.1 children per couple.)

In chapter 4, *Alternate Demographic Futures*, these rates are used to project the U.S. population into the next century

under four basic scenarios: doing nothing, reducing fertility, reducing immigration, and reducing both fertility and immigration. The percentage that each variable is reduced in the projections varies, and is not unrealistic (e.g., total immigration reduced by about 50% to 500,000, or 80% to 200,000). What emerges from these calculations and projections is that any effort to maintain our current population level into the future or reduce it cannot be successful without decreases in both fertility and immigration. These conclusions should come as no surprise to readers of *The Social Contract*, but they may be new to those not participating in the population debate. To reach the author's optimum population of 150 million by the end of the twenty-first century, fertility must decline to 1.5 (perhaps an unrealistically low number) and total immigration must be reduced to 200,000 annually, according to the authors.

The final chapter, *The Diverging Roads Ahead*, compares the laissez-faire approach to population control to one emphasizing managed reduction by

HOW MANY AMERICANS? POPULATION, IMMIGRATION, AND THE ENVIRONMENT

by Leon F. Bouvier
and Lindsey Grant
Sierra Club Books (1994)
174 pages, Hard cover, \$18.00