

Reportage

14TH ANNUAL NATIONAL LEGAL CONFERENCE ON IMMIGRATION AND REFUGEE POLICY

By Robert Kyser

Assisted by various church agencies responsible for the resettlement of refugees and the Friedrich Ebert Stiftung, the Center for Migration Studies held its 14th annual National Legal Conference on Immigration and Refugee Policy in Washington DC, March 21-22, 1991. In addition to exploring the ramifications of the Immigration Reform Act of 1990, the main topic of discussion for the attending immigration lawyers, caseworkers and program managers seemed to be the impact of proposed free trade zones in Europe and North America on immigration policy.

The conference opened with remarks by Gene McNary, current commissioner of the Immigration and Naturalization Service. In response to complaints about the slow pace of adjudicating cases brought by asylees, Commissioner McNary informed the audience that seven new offices are being created to handle the flow. Training is underway to inform interviewers of the actual civil rights conditions in the sending countries. Fraud-resistant work papers, the encouragement of supervised, legal immigration, and help for migrants who are functionally illiterate in both Spanish and English were listed as further priorities. Mr. McNary acknowledged that budget constraints have limited enforcement and that border control has been most difficult on the Southern border. He reminded the audience that the Border Patrol, begun in 1891, is in its centennial year.

Jerry Tinker from the Subcommittee on Immigration and Refugee Affairs for the US Senate traced some of the history of legislative reform noting how the 1965 legislation failed by skewing nationality and mitigating against skills, the lack of action in the 1970s, and a definite addressing of issues in 1986 and 1990. Because there is a need to revisit these issues frequently rather than every 25 years, the 1990 legislation has been written so as to "tickle" the Congress into reconsideration every three years.

The relation of immigration, both legal and illegal, to a proposed Free Trade Agreement among Mexico, Canada and the United States brought considerable audience response. M. Delal Baer of the Center For Strategic and International Studies sees the immigration issue as one that will be counter-productive to free trade discussions with Mexico; it is a matter of political pragmatism. "There is not a US political constituency

for open borders beyond the *Wall Street Journal* and some agricultural interests," Mr. Baer said. President Salinas seems to advance FTA as a way to stabilize migration across the Mexican-US border, but the Mexican left opposes it and raises the immigration issue as a way of killing it. United States unions, environmental groups and human rights activists are politicking against fast-track FTA talks, says Baer.

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Luis de la Calle, Office for FTA Negotiations of the Ministry of Commerce and Industrial Development of Mexico, spoke of the fact that "immigration is definitely off the table" in FTA discussions with the US and Canada. Because previous trade policies have not worked, there has been steady progress since 1985 in removing government protectionism from Mexican industry and commerce in the realization that international competition is a challenge for all countries and that a North American Free Trade Area would be a benefit to all three economies.

Two additional speakers, or "reactors" to this panel, spoke in favor of FTA. Diego Asencio, chairman of the Commission for the Study of International Migration and Cooperative Economic Development, believes that foreign policy (e.g. sugar quotas) should not be separated from questions of immigration and feels that environmental and other concerns in the US are shields for protectionism. Bradley Larschan of the Association for International Investment indicated that the US is into a mood of isolation and protection but that the public interest is best forwarded by the advancement of freer economics. "There are short-term problems but long-term benefits."

A strong audience reaction came from, among others, Professor Vernon Briggs of the New York State School of Industrial and Labor Relations at Cornell. Dr. Briggs asked why labor was not represented on this completely pro-corporation panel. He referred to the unfair competition that occurs when goods are

produced where labor standards and environmental protections do not apply, and to the fact that there is not enough attention to job-loss and unemployment in the US. "The logic of national survival would say that the high number of our nation's citizens who are among the working poor or the underclass deserve first claim on the nation's available jobs and chances for training and upgrading." He cited the appalling figures for New York State, especially for the garment industry.

The implications for immigration of the formation of the European Economic Community were considered by a panel consisting of Heinz Werner from the German Ministry of Labor and Social Affairs, Philip Muus from the University of Amsterdam, and James Hollifield of Brandeis University who has a new book due from Harvard University Press on labor in Europe. Dr. Werner spoke of improvements in employment in Europe since 1985 with the greatest unemployment in Spain and Ireland. The demand for labor exceeds supply and there will be a shortage of younger people. But more skills will be needed and there needs to be control at the EC borders. Dr. Muus explained that while one will be free to roam the EC countries, each state will keep its laws in place concerning non-nationals and will not allow settlement without work. There is a Dublin Convention agreement about "asylum shopping" so that asylum can be requested in only one country. Dr. Hollifield indicated that there may well be considerable migration into Europe from the east and the south. He feels that the governments are irreversibly liberal and will not respond in an overly protective manner to the influx; that it is more difficult for liberal governments to regulate borders because of the confluence of market-based economies and commitments to human rights.

In part IV of the conference, related to refugee legal questions, Patricia Cole Smith gave an overview of the INS regulations on asylum. The Attorney General has the authority to grant asylum and there seemed to be a tension between the lawyers present who want to maintain an adversarial style of adjudication and the desire of the INS to create more of an interview process. Carol Wolchak gave kudos to the INS for open listening to suggestions for writing their regulations and for training the asylum hearing officers. (It appears that the INS is drawing from refugee advocate organizations to staff the asylum centers.) David Martin of the University of Virginia Law School and Alex Aleinikoff of the University of Michigan Law School affirmed that "things are better" for asylum adjudication, that regulations have been modified to accord with case experience, and that the language is clearer. Aleinikoff expressed the fear that the interviewers will still have "numbers" (limits) in the back of their minds regardless of the merits of particular cases.

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On the topic of refugee resettlement, the main speaker was J. Michael Myers, counsel to the Senate Subcommittee on Immigration and Refugee Affairs who feels that resettlement resources should be able to respond flexibly with local circumstances, that there should be a single point of responsibility at the local level, and that the refugee program should be removed from welfare programs at all levels. One good signal of this change would be to have responsibility for refugee settlement moved from the Department of Health and Human Services. Reform is needed in refugee medical assistance and in the response to needs of long-term dependent populations.

Christopher Gersten, Director of HHS's Office of Refugee Resettlement, indicates that problems are concentrated in 6 or 7 large states where there are 50 percent and over dependency rates. There is a need to focus on a few large cities and on long-term dependency; we should identify families in California to be moved inland, Gersten indicated. Bruce Bushart of the New York State Department of Social Services (along with others) pointed to the dwindling resources of the states and asked how much we value refugees--enough to put time and resources into their development? They must not be just dumped into the welfare caseload where they are perceived as an extra burden on an already financially strapped system, but valued as potential citizens in need of language training and cultural adjustment.

Dawn Calabia, representing Refugee Services of the US Catholic Conference, reminded the conference of the unique partnership for refugee resettlement in the US--a combination of federal, state and local governmental and voluntary services. Ms. Calabia indicated that 80 percent of current cases are here in the US for family reunification which means they want to go where they will feel welcome, comfortable and unified - and that could mean Southern California with its problems of drought, etc.

The final segment of the conference was devoted to the medical needs of the migrating US farmworker and was opened with the showing of a video tape, "Health for America's Harvesters: The Migrant Health Program." A lengthy but thoroughly entertaining presentation on how aspects of Latin American cultures impact on delivery of health care to Hispanics was given by Mercedes Sandoval, Ph.D, University of Miami School of Medicine. Ms. Sandoval, who migrated from Cuba, indicates that she has become more of an "acculturalist" over the years and feels that "no matter what ethnic group I belong to I must adapt

to the 21st century."

The full transcript of conference presentations will be available at a later date from the Center For Migration Studies, 209 Flagg Place, Staten Island NY 10304-1199.