

**THE NORTH AMERICAN FREE  
TRADE AGREEMENT (NAFTA)  
AND  
HUMAN RIGHTS**

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## THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) AND HUMAN RIGHTS

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The points that I want to make in this paper are first, that Congress should support the Agreement this fall as it will have only a marginal effect on our economy, a positive effect on our environment and a long-term positive effect on the development of human rights in Mexico and Latin America in general.

My second point will be to suggest that human rights in Mexico should have had a higher profile in the NAFTA debate here in the U.S. And to reinforce this, I will provide some political background and describe some of the human rights issues and developments in Mexico.

To support my first point that NAFTA should be supported by the U.S. Congress, I will review briefly the major concerns on both sides of the border and how some of these concerns are being addressed. Here in the U.S. it is obvious to all of us that the NAFTA related issue with the most media focus has been the potential loss in jobs which the Agreement might bring to the U.S. This potential loss of jobs has been attributed to the inevitable acceleration in the flight of U.S. manufacturing across the Rio Grande. Environmentalist and our Labor Unions have cited Mexico's lax environmental laws and poorly enforced labor laws and, of course, its low wages as the attraction for this flight of U.S. manufacturing. While I agree that low wages have been an important attraction I do not believe that lax environmental and labor laws have been the motivating drive for most U.S. companies who have already located in Mexico or who are considering to do so, however these conditions clearly exists and need to be addressed.



The so called "side agreements" on environmental and labor issues just recently issued by the White House are intended to prevent each country from gaining a competitive advantage over the other by failing to enforce environmental or labor laws. The environmental agreement is the stronger of the two, unfortunately the labor side agreement seems to be quite weak and this weakness is attributed to the fact that both Canada and Mexico strongly resisted any sharing of control or influence over their labor markets.

Both agreements provide for the setting up of a commission which include Labor or Environmental Ministers of all three countries and Secretariats with rules protecting them from interference by each national government. Robert Reich and Carol Browner are the respective U.S. Ministers. The environmental agreement has no restrictions on the level of staffing and has the freedom to investigate any case of lax enforcement of environmental issues unless explicitly banned from doing so by two of the three countries' environmental ministers. The side agreement also provides 8 billion U.S. dollars for water and sewage treatment in the undeniably polluted border regions and has provisions for the commission to impose fines of up to \$20mm on the offending country, and if necessary to invoke trade sanctions. As one editorial pointed out no previous trade agreement tackles as many pollution issues as NAFTA does. By contrast, the General Agreement On Tariffs and Trade, GATT, the basic document governing international commerce doesn't even mention the word "environment."

The challenge Mexico will face in the area of environmental control will be to train and administer an adequate number of field specialists to monitor compliance with

existing regulations. It will take many years , in my view, before we see enforcement of environmental regulations in Mexico reaching the U.S. standard. Reduced tariffs under NAFTA on clean-up equipment will make this technology more accessible to Mexico. Overall Mexico is likely to be a cleaner nation with NAFTA than without it and given that environmental abuses are not contained by national borders, the U.S. should welcome this.

The Labor Commission is limited in its enforcement powers to a narrow range of specific issues. The Commission staff is limited to 15 members and it can only research cases of lax government enforcement after receiving permission from two of the three countries' labor ministers. Also the use of fines and sanctions are limited to those issues involving worker safety, child labor, and minimum wages. On other issues, like Mexico's many restrictions on labor unions, the ministers of the three countries can only discuss the problems without taking action. Obviously, these limitations have not been well received by U.S. labor leaders.

Apart from these side agreements there are other influences which are being brought to bear on U.S. companies operating manufacturing plants in Mexico. For example, there is a growing coalition of environmental, religious and labor organizations from both sides of the border called the Coalition for Justice in the Maquiladoras. A maquiladora is the legal form most U.S. manufacturing companies take when establishing in Mexico if they are going to re-export a large portion of their production back to the U.S.A. This Coalition has been in existence since 1991 with a mission to press U.S. corporations to adopt socially responsible business practices in their factories operating



in Mexico. They have established a Standards of Conduct document which they are asking companies to adopt. Their leverage lies in their status as concerned shareholders of public companies and they will use this leverage through shareholder resolutions to bring the issue into company board rooms and annual shareholder meetings if necessary.

Possibly the strongest and most balanced evaluation to the threat of job losses in the U.S. was provided in the letter sent to President Clinton recently and endorsed by 300 economists. This letter per The New York Times cited a review of dozens of studies of the trade agreement's impact on American jobs and pay. It concluded that while the signers of the letter who included conservative economists like Milton Freedman and liberals like Paul Samuelson, had minor differences, they concurred that "the effect on the U.S. economy, both good and bad would be small for many years."

Paul Krugman, a trade economist at M.I.T., described the agreement as "economically trivial" and summed up the current debate this way "the anti-NAFTA people are telling malicious whoppers, the pro-NAFTA people are telling little white lies."

Ross Perot's prediction, what he described as "the great sucking sound" the noise created by the massive exodus of industrial jobs, has not helped the current debate. He claimed 5.9 million U.S. jobs were at risk, a figure which has been clearly discredited as having any real foundation. Considered more realistic are the diverging figures put forth by the Institute of International Economics and the Economic Strategic Institute. Both used microeconomic models of the United States economy but with different assumptions. One concluded that NAFTA would added a 170,000 jobs to the labor market of 120 million workers while the other found that the U.S. would lose 420,000 jobs.

When viewed over 10 to 15 years, neither of these conclusions would have a sizeable impact on the economy.

Related to the fear of a loss of U.S. jobs has been the fear that investment would desert the United States for Mexico. Again, the economists suggest that the impact will be slight and that the claims of anti-NAFTA critics, like Ross Perot, are ill-founded. They note that the Mexican economy is roughly the size of the Los Angeles economy or 4% of the U.S. gross domestic product. Just as Los Angeles could not absorb a large portion of the new investment in the U.S. neither, they say, could Mexico.

Viewed from Mexico, NAFTA represents the following three critical threats. First is the potential cost to its sovereignty and national identity. Will a wave of buying in the U.S. increase its balance of payments currently running at \$20 billion, force a devaluation in the pesos, increase domination by U.S. capital and result in the loss of self-determination for Mexico?

Secondly, an expectation has been established over the past four years that NAFTA will jump start the Mexican economy miraculously, raising employment opportunities, wages, and the availability and consumption of consumer goods. These expectations are further fueled by the 60% drop in Mexico's real wage in the past decade, and the investment or sacrifice Mexico has already made in recent years to establish freer trade with the U.S. This included substantial reductions in their tariff barriers and accepting the flood of U.S. products now available in Mexico along with the negative consequences this has had on traditional Mexican business. The fact that a full third of



Mexico's population under 15 is further fueling high expectations for NAFTA to provide substantial growth in employment.

The third concern in Mexico relates to how NAFTA will actually work. Will many of the provisions of the supplemental agreement be lost in an investment and development frenzy following approval? Will progress be sufficient and timely to prevent a perception that the Mexican government were fooled by the Yankees? Will this drive Mexico back to protectionism, statism, and nationalism?

If our U.S. economists are correct, some of these Mexican concerns will not prove to be too damaging. There will not be an immediate surge of investment from the U.S. There has been a steady growth in U.S. investment taking place in Mexico over the past several years and while this will grow under NAFTA it will not grow out of control. With tariff reductions under NAFTA, there is less incentive for American companies to produce in Mexico, products which they can ship directly in from the U.S. Mexico can expect increased investment from other countries anxious to have access to the largest single world market.

While job opportunities in Mexico will be influenced by the rate of investment made by the U.S. and other countries, it will also be influenced by how Mexico deals with its huge rural agricultural population. Here there are two problems, a constitutional change related to land ownership is driving indigenous farming communities off the land; and secondly, free trade access for U.S. agricultural products will drive many Mexican farmers out of business. Expectations for improved wages in Mexico will be influenced just as

much through developments in Mexico's internal policies particularly with regard to labor bargaining procedures as they will from the direct effect of NAFTA.

The second point of my paper tonight is to suggest that perhaps the least well published aspect of NAFTA is the impact it has had in recent years on human rights in Mexico and the potential for further positive change in this area after NAFTA is approved.

When President Carlos Salinas assumed office five years ago, human rights abuses were considered inevitable by most Mexicans. Mexico's government had perpetuated this attitude by ignoring abuses and failing to prosecute those responsible. In fact, Mexico managed until recently to keep most of its human rights abuses from international view through a tightly controlled press and a single party political system.

Today while there is still very serious evidence of human rights violations in Mexico, human rights issues are highly publicized, are the subject of national debate and significant government and non-government activity. At the time of Salinas' appointment there were only a handful of human rights organizations in Mexico, today there are almost 200 independent non-government human rights monitoring and advocacy groups throughout the country.

This extraordinary growth in the human rights movement in Mexico is partially attributed to Salinas' legitimation of human rights as a subject of public concern, but the main impetus is said to have come from fundamental changes occurring in the political arena in recent years. One writer has described this change as the "crumbling of the perfect dictatorship." The phrase "perfect dictatorship" has an interesting story associated with it, apparently in 1990 the Mexican poet, Octavio Paz, invited like minded neo-liberal



intellectuals to participate in a forum on the demise of communism and triumph of democratic free market systems which was shown on "Televisa," the nominally private television channel exclusively dominated by the PRI, the institutional revolutionary party which has been in power for 67 years and is the party behind President Salinas. To Paz's consternation, a Peruvian novelist by the name of Mario Vargasllosa instead chose to focus on Salinas' Mexico, describing it as the perfect dictatorship. In his words, "The perfect dictatorship is not communism, not the Soviet Union, not Cuba, but Mexico because it is a camouflaged dictatorship. It may not seem to be a dictatorship, but has all the characteristics of dictatorship, the perpetuation not of one person, but of an irremovable party, a party that allows sufficient space for criticism, provided such criticism serves to maintain the appearance of a democratic party, but which suppresses by all means whatever criticism may threaten its perpetuation in power." As one might suspect he is reported to have left Mexico the following day, citing an "unexpected family matter" but he left behind the phrase, now a cliché in Mexico, the "perfect dictatorship."

Senator Patrick Moynihan, tried to shift the focus of NAFTA from one of jobs and the environment when he made the stark comments "We are being asked to approve a free trade agreement with a country that is not free." In comments he made in a Newsweek article, Salinas might be seen as answering Moynihan when he said "Some countries are attempting economic and political reform at the same time, and they end up with no reform at all, and even greater problems. - "Democracy will have to await the success of my economic policies." "We will respond to the call of Mexicans for improved

well-being, it is a matter of the two reforms going at different rhythms but the priority is economic."

There are signs, however, that the "perfect dictatorship" is indeed beginning to crumble, if just a little and that Salinas and his PRI may not entirely dictate the order or rhythms of reform. Most political observers report a new political culture is beginning to emerge in Mexico. Almost indistinguishable from the federal government since 1929 the PRI has dominated Mexico's single party political system with controlling power in state and local government. It has been described in recent times as a centralized monopoly, not only in politics but also in business as more than half of the country's assets are owned and operated by the government. These state enterprises have financed political careers, private fortunes and helped create an awesome network of allies between government and private business.

A serious economic crisis, however, in 1988 just prior to the presidential elections gave rise to a very significant split in the PRI. Those defecting, in cooperation with previously insignificant leftists parties, fielded an opposition presidential candidate, Cuauhtemoc Cardenas, the son of one of Mexico's most revered former presidents. Cardenas did very well in this election, although Salinas was declared the winner. Questions surrounding how Salinas came to power through this election further propelled Mexico's new political culture.

While there is reason to believe that Salinas genuinely wished to distance himself and his 1988 presidential campaign from the notorious reputation the PRI had won for its electoral fraud, his election and presidency remains tainted by the allegations of fraudulent



election practices. With apparent good intentions he introduced a U.S. style computerized vote tabulation system to provide instantaneous returns over national television. However, on election night when early returns showed Cardenas was ahead, the computer system went mysteriously dead and a week later the Federal Electoral Commission declared Salinas the winner with 50% of the vote. A later World Policy Institute study confirmed a widely held suspicion that there was evidence that Cardenas actually won 42% of the vote and Salinas 36%.

Cardenas' backers formed the Democratic Revolutionary Party (PRD) and along with the National Action Party (PAN) have been seriously challenging the PRI in state and local elections since 1988. Their limited success in gaining office in some states has been far outweighed by the attention they have brought to blatant electoral fraud, election related violence, and related human rights abuses.

To its credit the Salinas' administration has taken new initiatives in a number of human rights areas. These came after the first 18 months of their administration when there was a significant increase in human rights abuses by federal and state police. This coupled with a wave of election related conflicts that left many dead and others seriously injured or missing, sparked a wave of protests by Mexican human rights organizations and the opposition parties. Several international human rights groups issued reports which put further pressure on the administration.

Prior to his June 10, 1990 Summit Meeting with George Bush, where negotiations for the Free Trade Agreement were first announced, Salinas implemented a series of human rights reforms. Just prior to that highly publicized meeting the Inter-American

Commission on Human Rights of the Organization of American States delivered a stinging blow to Mexico's electoral process. Responding to a complaint from PAN the National Action Party on election fraud, the Commission found electoral codes in two states where violations of Article 23 of the OAS'S American Convention on Rights which guarantees citizens the right to vote in genuine periodic elections. Also just about the same time, the American human rights group "America's Watch" sent the Mexican government a pre-publication report entitled "Human Rights in Mexico; a Policy of Impunity," this was a very comprehensive and shocking report on the state of human rights in Mexico.

I think it is fair to give credit for these "just in time" reforms, to Mexico's interest in obtaining NAFTA and their understanding of our Congressional sensitivity to human rights violations. The reforms included the establishment of the National Human Rights Commission (CNDH) with the mission to investigate human rights complaints, to propose recommendations for legislative and other reforms to prevent future abuses, and to develop programs to educate Mexican officials and the public about human rights. A series of legal and institutional reforms and high level personnel changes or dismissals followed, all aimed at improving the human rights environment and to convince the world that Salinas' administration had this area under control.

Since the implementation of these reforms the National Human Rights Commission, although it lacks prosecutorial powers, gets positive reports from human rights activists. Under its president the former Supreme Court Justice, George Carpizo, the Commission has been relentless in pursuit of its mission. Its staff includes some 80 lawyers and 10 of México's best known writers, journalists and academics serve as it advisers.



In 1992 the Mexican Constitution was amended to ensure the Commissions permanence and to grant it independence and autonomy from the Interior Ministry. However, at the same time its scope to investigate violations was reduced by excluding violations in the area of labor rights, election irregularities and cases under the jurisdiction of the courts. In addition each of Mexico's 31 states were mandated to set up a commission before January 1993, thus changing the role of the National Commission to one of hearing appeals from the state commissions.

In its 1992 report President Carpio was generally positive about the Commission's progress while stressing that human rights in Mexico still have a long way to go. He reported that over one-third of his Commission's 300 recommendations have not been fully acted upon. These include cases involving murder, torture and missing persons most of which occurred during the Salinas' administration. The cases themselves documented by Amnesty International and America's Watch are very disturbing to read.

Mexico currently suffers from what has been described as a "grand separation between the law and practice." In November 1992, the UN Committee against torture condemned the stark contrast between Mexico's normative framework for protecting human rights which is found among the best in the world and the impunity so many public servants enjoy for the cruel treatment they mete out. Salinas, it seems to me, in trying to effect change is struggling against the deeply entrenched inter-connected relationships between the unions, the PRI, the police and the office of the Attorney General; and these relationships built over 67 years of single party government make progress in the practice of human rights very difficult.

During the early stages of negotiations on NAFTA a greater focus on human rights issues including electoral reforms might have yielded more democratic reforms and improvements in human rights. To reject or delay NAFTA now could set back some of the gains, however small, that have come through the NAFTA negotiations. A loss of confidence in Mexico's economy could very possibly follow from a delayed NAFTA, precipitating a serious devaluation of the pesos, an upheaval in Mexican politics and serious reaction against the U.S. Let's not push our neighbors back into another repressive decade. If we are truly worried about the loss of U.S. jobs and trade policy, let's focus on our trade deficit with Japan.

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