

# BULLETIN

*INTERNATIONAL SOCIETY for LABOR and SOCIAL SECURITY LAW—U.S. BRANCH*

EDWIN R. RENDER, *editor*

ALVIN GOLDMAN, *co-editor*

November 2004

## Note from the Chair

Alvin Goldman

The last Bulletin reported that a member assured us Querétaro, Mexico, is a delightful conference location. Those of us who attended the Western Hemisphere Congress of the International Society (Sept. 14-17) can now attest to the accuracy of that description. Many of the buildings, especially the interiors, were exquisite, the town sparkled, the people were friendly, and the surroundings were interesting.

Because Querétaro played an important role in Mexico's war of independence and in the adoption of its present constitution, it was our good fortune that we were present in the midst of Mexico's Independence Day celebrations which were carried out complete with municipal fireworks, traditional music, dancing in one of the central plazas, lots of booths selling food and hand crafts, and congenial celebrants.

The well-presented conference sessions were held in the attractive theatre in which the constitution was approved and where, on the eve of independence celebrations, we were treated to a fine orchestral performance. Although intermittent thunderstorms (except on Independence Day) added a touch of drama, no one's spirits were dampened and it is almost certain that at one point or another, whether in a shouted voice or a quiet musing, each of the U.S. attendees exclaimed "Viva Mexico".

\* \* \* \* \*

## US BRANCH CONFERENCE – MAY

25<sup>TH</sup>

CHICAGO, IL

After conducting a random survey of members, the National Executive Board decided to sponsor a **one day conference** in **Chicago** on **May 25<sup>th</sup>, 2005**, at the Chicago-Kent law school. Our conference will be the day before the commencement

of the **National Academy of Arbitrators' annual meeting** (May 26-28, 2005) at the Fairmont Hotel in **Chicago**. Branch members will thereby be able to use the same trip to attend both programs.

The tentative schedule is:

8:15-9:00 Registration and continental breakfast

9:00-9:45 Overview of Sources of International Standards Regulating or Influencing the Law of Work

10:00-10:15 Refreshment Break

10:15-11:30 (Joint Session with FMCS Midwest Arbitrators Symposium) Roundtable on Comparative Approaches to Adjudicating Challenges to Dismissals—Who Decides, Burdens of Persuasion, Remedial Authority, Roles of Advocates

11:30-1:00 Lunch (no speaker; networking together with Midwest Arbitrators Symposium)

1-2:15 Works Counsels and CoDetermination—What they Are; Will they Survive?

2:15-2:30 Break

2:30-4:00 Roundtable on the Practitioners Role in Relation to Employer and Union Interests in Extraterritorial Labor and Employment Law

Program participants will include overseas as well as US experts and there will be ample time for questions, answers and interactive discussion.

Those registered for both meetings will be able to book their rooms at the Fairmont using the NAA conference rate.

Due to limited meeting space, a cap will be placed on the number of registrants for our meeting, so please register early. Details about registration costs and procedures for our one day meeting will soon be available on our Branch website at:

<http://www.uky.edu/Law/ISLLSS/>

Information about registering for the annual meeting of the National Academy of Arbitrators will soon be available on its website at: <http://www.naarb.org/>

### **IN MEMORIUM**

National Executive Board member, Professor **Timothy Heinsz** died on July 2<sup>nd</sup> while jogging on the University of Missouri campus where he had been law school dean for thirteen years and was director of its Center for the Study of Dispute Resolution. It is hard for those who knew Tim, to remember him without a friendly smile and warm, sincere greeting.

In addition to being an outstanding administrator, Tim was a respected scholar in the fields of labor law and dispute resolution and a valued arbitrator and mediator. He co-authored, with board member Dennis Nolan, a popular labor law coursebook, was reporter for the Uniform Law Commissioners' Revised Uniform Arbitration Act, and a Vice President of the National Academy of Arbitrators. Tim's comparative labor and employment law activities included teaching and research at Cambridge, the International Labor Organization in Geneva, and at campuses in New Zealand and South Africa. Among the many tributes offered in response to news of his death, a particularly apt summary of his personality observed: "What really impressed me was how he could get so much done while staying calm and treating [others] with kindness and grace."



\*\*\*\*\*

### **Effects of NAFTA – Part I**

by Valerie Fillenwarth

*[Ed and Valerie Fillenwarth participated in a Witness for Peace mission to Mexico in June, 2003. Witness*

*for Peace, a grassroots, faith-based, non denominational, politically independent association, sends delegations to observe the effects of US foreign policy in Latin America. The Fillenwarths' group of 15, which ranged in age from 16-63, was asked to investigate the effects in Mexico of the North American Free Trade Agreement. It operated under the guidance of two WFP staff.*

*The second part of Valerie's report will be published in the next Bulletin. Comments are welcome and should be sent to Alvin Goldman at College of Law, University of Kentucky, Lexington, KY 40502.]*

We studied the country's history, the current agricultural crisis, and the effects of NAFTA on the environment. We learned what would happen in our hemisphere if the FTAA (Free Trade Area of the Americas) is passed in 2005. We also studied military involvement and human rights issues such as torture and the displacement and migration of people. Seven of the groups who spoke to us discussed NAFTA and agreed that it has not been good for Mexico.

At the United States Embassy, an Embassy representative stated that job losses in the US have not been very bad under NAFTA. This caused an immediate response by members of our delegation, who sprang to our feet citing facts and disagreeing with her statement. According to the Mexican Action Network on Free Trade, prior to NAFTA 34% of Mexicans lived below the poverty level. Now 60% of Mexican citizens live below the poverty level. Fifty percent of the Mexican people live on an average of \$4 US dollars a day. The minimum wage in Mexico is \$4.20 a day, and 16% of the workers earn the minimum wage. The buying power of Mexicans has been reduced by 40% under NAFTA. Prior to NAFTA there were three billionaires in Mexico, and now there are thirteen. (The rich get richer and the poor get poorer.)

NAFTA has increased jobs in the *maquiladora* sector, the foreign owned, export based assembly plants, that the Authentic Labor Front called "bad jobs". Even with that increase, Mexico has experienced an overall job loss of 3.4% each year under NAFTA. Many of these job losses have come from small and medium-sized businesses which, prior to NAFTA, employed 90% of Mexican workers. Under NAFTA, 60% of those companies are

gone, resulting in massive unemployment or underemployment.

The Mexican government exaggerates its employment figures by counting as "employed" any person who works at least one hour per week. In addition, many women employees of the *maquilas* are abused. There are 356 documented cases of women workers being murdered in the State of Juarez alone.

The environment and labor side-agreements to NAFTA are largely ineffective. In fact, NAFTA's Chapter Eleven allows corporations to sue the government of the country where their plants are located for "loss of profit" caused by environmental or other laws.

Mexican labor laws are mostly ignored by employers and the government. Most "labor unions" in Mexico are company unions that are sponsored by the government. In our meeting at the US Embassy, Representative Earl Irving stated that the implementation of Mexican labor laws is a "workers' inferno". Workers who attempt to organize are threatened by the police as well as by company owners. The military is brought in if the police have intervened but cannot squash the movement to organize an independent union.

The representative of the National Union of Autonomous Campesino Organizations told us that the farming situation has not fared any better under NAFTA. In response to conditions set forth in the Structural Adjustment Programs mandated by the International Monetary Fund, Mexico eliminated its price support system for agricultural products. At the same time, the United States has continued farm subsidies, and last year adopted a new \$10 billion farm bill that will help US farmers for the next several years. The Mexican small farmers cannot compete with the large subsidized corporate agri-businesses in the US. Is it any wonder that 15% to 20% of the small farmers in Mexico have either lost or abandoned their land since NAFTA?

Mexico can no longer feed itself. It seems not only unjust but also demeaning to their identity as a people that one-third of the corn in Mexico now comes from the United States. It is now more economical for them to buy corn from the United States than to grow their own. Mexico's three hundred varieties of corn have been planted for ten thousand years. That great biodiversity is now being threatened by cross pollination, which is caused when farmers unwittingly plant genetically modified corn, purchased from Monsanto for consumption but not labeled as such. The spokesman

for the Organizations of the Sierra Juarez in Oaxaca says the world's most ancient source of corn must be protected. GMO corn should be banned from Mexico.

The economic plight of Mexico cannot be discussed without mentioning military involvement. Although President Fox signed the UN International Convention Against Torture, the Human Rights Center states that "torture continues to be a part of the normal system of investigation of crimes in Mexico. Arbitrary detainment and forced confessions are also common." When cases of human rights violations are brought against military torturers, they are tried before a military tribunal instead of a civil court, which almost always guarantees impunity for the perpetrators.

A portion of the Mexican military is trained at the US Army School of the Americas, now called the Western Hemisphere Institute for Security Cooperation, at Fort Benning, Georgia. But, the Leahy Law, expanded in 2001 to ban funds for US training to those who have been accused of human rights violations, is not properly enforced.

Recently, the Mexican Supreme Court refused to hear 330 constitutional complaints brought by indigenous communities regarding increased militarism in their homelands. The Fox Administration abrogated the 1994 San Andreas Accords that recognized the autonomy of indigenous peoples, and their rights to their community-owned *ejido* lands and resources. As a result, increased military tension in these communities is creating conflict between campesinos (the small farmers) and foreign investment-gearred politicians who desire their land.

The Free Trade Area of the Americas (FTAA) is the expansion of the NAFTA to give trans-national corporations free trade access to every country in Central America, South America and the Caribbean, except Cuba. Negotiations, set to be completed in 2005, are taking place in secret. Citizens of the affected thirty-three countries are not being informed or consulted, and environmental standards and human rights do not have priority. The FTAA's Fasttrack Law gives President Bush total control to negotiate international trade law, restricting the House and Congress input to only voting 'yea' or 'nay' on the future of US trade policy.

Not only NAFTA has dampened the economic climate of Mexico. The World Trade Organization program that enabled Vietnam to grow coffee in the 1990's created a glut on the market for coffee beans and drove down the prices that Mexican farmers can get for their coffee.

\*\*\*\*\*

Recently, West-Thomson published Vargas, MEXICAN LEGAL DICTIONARY, a compilation of over 3,000 bilingual English/Spanish legal terms including definitions taken directly from Mexican codes, statutes, regulations and treaties. In addition, it has ten Appendices consisting of Mexican law documents that may be of interest to those studying or doing business in or with Mexico.

### **Other Up-Coming Conferences**

**-Jan. 7-9, 2005, Philadelphia, PA.** Industrial Relations Research Association's 57<sup>th</sup> annual meeting will be held at the Wyndham, Franklin Plaza. The program will include several sessions devoted to aspects of comparative and international law including workshops on 'Comparative International Study of the Global Call Center Industry' and on 'Employee Voice in the Anglo-American World', and symposia on 'Regional Integration in Historical Perspective: NAFTA, Mercosul and the European Union' and 'Worker Representation in Global Industries'. Registration and related information is available at:  
[www.irra.uiuc.edu](http://www.irra.uiuc.edu)

**-May16-20, Paris, France,** International Labor Law Committee of ABA Section of Labor and Employment Law. Details to be available at:  
[www.abanet.org/labor/calendar.html](http://www.abanet.org/labor/calendar.html)

**-Sep. 20-23, 2005, Bologna, Italy,** 8<sup>th</sup> European Congress of the International Society for Labor and Social Security Law. (English will be one of the official languages.)  
Topics will include Family Allowances; New Boundaries of Employee Information and Consultation Rights; Processes of Making and Implementing Social Law within the European Union; Challenges to Labor Law and Collective Bargaining of Central European Countries Integrating into the European Union; Transfers of Undertakings; the Roles of Unions, Workers' Representatives, Public Authorities and Other Stakeholders in Enterprise Transformations; Alternative Dispute Resolution in Labor Law.

Registration information is available at:  
[www.labourlawbologna.com](http://www.labourlawbologna.com)

**-Oct. 31-Nov. 3, 2005, Taipei, Taiwan,** 8<sup>th</sup> Asian Regional Congress, International Society for Labor and Social Security Law. (English will be one of the official languages.)

Topics will include Participation of Women in the Labor Market—Toward the Goal of Gender Equality in Employment; The Impetus for Economic Restructuring and the Protection of Women's Rights; The Old-Age Security and Pension System—The Asian Experience.

Registration information is available at:  
[www.airroc.org.tw/ISLSSL2005](http://www.airroc.org.tw/ISLSSL2005)

**-Sep. 5-8, 2006, Paris, France,** 18<sup>th</sup> World Congress of the International Society for Labor and Social Security Law. (English will be one of the official languages.)

Topics will include Trade Liberalization and Labor and Social Security Law; Labor Law and Productive Decentralization; Occupational Risks--Social Protection and Employer's Liability; The Future of Statutory Regulation in Labor Law.

\*\*\*\*\*

### **USEFUL WEB SITES**

Finding basic information about the European Union and its institutions is facilitated by the EU's website at: [www.europa.eu.int/eur-lex/lex/en/index.htm](http://www.europa.eu.int/eur-lex/lex/en/index.htm) which provides free access to European Union law including treaties, legislation, case-law and legislative proposals.

Another useful website is:  
[www.europa.eu.int/abc/index\\_en.htm](http://www.europa.eu.int/abc/index_en.htm) which provides more general information respecting the EU and its institutions. It also provides links to more detailed sources of EU data and law.

\*\*\*\*\*

IF YOU HAVE ALREADY PAID,  
THANK YOU FOR YOUR ANNUAL DUES. IF NOT, PLEASE  
REMEMBER, YOUR PROMPT  
PAYMENT HELPS SUSTAIN THE  
COMPARATIVE LABOR LAW AND  
POLICY JOURNAL, THE U.S.  
BRANCH OF THE SOCIETY AND  
THE SOCIETY'S INTERNATIONAL  
ACTIVITIES.

.....

.....