

The art of ignoring impatient elephants

Picture a typical union-management negotiating scene: worker and employer negotiators sitting across a table from one another in a modest meeting room, hammering out issues of pay and benefits and working conditions. Now imagine an elephant in the room, shifting impatiently as the negotiators haggle over seniority rights and grievance procedures. At any moment, the elephant could crush the bargaining table, and the negotiators with it, but they just keep on talking, and never mention the elephant.

Migrant labour was the elephant in the room when American, Mexican and Canadian negotiators hammered out the North American Free Trade Agreement last year. The elephant is still in the room, as negotiators now try to work out a "side agreement" on labour rights and labour standards to fulfil a campaign promise by President Bill Clinton. They never mention migrant worker rights, the single biggest issue affecting labour standards and labour conditions on the North American continent.

At the outset of NAFTA negotiations, Presidents Salinas and Bush, and Canadian Prime Minister Mulroney, declared migrant labour issues off limits. But while two million Mexican citizens work legally in the United States, more than six million others – some say upwards of ten million – have crossed the border in the face of harsh border patrols and sharp-edged discrimination against Hispanic workers. Their dollar earnings from agricultural, construction, hotel, restaurant and factory jobs are vital both to the communities where they live and to the subsistence of family members still in Mexico.

The Salinas and Bush administrations argued that NAFTA will bring prosperity to Mexico, thus relieving the economic pressures that drive millions of working people *al norte*. But most labour rights advocates see it having the opposite effect. The same claim was made for the *maquiladora* factories in special assembly and export zones along the 2,000 mile border between the United States and Mexico. More than half a million Mexicans labour in these branch plants of US multinational corporations, but wages and working conditions are terrible. Many of the workers drawn to the *maquiladora* just keep on going to the US where a minimum wage job (now \$4.25 per hour) or even illegal sub-minimum wage work is still preferable.

A brief summary of NAFTA and the state of

negotiations as *International Union Rights* goes to press, sets the background for discussing the trade pact's effect on migrant worker rights. Bush, Salinas and Mulroney announced a final NAFTA agreement in August 1992. The accord gradually cuts tariffs, liberalises investment rules, opens up trade in services and telecommunications, harmonises technical standards, creates rules of origin for products with third country content, and sets forth a detailed dispute settlement mechanism.

At the unrelenting demand of US negotiators, NAFTA contains an entire chapter devoted to protection and enforcement of intellectual property rights – mainly patents, copyrights, industrial designs and other claims to exclusive holding by US multinational companies. NAFTA forces Mexico to stiffen its laws including the seizure of property at the border. In contrast, the agreement is completely silent on worker rights and social standards. US trade union demands for labour rights provisions in NAFTA fell on deaf ears in the Bush Administration. "This is a trade agreement, not a political or social rights agreement" was the response from Bush and Carla Hills, a corporate lawyer serving as the United States' Trade Representative. Their rhetoric suggested that trade disputes are matters not to be resolved by bureaucrats and technocrats as North America progresses towards a "free trade" ideal, even though, in other contexts, they were as guilty as any other government of setting up quotas, tariffs and other barriers to trade.

Trade union activists pressed the Clinton campaign, and then the Clinton administration, to take a different approach. A detailed Citizens' Analysis of the NAFTA issued in December 1993 by a coalition of labour, human rights, consumer and environmental organisations demonstrated the profound political, social and cultural effects of the agreement, and outlined the features of a "social charter" promoting labour rights, environmental protection, sustainable development, democracy and human rights. Such a charter, they declared, would be needed before they could support any North American trade pact. Otherwise, Mexico's low wages, government-run unions and lax environmental laws would bring a massive flow of jobs from the US and Canada as companies seek to exploit Mexican workers and communities.

Clinton finessed the issue, calling for negoti-



Migrant workers' rights are the biggest single issue affecting North American labour standards says **Lance Compa.**



Photos by Julia Schwartz/Agencia

Migrants are rarely free from suspicion and harassment by the state's security organisations

ation of "side agreements", one on labour rights and one on environmental protection, but endorsing the basic NAFTA text. Trade unions have launched a drive for a strong labour side agreement similar to the NAFTA chapter on intellectual property rights.

The administration has been coy, suggesting one day that the side agreements will rely on "moral persuasion" to achieve labour and environmental standards, and hinting the next day that only side agreements with powerful trade sanctions to back them up would be acceptable.

Negotiations began on the side agreements in March, 1993 and are meant to conclude in the Summer. The US Congress could then take up ratification of the agreement, and its implementing legislation, in the Autumn. Most analysts say NAFTA's fate is too close to call with any certainty. Much of the same unease that led to difficulties for the Maastricht Treaty in Europe is emerging in the United States around NAFTA.

Meanwhile, what of immigration? The US coalition of labour, human rights, environmental, religious and other non-governmental organisations have also shied away from confronting immigration head on. They have advocated labour rights and labour standards in NAFTA covering the right of association, the right to organise and bargain collectively, prohibitions on forced labour, limits on child labour, non-discrimination in employment and adequate protection, of minimum wages, hours of work and occupational safety and health conditions.

While they criticise NAFTA for permitting the

movement of goods, services, and investments across borders, but ignoring worker rights, they do not go so far as to advocate totally free movement of workers. Such a declaration would surely fracture the coalition, as trade unions and their allied organisations would not accept open borders for workers for fear that millions of Mexican would rush to the United States, willing to work for lower wages than US citizens, but still much more than they can possibly make in Mexico.

But even though the NAFTA text ignores migrant worker issues, and the anti-NAFTA coalition cannot bring itself to support free movement of workers, NAFTA will still have enormous effects on migrant labour.

One of the chief claims of NAFTA proponents is that it will bring prosperity to Mexico and reduce the pressure to emigrate. In fact, the opposite is certain to occur.

With no guarantees of human or social rights, NAFTA fails completely to confront discrimination against Hispanic people in the United States.

The liberalisation of trade in agriculture will see US agribusiness companies displacing indigenous Mexican production and farm labour. The Salinas government has already reformed the legal status of *ejidos*, the small,

communally-owned landholdings of Mexican peasants established in the revolutionary struggles of the early 20th century. Now, individual peasants can sell off their share of the land. Many are expected to succumb to meagre cash offers from US agribusiness corporations which will be invited to Mexico under NAFTA.

Corn is the principal staple of Mexican food production, the main source of bread, livestock feed and other necessities. Mexico's labour intensive corn production (26 per cent of Mexico's labour force works in agriculture, compared to

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two per cent in the US) yields 1.8 tons per hectare and a total annual production of 13 million tons. US corn production is eight tons per hectare and a total of 200 million tons. Similar ratios exist as to beans and dairy products. Between the sale of shares in ejidos and the invasion of mechanised agribusiness production methods, millions of Mexican farm labourers will be driven off the land. Most will head north looking for work, first in the maquiladora factories, then across the border to the United States.

At the same time, Mexico's year-round growing season gives it an advantage in the fruits and vegetables sector. With both displaced Mexican farm workers entering the United States, along with a jump in fruit and vegetable exports, wages and working conditions of farm workers in the United States will suffer, whether they be undocumented aliens, legal residents or Mexican-American citizens of the United States.

A new surge of migrants will also drive down labour standards in the non-agricultural sectors where most of them work in the United States, mainly hotels, restaurants, construction and manufacturing. A new generation of immigrants will also retard development of union and community organising among Mexicans working in the United States, fearful that they might be found out and deported.

With no guarantees of human or social rights, NAFTA fails completely to confront discrimination against Hispanic people in the United States. A 1992 study by the American Friends Service Committee found a widespread pattern of psychological and physical abuse, unlawful searches and destruction of personal belongings, illegal detention and violations of due process by US immigration authorities, including against Mexican-American US citizens. Similarly, the 1986 Immigration Reform and Control Act (IRCA) and its "Employer sanctions" provisions which make it a crime to employ undocumented non-US citizens, has led to widespread denial of jobs and sacking of workers. Not only undocumented workers are affected but also those legally in the US or US citizens who merely look Hispanic.

Advocates of migrant worker rights are calling for easing legal movement of workers across North American boundaries, improving wages and working conditions in agriculture and in low wage service, construction and factory jobs, a repeal of the employer sanctions provisions of the IRCA, and strict enforcement of anti-discrimination measures in employment and along the border.

Most US unions support all these steps except free movement of workers. They fear that Mexican poverty will drive millions to the US in search of jobs, bringing down wages and stifling union organisation. The problem is, that is what's happening anyway, even without NAFTA.

If North American governments are to address issues of migrant labour rights, they will have to do it with a reformulated agreement that includes strong labour and human rights standards, steady upwards harmonisation of labour conditions, compensatory funding from North to South to promote sustainable development to Mexico, and freer – if still not totally free – movement of workers among the three nations of North America□