FOOTNOTES

A Checklist for CIR

by Lindsey Grant

I participated recently in a round table organized by the Commission on Immigration Reform and was asked to make a brief list of suggestions for its attention. Here is that list.*

You have solicited round table members' ideas as to topics and proposals the commission should consider. I have looked at your interim report and offer my congratulations for your courage in taking on many of the key problems. My comments will touch only briefly on what you have already done. I will focus instead on what I see as the toughest issues ahead.

LEGAL MIGRATION

How Many Americans? The critical issue in immigration policy is not how many immigrants there are, but how many Americans there will be. Immigration is the primary driver as population growth threatens to drive the nation to about a half billion people in the next century. The relationship of immigration to population growth — not secondary questions such as the costs to welfare programs — should guide national policy on immigration levels. **I urge that you address the problems of jobs, education, housing, urban deterioration, energy, agriculture and the environment, that you weigh the impact that population growth will have on those problems, and that you undertake to describe what immigration levels would best contribute to the solution of the problems we face.**

What Categories of Immigrants? My own belief is that the nation's future well-being depends on stopping population growth, and that would require immigration far lower than at present — probably something like the 200,000 annual flow that prevailed between the immigration acts of 1924 and 1965. Present law is largely based on "family reunification", and its importance is reasserted in your mandate. It is a beguiling phrase, but dangerous because it leads to chain immigration. This policy in turn squeezes out valuable potential immigrants such as scientists, artists, writers and technicians. Coupled with our refugee and asylum policy, and with the categories of immigrant already outside the quota, it means that total de facto migration levels are only very loosely constrained by the ostensible numerical limits. Something has to give. Although I recognize you must respond to the mandate, **I suggest that the CIR consider recommending that immigrants' families remain unified by bringing their nuclear families with them, within the quota, and that most quota numbers be reserved for "enrichment" migrants.**

Refugee and Asylum Policy. The U.S. is formally committed to the principle of "non-refoulement" – i.e. that it will not repatriate anybody who has a credible reason to fear coercion. This is an open-ended commitment. With millions of would-be migrants, and many governments anxious to see them leave, it gives any dictator the power to decide that asylees will stay in the U.S. simply by saying he would persecute those who tried to come back. **Should the CIR suggest that the government clarify and limit that provision?**

Nonimmigrant Refugees. Most countries assume that real political refugees will not stay forever, but will return when the danger in their home country subsides. The U.S. treats them as immigrants. **Shouldn't refugees be admitted as non-immigrants and their status periodically be reviewed?**

The Cuban Refugee Adjustment Act of 1966. This law is a relic of the Cold War. It has been used to provide almost automatic residence to any Cuban who can get here. It is an invitation to try, and it is widely seen as racial discrimination in favor of White Cubans vs. Black Haitians and others. **Shouldn't the CIR consider proposing its repeal?**

Quasi-legal Migration. The government has used ad hoc decisions and the Attorney General's parole power in ways the law never intended: making a deal with Castro guaranteeing the admission of 20,000 Cubans a year, granting "humanitarian parole" to Chinese, inventing "extended voluntary departure" and other devices to defer the departure of various groups. **Should the CIR propose that these practices be restricted?**

ILLEGAL IMMIGRATION

Better Identification. You have proposed an improved way of establishing people's identity. That addresses a fundamental need. I hope that you will pursue it despite the administration's lukewarm response. I am sorry that two of the commission members were so hesitant in their endorse-

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* The Commission was created by the immigration act of 1990 to examine U.S. immigration policies and their implications. It is popularly called "the Jordan commission" after its Chair, former Congresswoman Barbara Jordan.

ment. Would they have had similar reservations about an effort to help the IRS to identify who should pay taxes? The "right" to be unidentifiable is not enshrined in U.S. law. Some means of identifying people is central to the orderly administration of complex societies. **Should you make the point that better identification would contribute to national objectives such as the control of drug traffic, tax evasion and other crime?**

Other Internal Controls. The best way to discourage illegal immigration is to persuade prospective migrants that it won't work. Your proposal on identification is a start. There are many other points at which the illegal migrant could be identified and deported, given the will: a law against continued employment, not just hiring, of those not entitled to work here; laws against issuance of drivers' and occupational licenses to illegal residents; voter and school registration; forfeiture of property for submission of false documentation; and so on. **I urge that you summarize the techniques available to identify illegal residents, to discourage them from seeking to migrate and their potential employers from luring them.**

Control of the Border. In its unsuccessful effort to persuade Congress to approve $40 billion in loan guarantees for Mexico, the administration made the (dubious) claim that otherwise there might be a flood of half a million illegal immigrants. Are we so helpless? Whatever the merits of the loan guarantees, there is another lesson there: instability is endemic in much of the third world, and probably rising. We may expect more waves of "boat people" and more desperate border crossers. The inability of the INS to control present movements is very nearly a guarantee that it could not handle a massive wave. Border control is a traditional and legitimate function of the military (perhaps of the National Guard.) A case might well be made that some such augmentation is already necessary, as in the use of the Coast Guard last autumn, or of the National Guard against drug smuggling. **I hope that the Commission will be prepared to offer some untraditionally blunt contingency planning on a subject long taboo: how would we handle massive waves of illegal would-be immigrants?**

Learning the Facts. You have described (a) the need for an integrated system of birth and death records to stop the assumption of false identities and (b) the appalling state of our national data base on visitors and migrants. Both deficiencies degrade our ability to administer the immigration laws and affect other matters such as population and unemployment data and welfare needs. Supermarkets engage in far more complex merchandise inventory management than the government is presently capable of, with people. Unified vital statistics and a computerized process of logging entrants' movements to, within and from the U.S. — from visa issuance to departure — would go far to control the problems of false identity and visa overstayers and would give the nation a much better handle on issues such as the cost of immigrants to certain states. **I hope that you will underline the need for comprehensive reform of our national vital statistics and INS records, not just patchwork computerization.**

GENERAL

Dealing with the Problem at the Source. One regularly hears the argument that we wouldn't have the problem if sending nations could be helped to prosper. You have been commendably cautious as to how much can be done. The third world working age population is growing by record numbers, and the children are already born who will migrate twenty years hence. The pretense that the U.S. can solve the problem by investment or trade ignores the vast size of the problem, and it raises some disturbing questions as to what would happen to our own poor and dispossessed. **I urge you to underline that migration must be addressed directly; it cannot be wished away by indirect measures**

Developing a National Consensus. Presently, even many law enforcement agencies do not cooperate with the INS. There is no prospect that immigration laws will be made sensible, or the current ones enforced, unless there is a national consensus as to why it is necessary. Abstractly, public opinion is far ahead of the politicians on the need to limit immigration. However, we are a generous nation, strongly inclined at the individual level to help those who come here from desperation. There will be real immigration reform only when most people understand the limits of our national capabilities to absorb more people, the penalties that our generosity imposes on our own poor and on future generations, and the necessity for determined action to manage immigration. **I urge the Commission to emphasize that immigration reform will require national will, and that that in turn will require leadership by political leaders and opinion makers.**

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