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REVIEW

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From the Editor

MIKE NAHAN

In August this year, 40,000 NGO activists will descend upon Johannesburg to attend the World Conference on Sustainable Development, ostensibly to discuss how to advance the wellbeing of people in developing nations.

Unfortunately, the Conference plans to condemn the very thing that offers the greatest hope: economic freedom.

As the *Economic Freedom of the World: 2002 Annual Report** and the growing body of associated research show, economic freedom—free trade, sound money, protection of property rights, limited government, and neutral and limited regulation—provides the most effective route from poverty and hopelessness.

The Report finds a strong and positive relationship between economic freedom and income, and between economic freedom and economic growth.

In 2000, the most economically free countries had an average per capita income of \$23,450 which is nearly twice the per capita income of the next highest group of countries. In contrast, the bottom group of countries in terms of economic freedom had an average per capita income of just \$2,556.

Economically-free countries also tend to grow faster. Over the 1990s, the freest group of countries grew at an average rate of 2.56 per cent per annum, while the least free nations—most of which were in Africa—were mired in depression with their economies shrinking by 0.85 per cent per year.

The relationship between economic freedom and economic growth is not a statistical illusion or spurious correlation. Indeed, it is statistically significant and robust.

The relationship between growth and economic freedom is not restricted to rich countries. Although developed countries dominate the ranks of 'the most free' countries, the largest gains in terms of growth have been achieved by countries which started poor such as



Hong Kong (now ranked 1st), Singapore (now ranked 2nd) and Chile (now ranked 15th). Ireland (ranked 7th this year) also started the 1990s as one of the poorest countries of Europe, but became the continent's tiger economy and ended the decade with a higher per capita income than France and the UK, thanks, in large part, to its adoption of free-market policies.

The message is also positive for poverty alleviation. First, research has found a significant negative statistical relationship between economic freedom and poverty. That is, the proportion of the population in poverty within a country is smaller the greater the level of economic freedom. Second, the Report finds that poor people are far better-off in countries with higher levels of freedom. For example, in 2000, the poorest people in the freest countries received, on average, US\$7,017 which was 70 per cent higher than the next freest group of countries and nearly 10 times the level of the least-free group of countries.

And it is not just about money. Economic freedom also has a strong positive impact on human development, with the levels of education, health and life expectancy rising strongly with more freedom. Interestingly, a recent study found that a 15 per cent increase in economic freedom (which was achieved across Africa in 2000) is expected to

yield a 16 per cent increase in access to safe drinking water—a key target for discussion in Johannesburg.

Importantly, economic freedom is also shown to be a powerful antidote to corruption, with levels of corruption falling sharply with an increased level of economic freedom. This really is no surprise, as economic freedom acts directly against the main source of corruption, which is the ability of bureaucrats and politicians to sell their unrestrained influence over government.

The poorest nations of the world have long accepted the Johannesburg mantra and have shunned economic freedom.

The Economic Freedom Report, however, finds evidence of a sea change, even in Africa. Since 1980, economic freedom has been on the rise worldwide. Since 1995, the average level of freedom across Africa has increased significantly, albeit from a low level. Indeed, Nigeria and Zambia—two of Africa's largest nations—displayed the largest increases in economic freedom across the world in 2000.

The importance of economic freedom is not being overlooked where it counts. President Bush recently committed the US to a large increase in foreign aid, with the caveat that it will only go to countries that are committed to economic freedom. This theme received additional support at the G8 meeting in Canada and from President Mbeki of South Africa.

The hordes in Johannesburg will demand to be heard, but 40,000 activists on taxpayer-funded junkets should count for little against the future of 4 billion people.

NOTE

*Available at [www.freetheworld.com] or contact the IPA at [www.ipa.org.au]

IPA

REVIEW

The Ideological War Within the West

JOHN FONTE

NEARLY a year before the September 11 attacks, news stories provided a preview of the transnational politics of the future. In October 2000, in preparation for the UN Conference Against Racism, about 50 American nongovernmental organizations (NGOs) called on the UN 'to hold the United States accountable for the intractable and persistent problem of discrimination'.

The NGOs included Amnesty International-USA (AI-USA), Human Rights Watch (HRW), the Arab-American Institute, National Council of Churches, the NAACP, the Mexican-American Legal Defense and Educational Fund, and others. Their spokesman stated that their demands 'had been repeatedly raised with Federal and State officials [in the US] but to little effect. In frustration we now turn to the United Nations'. In other words, the NGOs, unable to enact the policies they favoured through the normal processes of American constitutional democracy—the Congress, state governments, even the federal courts—appealed to authority outside of American democracy and its Constitution.

At the UN Conference against Racism, which was held in Durban two weeks before September 11, American NGOs supported 'reparations' from Western nations for the historic transatlantic slave trade and developed resolutions that condemned only the West, without mentioning the larger traffic in African slaves sent to Islamic lands. The NGOs even endorsed a resolution denouncing free market capitalism as a 'fundamentally flawed system'.

The NGOs also insisted that the US ratify all major UN human rights treaties and drop legal reservations to treaties already ratified. For example, in 1994 the US ratified the UN Convention on the Elimination of Racial Discrimination (CERD), but attached reservations on treaty requirements restricting free speech that were 'incompatible with the Constitution'. Yet leading NGOs demanded that the US drop all reservations and 'comply' with the CERD treaty by accepting UN definitions of 'free speech' and eliminating the 'vast racial disparities in every aspect of American life' (housing, health, welfare, justice, etc.).

HRW complained that the US offered 'no remedies' for these disparities but 'simply supported equality of opportunity' and indicated 'no willingness to comply' with CERD. Of course, to 'comply' with the NGO interpretation of the CERD treaty, the US would have to abandon the Constitution's free speech guarantees, bypass federalism, and ignore the concept of majority rule—since practically nothing in the NGO agenda is supported by the American electorate.

All of this suggests that we have not reached the final triumph of liberal democracy proclaimed by Francis Fukuyama in his groundbreaking 1989 essay.

POST-SEPTEMBER 11

In October 2001, Fukuyama stated that his 'end of history' thesis remained valid: that after the defeat of communism and fascism, no serious ideological competitor to Western-style liberal democracy was likely to emerge in the future. Thus, in terms of political philosophy, liberal democracy is the end

of the evolutionary process. There will be wars and terrorism, but no alternative ideology with a universal appeal will seriously challenge the principles of Western liberal democracy on a global scale.

The September 11 attacks notwithstanding, there is nothing beyond liberal democracy 'towards which we could expect to evolve'. Fukuyama concluded that there will be challenges from those who resist progress, 'but time and resources are on the side of modernity'.

Indeed, but is 'modernity' on the side of liberal democracy? Fukuyama is very likely right that the current crisis with radical Islam will be overcome and that there will be no serious ideological challenge originating outside of Western civilization. However, the activities of the NGOs suggest that there is already an alternative ideology to liberal democracy within the West that has been steadily evolving for years.

Thus, it is entirely possible that modernity—30 or 40 years hence—will witness not the final triumph of liberal democracy, but the emergence of a new transnational hybrid régime that is post-liberal democratic, and in the American context, post-Constitutional and post-American. This alternative ideology, 'transnational progressivism', constitutes a universal and modern worldview that challenges both the liberal democratic nation-state in general and the American régime in particular.

TRANSNATIONAL PROGRESSIVISM

The following could be considered the core propositions that define transnational progressivism: ▶

'Identity' group more important than the individual citizen. For transnational progressivism the key political unit is not the individual citizen, who forms voluntary associations and works with fellow citizens regardless of race, sex, or national origin, but the ascriptive group (racial, ethnic, or gender) into which one is born.

A dichotomy of groups. Transnational ideologists have incorporated the essentially Hegelian Marxist 'privileged vs marginalized' dichotomy: oppressor vs victim groups, with immigrant groups designated as victims.

Group proportionalism as the goal of 'fairness'. Transnational progressivism assumes that 'victim' groups should be represented in all professions roughly proportionate to their percentage of the population. If not, there is a problem of 'under-representation'.

The values of all dominant institutions to be changed to reflect the perspectives of the victim groups. Transnational progressives insist that it is not enough to have proportional representation of minorities in major institutions if these institutions continue to reflect the worldview of the 'dominant' culture. Instead, the distinct world views of ethnic, gender, and linguistic minorities must be represented within these institutions.

The 'demographic imperative'. The demographic imperative tells us that major demographic changes are occurring throughout the world. The traditional paradigm based on the assimilation of immigrants into an existing civic culture is obsolete and must be changed to a framework that promotes 'diversity', defined as group proportionalism.

The redefinition of democracy and 'democratic ideals'. Transnational progressives have been altering the definition of 'democracy' from that of a system of majority rules among equal citizens to one of power sharing among ethnic groups composed of both citizens and non-citizens. Real democracy will come when the different 'peoples' that live within the society 'share power' as groups.

Deconstruction of national narratives. Transnational ideologues attack national symbols and identity in democratic nation-states in the West. In October 2000, a UK government report denounced the concept of 'Britishness'. In the US, the proposed 'National History Standards', recommended altering the traditional historical narrative. In Israel, a 'post-Zionist' intelligentsia has proposed that Israel consider itself multicultural and deconstruct its identity as a Jewish state.

Promotion of the concept of post-national citizenship. In an important academic paper, Rutgers Law Professor Linda Bosniak asks hopefully 'Can advocates of postnational citizenship

The activities of the NGOs suggest that there is already an alternative ideology to liberal democracy within the West that has been steadily evolving for years

ultimately succeed in decoupling the concept of citizenship from the nation-state in prevailing political thought?"

CONCEPTUAL TOOL

Transnationalism is the next stage of multicultural ideology. Like multiculturalism, transnationalism is a concept that provides elites with both an empirical tool (a plausible analysis of what is) and an ideological framework (a vision of what should be). Transnational advocates argue that globalization requires some form of 'global governance' because they believe that the nation-state and the idea of national citizenship are ill-suited to deal with the global problems of the future.

The promotion of transnationalism is an attempt to shape this crucial in-

tellectual struggle over globalization. Its adherents imply that one is either in step with globalization, and thus forward-looking, or one is a backward anti-globalist. Liberal democrats (who are internationalists and support free trade and market economics) must reply that this is a false dichotomy—that the critical argument is not between globalists and anti-globalists, but instead over the form global engagement should take in the coming decades: will it be transnationalist or internationalist?

The social base of transnational progressivism constitutes a rising postnational intelligentsia (international law professors, NGO activists, foundation officers, UN bureaucrats, EU administrators, corporate executives, and politicians.) When social movements such as 'transnationalism' and 'global governance' are depicted as the result of social forces or the movement of history, a certain impersonal inevitability is implied. In the 20th century, however, the Bolshevik Revolution, the National Socialist revolution, the New Deal, the Reagan Revolution, the Gaullist national reconstruction in France, and the creation of the EU were not inevitable, but were the result of the exercise of political will by elites. Similarly, transnationalism, multiculturalism, and global governance, like 'diversity', are ideological tools championed by activist elites, not impersonal forces of history. The success or failure of these values-laden concepts will ultimately depend upon the political will and effectiveness of these elites.

HUMAN RIGHTS ACTIVISTS

A good part of the energy for transnational progressivism is provided by human rights activists, who consistently evoke 'evolving norms of international law'. The main legal conflict between traditional liberal democrats and transnational progressives is ultimately the question of whether the sovereign national constitutions trump international law or vice versa.

Before the mid-20th century, traditional international law referred to

relations among nation-states. The 'new international law' has increasingly penetrated the sovereignty of democratic nation-states. It is in reality 'transnational law'. Human rights activists work to establish norms for this 'new international [i.e. transnational] law' and then attempt to bring nations into conformity with a legal régime whose reach often extends beyond democratic politics.

Transnational progressives excoriate American political and legal practices in virulent language, as if the American liberal democratic nation-state was an illegitimate authoritarian régime. Thus, AI-USA charged the US in a 1998 report with 'a persistent and widespread pattern of human rights violations', naming the US the 'world leader in high-tech repression'. Meanwhile, HRW issued a 450-page report excoriating the US for all types of 'human rights violations', even complaining that 'the US Border Patrol continued to grow at an alarming pace'.

ANTI-ASSIMILATION ON THE HOME FRONT

Many of the same lawyers who advocate transnational legal concepts are active in immigration law. Louis Henkin, one of the most prominent scholars of international law, calls for largely eliminating 'the difference between a citizen and a non-citizen permanent resident'. Washington University international law professor Stephen Legomsky argues that people who hold dual nationalities should not be required to give 'greater weight to US interests, in the event of a conflict' between the US and the other country in which the American citizen is also a dual national.

Two leading law professors (Peter Spiro from Hofstra and Peter Schuck from Yale) question the requirement that immigrants seeking American citizenship 'renounce all allegiance' to their old nations. Spiro and Schuck also question the concept of the hyphenated American and offer the model of what they call the 'amper-sand' American. Thus, instead of tra-

ditional 'Mexican-Americans' who are loyal citizens but proud of their ethnic roots, they do not object to post-national citizens, who are both 'Mexican & American', who retain 'loyalties' to their 'original homelands' and vote in both countries

University professor Robert Bach authored a major Ford Foundation report that advocated the 'maintenance' of ethnic immigrant identities and attacked assimilation as the 'problem in

AI-USA charged the US in a 1998 report with 'a persistent and widespread pattern of human rights violations', naming the US the 'world leader in high-tech repression'

America'. The financial backing for this anti-assimilationist campaign has come primarily from the Ford Foundation, which made a conscious decision to fund a Latino rights movement based on advocacy-litigation and group rights. The global progressives have been aided—if not always consciously, certainly in objective terms—by a 'transnational Right'. It was a determined Right-Left coalition led by libertarian Stuart Anderson, who currently holds Bach's old position at the US Immigration and Naturalization Service, that killed a high-tech tracking system for foreign students that might have saved lives on September 11. Whatever their ideological or commercial motives, the demand for 'open borders' (not simply free trade, which is a different matter altogether) by the libertarian Right has strengthened the Left's anti-assimilationist agenda.

THE EU AS A STRONGHOLD OF TRANSNATIONAL PROGRESSIVISM

The EU is a large supranational macro-organization that embodies transnational progressivism. Its governmental structure is post-democratic. Power in the EU principally resides in the European Commission (EC) and to a lesser extent the European Court of Justice (ECJ). The EC, the EU's executive body, initiates legislative action, implements common policy, and controls a large bureaucracy. It is composed of a rotating presidency and 19 commissioners chosen by the member-states and approved by the European Parliament. It is unelected and, for the most part, unaccountable. This 'democracy deficit' represents a moral challenge to EU legitimacy.

The substantive policies advanced by EU leaders on issues such as 'hate speech', 'hate crimes', 'comparable worth' for women's pay, and group preferences are considerably more 'progressive' in the EU than in the US. European courts have overruled national parliaments and public opinion in nation-states by compelling the British to incorporate gays and the Germans to incorporate women in combat units in their respective military services.

In international politics, in the period immediately prior to September 11, the EU opposed the US on some of the most important global issues, including the ICC, the Comprehensive Test Ban Treaty, the Land Mine Treaty, the Kyoto Global Warming Treaty, and policy towards missile defence, Iran, Iraq, Israel, China, Cuba, North Korea, and the death penalty. On most of these issues, transnational progressives in the US—including politicians—supported the EU position and attempted to leverage this transnational influence in the domestic debate. Nevertheless, the Bush Administration on some of these issues has support in Europe, particularly from parts of the British political class and public, and elements of European popular opinion (e.g., on the death penalty). ▶

After September 11, while some European nation-states sent forces to support the US in Afghanistan, many European leaders have continued to snipe at American policies and hamper American interests in the war on terrorism. In December 2001 the European Parliament condemned the US Patriot Act (the bipartisan anti-terrorist legislation that passed the US Congress overwhelmingly) as 'contrary to the principles' of human rights because the legislation 'discriminates' against non-citizens.

Both realists and neoconservatives have argued that some EU, UN, and NGO thinking threatens to limit both American democracy at home and American power overseas. As Jeanne Kirkpatrick puts it, 'foreign governments and their leaders, and more than a few activists here at home, seek to constrain and control American power by means of elaborate multilateral processes, global arrangements, and UN treaties that limit both our capacity to govern ourselves and act abroad'.

CONCLUSION

Talk in the West of a 'culture war' is somewhat misleading, because the arguments over transnational vs national citizenship, multiculturalism vs assimilation, and global governance vs national sovereignty are not simply cultural, but ideological and philosophical. They pose Aristotle's question: 'What kind of government is best?'

The challenge from transnational progressivism to traditional American concepts of citizenship, patriotism, assimilation, and the meaning of democracy itself is fundamental. If our system is based not on individual rights but on group consciousness; not on equality of citizenship but on group preferences for non-citizens (including illegal immigrants) and for certain categories of citizens; not on majority rule within constitutional limits but on power-sharing by different ethnic, racial, gender, and linguistic groups; not on constitutional law, but on transnational law; not on im-

migrants becoming citizens, but on migrants linked between transnational communities; then the régime will cease to be 'constitutional', 'liberal', 'democratic', and 'American', in the understood sense of those terms, but will become in reality a new hybrid system that is 'post-constitutional', 'post-liberal', 'post-democratic', and 'post-American'.

From the fall of the Berlin Wall until the attacks of September 11, the transnational progressives were on the offensive. Since September 11, however, the forces supporting the liberal-democratic nation state have rallied throughout the West. In the post-September-11 milieu, there is a window of opportunity for those who favour a reaffirmation of the traditional norms of liberal-democratic patriotism. It is unclear whether that segment of the American intelligentsia committed to

The challenge from transnational progressivism to traditional American concepts of citizenship, patriotism, assimilation, and the meaning of democracy itself is fundamental

liberal democracy as it has been practiced on these shores has the political will to seize this opportunity. In Europe, given élite opinion, the case for liberal democracy will be harder to make. Key areas to watch in the US, Europe and Australia include immigration-assimilation policy; arguments over international law; and the influence of a civic-patriotic narrative in public schools and popular culture.

FOURTH DIMENSION?

I suggest that we add a fourth dimension to a conceptual framework of international politics. Three dimensions are currently recognizable. First, there is traditional realpolitik, the competition and conflict among nation-states (and supranational states such as the EU). Second is the competition of civilizations, conceptualized by Samuel Huntington. Third, there is the conflict between the democratic world and the undemocratic world. My suggested fourth dimension is the conflict within the democratic world between the forces of liberal democracy and the forces of transnational progressivism, between democrats and post-democrats.

The conflicts and tensions within each of these four dimensions of international politics are unfolding simultaneously and affected by each other, and so they all belong in a comprehensive understanding of the world of the twenty-first century. In hindsight, Fukuyama is wrong to suggest that liberal democracy is inevitably the final form of political governance, the evolutionary endpoint of political philosophy, because it has become unclear that liberal democracy will defeat transnational progressivism. During the 20th century, Western liberal democracy finally triumphed militarily and ideologically over National Socialism and Communism, powerful anti-democratic forces, that were, in a sense, Western ideological heresies. After defeating its current anti-democratic, non-Western enemy in what will essentially be a material-physical struggle, it will continue to face an ideological-metaphysical challenge from powerful post-liberal democratic forces, whose origins are Western, but, which could be in the words of James Kurth, called 'post-Western'.

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This piece is adapted from his article, 'Liberal Democracy vs Transnational Progressivism', which will appear in the Summer 2002 issue of Orbis. It is produced here with the permission of the Foreign Policy Research Institute [www.fpri.org].

IPA

REVIEW

Take the Candle to the Darkest Dark First

JACK ROBERTSON

AS hatchet jobs go, it wasn't a bad effort, if belligerent bitchiness impresses you. In the March *IPA Review*, Adrian Karatnycky and Arch Puddington took a cerebral baseball bat to Amnesty International (AI), arguing that its response to September 11 has been at best inadequate and at worst, poisoned by some mysterious ideological agenda. They accused AI of a disproportionate obsession with Human Rights (HR) abuses in Western democracies, and particularly of asserting a 'moral equivalence' between America and genuinely oppressive regimes. The cover grab put it bluntly: 'According to Amnesty International, on human rights, America is no better than Tibet or Rwanda'. Leaving aside such mischievous hyperbole, their article was, in my personal view, not without merit, and AI would do well to consider it seriously.

Last year, 400 delegates gathered at the International Council Meeting in Senegal to determine AI's future agenda; the resulting 'New Directions' document envisions 'a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.' So far, so focused. A fuzzier tone creeps in, however, in AI's new Mission Statement: 'to undertake research and action focussed on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights.' Corporate aims get softer still: a new

one will be the defence of 'economic, social and cultural' rights, for example. Here I feel AI is in danger of straying into murky territory, because from this thorny shrub springs the perennial HR paradox: one man's 'cultural rights' are another man's *abuses*. Most of us agree that clitoral mutilation is a brutal crime; those who enforce it simply don't see it that way. The risk is that AI will dilute its *raison d'être* to the point of impotence. Trying to be everything to everyone may see the organization become little more than a forum for the expression of

As global citizens, is it truly more morally urgent to focus on a thousand desperate asylum-seekers here than on tens of thousands of desperate Kurds overseas?

admirable abstract principles, perhaps even as real abuse thrives under such guises as 'mental integrity' and 'cultural rights'. It's important to reaffirm that AI's success to date has, in fact, been based on precisely the opposite methodology: 'bottom-up' activism by grass-roots groups, for specific victims.

To foster this practical focus, AI has traditionally barred national

subgroups from working on domestic HR issues—an important safeguard against accusations of partisan agendas of precisely the kind in the last *IPA Review*. Yet last year's ICM amended this rule, too, clearing the way, for example, for explicit AI Australia (AIA) participation in our asylum-seeker debate.

While I oppose the existence of detention centres, I would regard any increase in AIA activity relating to them as a damaging strategic error; as damaging, perhaps, as has been AI's dissembling over Phillip Ruddock's insistence on wearing the organization's badge while publicly defending government activity of precisely the kind which AI is obliged, by its commitment to international standards, to challenge. The Minister's wilful interfusion of private membership and public, HR-related policy-making has already severely compromised AI in this debate, yet for its *local* representatives to adopt a more aggressive role now can only politicize, and thus neutralize, it even further. By becoming progressively enmeshed in domestic politicking, AIA may starve HR issues overseas of resources; worse, sections of the public might develop a skewed perception of what the organization represents, and become inured against supporting 'human rights' more generally. Combine the new 'inward-looking' freedom with the more 'abstract' agenda, and I believe AI risks precisely the self-inflicted 'credibility erosion' that is asserted, in exaggerated form, by Karatnycky and Puddington.

Economic, social and cultural issues are all very well, but I don't volunteer my time for AI to enter a ►

float in the Gay and Lesbian Mardi Gras or add my voice to a campaign for state-funded childcare. More accurately, I'd prefer that AI helped prevent *specific* Nigerian adulteresses from being stoned to death *first*. To argue that human rights are not 'relative' and that AI must defend them wherever and however they see transgression is missing the point. Activism is a zero-sum game. Ten letters in support of the 'cultural rights' of the Inuit to hunt whales traditionally are ten letters *not* written in support of Iraqi children suffering under Western sanctions. As global citizens, is it truly more morally urgent to focus on a thousand desperate asylum-seekers here than on *tens* of thousands of desperate Kurds overseas?

AI has always striven to avoid assigning 'priority' to HR issues on the basis of practical convenience, or worse, 'personal resonance'. The March *IPA Review* criticisms are certainly exaggerated, but no global organization can afford to fixate on its own backyard, for it smacks of self-centred moral vanity and may result in failure to allocate resources where they're most needed. Securing your own moral high ground before criticizing others is important, but it pays to recall the endless ideological debates which preoccupied the West's free intellectuals during the Cold War, and then reflect upon how demoralizing all that introspective abstraction turned out to have been, all along, to so many oppressed anti-Communist dissidents.

Contemporary HR activists might do well to ask: when the North Korean political prisoner squatting miserably in *his* cell *today* finally wins his liberty, will he speak approvingly of the disproportionate HR attention that we in the West seem intent on lavishing on a volunteer thrill-seeker like David Hicks?

Jack Robertson is the Letter-Writing Co-ordinator for the Balmain branch of Amnesty International, and editor of [jackrobertson.blogspot.com]. These are his personal views.

IPA

Thoughts on the Practice of Bagging Judges

JOHN HYDE

POWER is seldom shared willingly and that there should be some competitive friction between the Courts and the Parliaments—is probably inevitable. When Immigration Minister Phillip Ruddock observed that the 'courts are finding a variety of ways and means of dealing themselves back into the immigration review game', the Federal Court took umbrage, accusing him of trying to pressure the Court. It was but the latest episode in a long-standing dispute during which the same Minister had said that, 'if judges wanted to have a political say, they should resign and stand for parliament.'

As we might hope and expect, Justice Michael Black asserted that 'The court is not amenable to external pressures'. But he also went on to say, 'We are also concerned that members of the public might see the court as amenable to such pressures'. That should concern the bench, but popular opinion is not that the judges are weak. Rather, it is that they are self-opinionated and out of touch with community aspirations. If judges must walk a tightrope balancing 'judicial technique' with 'what is seen to be convenient', then criticism is their balancing pole.'

Various legal experts told us via the media that, although the two-page statement by the judges did not explicitly mention contempt action, its strong wording indicated that that

was now in prospect. Since, under Federal Court rules, contempt action could see Mr Ruddock personally brought before the court, or arrested and jailed, we might ask who was putting pressure on whom? However, since I doubted that even the most politically naïve judge would choose an issue enjoying as much popular support as the Government's stand on illegal immigration to test the prerogatives of the courts, I was not surprised that the Court accepted the Minister's carefully worded explanation. Irrespective of the jurisdiction, such matters tend to be settled by the ways of politics and both parties made their points. Although the outcome was without drama, it could have been better.

Instead of being so precious, Justice Black might have levelled justifiable criticism at the Minister. He might have said something like, 'If the Minister does not like the legal interpretations he is getting, he should present Parliament with legislation that is precise. In so doing, he would inevitably leave himself and his minions with less discretion and that would be no bad thing'.

The precious Judges remind this one-time politician of the self-serving trade, industry and professional unions or associations which used to tell him that he simply did not appreciate their exceptional circumstances. But there is one important difference. Those groups had very little authority and their delusions were not, like

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those of judges and politicians, therefore, dangerous. The observation that power is prone to misuse and tends to corrupt is not original. Nevertheless, when all their opportunities are considered, it seems to me that Australian judges have, in the main, resisted their own corruption remarkably well. From time to time, however, one demonstrates that they are not immune from original sin, and none is immune to those errors for which criticism is the only antidote.

Judges, like Cabinet Ministers, cannot avoid the company of sycophants—a daunting moral hazard! That either should be deprived of the informed criticism of the other strikes me as an egregious waste of a rare commodity. As for public respect for either flawed institution: reasonable cases can be made that the public already affords politicians and judges more respect than is good for them or their institutions.

While bagging judges is a public duty for the same reason that bagging politicians is a public duty, to the extent that the law as laid down by either deserves respect, there is, of course, a cost associated with diminishing it. Who, however, is to be the arbiter of respect? Even though critics will often be wrong, the cost of not criticizing is the greater likelihood of decisions based on whim, prejudice and wishful thinking; in short, the sort of decisions usually associated with unchallenged authority anywhere and often associated with people who spend too much time with their own kind. Why do we have open courts if not so that their findings, procedures and the worthiness of those who exercise authority within them may be criticized? Despite their Honours' fears that they may be seen to bow to pressure, criticism during a case seems to me no less important than that made subsequently, perhaps sometimes even more important.

Although both judges and politicians are involved with the law, they have very different backgrounds, aptitudes and, in particular, disciplines. It is, therefore, important that each

institution should develop its comparative advantage.

Judges are clever specialists who tend not to be well-rounded people with experience of the world. Most lawyers' inability to understand even fundamental accounting principles is notorious, as is their inability to grasp fundamental economics. But the real problem is the judicial function itself that provides no means for assessing social and economic ramifications. Law is best made by people better able than are judges to take into account diverse interests, attitudes and constraints, and with stronger incentives to reflect them. In democracies, parliamentary law-makers gain the ap-

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Judges, however, made the common law and it is generally agreed to be wise law. Its genius derives not from individual judges, great as some were, but from a system that allowed bad decisions to be reversed in subsequent parallel cases (and sometimes on appeal) and a strong tradition by which judges relied on precedent, changing the common law only by successive small increments. Thus the common law grew as the sum of the incremental application of what Justice Owen Dixon referred to as 'strict logic and high technique' over a long time.

But for that strong tradition, the expression 'rule of law' would be

empty. The incremental changes that survived to be built upon—many did not—were, as Justice Oliver Wendell Holmes (Jr.) put it, those that were 'understood to be convenient'. Like economies and ecosystems, the common law is the consequence of keeping what was convenient and abandoning what was not, but only by such small steps that people (in the case of ecosystems, species) could enjoy stable environments. Yet, following the Mabo and Wik decisions, the High Court judges could be credibly bagged for making huge leaps that undermined people's confidence in stable rules by which to invest their time and their capital—that is, for creating 'sovereign risk'. Further, many of the judges' critics supported the liberal view that the law should not recognize rights based on race.

Not only did these decisions change the law radically, they effectively constitutionalized the change, making it impossible for parliament to reverse or substantially modify it. Nevertheless, the Keating and Howard Governments through Parliament were left with the task of producing something workable. That Government should be critical of those who left it the unwanted task is inevitable and healthy. Radical changes should be criticized, even if the ultimate conclusion should be that they were the best possible in all the circumstances.

Mr Ruddock was wrong to say that judges should resign and stand for parliament if they wanted to have a political say. Judges are as entitled to a political say as are all citizens, and better equipped to 'say' wisely than are most. What he no doubt meant was that judges ought not use their institution to take over Parliament's role by making changes in law far beyond its current margins.

John Hyde is a Senior Fellow with the Institute of Public Affairs. This article is based on his forthcoming publication, Dry.

I P A

The Four Corners of the Reef: Investigative Journalism or Environmental Activism?

GARY JOHNS

ACROSS the world, coral reefs are turning into marine deserts. It's almost unthinkable that Australia's Great Barrier Reef [GBR]—the world's biggest coral edifice, 2000 kilometres long, home to 400 coral and 1500 fish species—could be headed the same way.'

Thus began the ABC *Four Corners* programme, 'Beautiful One Day', broadcast on 22 April 2002. The World Wide Fund for Nature (WWF) could not have been happier. The ABC was essentially implementing the WWF communication strategy formulated over two years ago and launched in June 2001 with the publication of a Great Barrier Reef Pollution Report Card. The environment group's determination to establish in the public mind that a raft of theoretical threats to the GBR is real, and that the causes are known, was a considerable victory. The ABC, the nation's public broadcaster, had run the WWF campaign almost to a tee.

The issue of scientific disagreement as to 'whether' the reef was under threat was raised, but never proceeded with. Instead, the programme 'investigated' a list of potential threats to the GBR—oil exploration, coral bleaching, intensive fishing, and water pollution sourced from the grazing and sugarcane industries—with an accompanying accusation. The accusation was that industry was the cause of the alleged degradation and that industry was 'digging in and not giving an inch'. No evidence, just a speculation, boosted in the programme by Imogen Zethoven, GBR Campaign Manager

for WWF. 'It's unfortunate that cane-growers [alongside cattle-grazing, the object of Green fury] have decided to take a position of denial.'

Each threat in the documentary was presented in one of three ways. It was given the 'preferred' scientist treatment as to the existence and/or the cause of a threat, there was a simple assertion of a threat with no scientific evaluation as to cause, or there was a simple assertion devoid of any evidence of a threat. The viewer

The issue of scientific disagreement as to 'whether' the reef was under threat was raised, but never proceeded with

was left with the impression that there was a problem and that WWF was the saviour. Certain industries, and government, were assigned the role of insensitive destroyer.

The GBR is an Australian icon and recognized as one of the Seven Wonders of the Modern World. Most of the reef is managed by the Great Barrier Reef Marine Park Authority (GBRMPA) as a World Heritage Area.

The GBRMPA publishes audits of the health of various reef attributes. The latest audit, published in 1998, indicated that water quality, man-

groves and seagrasses show no obvious adverse trend. While, in contrast, the following attributes show 'decline' or 'substantial impacts': birds, marine turtles, dugongs and inter-reefal and lagoonal benthos. Significant pressures on these specific attributes in this report are identified as: human disturbance from visitation (birds), bycatch in trawl and shark nets (turtles), hunting both locally and overseas (turtles), predation of eggs and young by feral animals (turtles), boat strike (dugongs), indigenous hunting (dugongs) and trawling (benthos).

Given that *Four Corners* prides itself as being at the forefront of investigative journalism, it is surprising that several of these documented threats were essentially ignored. The activities that were left alone were tourism and recreational (including indigenous) fishing. These were obviously friends of the WWF campaign, not to be touched by the ABC, despite evidence from the Authority of their impact on the Reef.

As Dr Piers Larcombe, marine biologist of James Cook University, observed in the online discussion following the programme, 'didn't you notice that [the programme] didn't point to any examples of GBR degradation linked to anything except warm water? Read the established, published refereed science, and insist the managers use that information to spend your money on the reef and other environmental issues'.

The oil threat was clearly bogus, and presumably used for dramatic effect. Its treatment required simple facts, but these were not supplied in

the programme. Instead, the Minister was confronted with the allegation in a way that any denial left a suspicion of guilt. For example, in response to the speculation that a government department would have provided information to oil companies with the thought that oil drilling on the Reef might be permitted, Environment Minister David Kemp stated, 'Oil drilling on the Reef is absolutely banned, it has been since 1975, and that isn't going to be changed'.

The viewer is left to rely on the word of a politician. The implication, of course, is that this is insufficient. After all, two journalists had found documents to suggest connivance between government departments and oil companies. The facts are easily ascertained. Professor Bob Carter of James Cook stated in the online discussion

depiction of the scientific coring undertaken by the Ocean Drilling Program (ODP) as oil drilling is gross misrepresentation, and mischievous. ODP Leg 133, cored in the 1990s, provided us with invaluable information as to the history and evolution of the GBR, which was freely published by an international team of scientists for all of us to share ... of course the results of ODP Leg 133 were of interest to the oil exploration industry ... Oil occurs in sedimentary rocks. Therefore, any advance in our understanding of sedimentary rocks and how they were deposited is of general interest to the oil industry.

The ABC blamed coral bleaching on Greenhouse gas emissions. The programme produced no evidence to back the assertion, apart from the WWF mantra that Greenhouse causes bleaching, which is the mainstay of the WWF campaign to 'save the Reef' from all sources of threat.

The 'preferred' scientist in the programme on the bleaching issue was Dr Terry Done of the Australian Institute of Marine Science. He observed that, in 1998, in places such as the Seychelles, 90 per cent of the corals were destroyed following an episode of 'a very large pool of hot water float-

ing around in the Indian Ocean'. There was no suggestion from Dr Done during the programme that the hot water was caused by global warming. Just the assertion by the reporter.

There are scientists, including Professor Ove Hoegh-Guldberg of the University of Queensland, who make a definite link between greenhouse gas emissions, global warming and coral bleaching. Nevertheless, Dr Dave Barnes of The Australian Institute of Marine Science recently published an article which shows that growth rate and calcification rate in a major reef-building coral, collected from sites along and across the GBR, increased slightly over the 20th century, probably *because of* a 0.5°C increase in the temperature of GBR waters.

The iconic status of the GBR makes it a rallying point both for opportunistic scientists and environmental activists

Moreover, the health of corals can be reliably measured through coral cores that have compared calcification rates dating back to the fifteenth century. These studies have shown that during the last century (the 20th century) calcification rates (in other words, coral growth rates) increased by an average of four per cent across the inner, middle and outer reef systems. They certainly did not decrease, as suggested in the *Four Corners* programme.

Dr David Williams, Research Director, CRC (Reef), was the 'preferred' scientist on the issue of sediment and nutrient pollution from the sugarcane and grazing industries. He stated, 'there are many examples in South-

East Asia where the population pressure on the land, and particularly cutting down trees and so on, has led to sedimentation and run-off of nutrients that have had major impacts on the reefs'. At no stage, however, did he produce evidence or research to suggest any such threat to the GBR.

Interestingly, *Four Corners* was overtly sceptical of the position taken by the better-published scientist in this area, Dr Peter Ridd. Dr Ridd suggested that evidence on the Great Barrier Reef shelf of either increased sediment input or increased turbidity is absent. These 'good news stories' have been published in peer-reviewed scientific publications, but because they do not accord with the 'Litany', they are dismissed.

The programme illustrated the issue of fishing pressure by retelling the story of one fish-kill washed up at Mission Beach, far north Queensland, which resulted in a further expansion in the designated Marine Park. There was no attempt to evaluate the general accusation that fish life on the Reef is in danger from overfishing. It would be interesting to understand the relative potential contributions of impacts from recreational versus commercial fishing on fish stocks. What is the latest science regarding the potential relationship between overfishing and outbreaks of crown-of-thorn starfish?

The difference between fact and allegation regarding the GBR is part of a much wider problem. There is increasing competition for research funds amongst scientists and for donations and membership amongst established conservation organizations. One way to obtain funds is to make a lot of noise about a potential problem and at the same time become an expert and/or advocate for the issue. The iconic status of the GBR makes it a rallying point both for opportunistic scientists and environmental activists. It is disappointing that *Four Corners* could not see this.

Dr Gary Johns is a Senior Fellow with the Institute of Public Affairs Ltd.

I P A

The French Malaise

ANDREW McINTYRE

AFTER the surprise result of the first round of the Presidential election in France, there was a torrent of panic reminiscent of the reactions in our local press to Pauline Hanson—and for much the same reasons.

Things simmered down somewhat when it was realized that Le Pen got through to the final round because the Left voted for the Trotskyist candidates numbers one, two and three, a couple of nutty ecologists and the unreformed Stalinist Communist Party of France. The Left's self-loathing reached a delicious peak with much sobbing and gnashing of teeth in public.

In France, one finds nearly half the population voting for crackpot extremists of both shades in one of the world's most educated and sophisticated democracies. Even Serge July, the founder of the radical Left newspaper *Libération*, was led to exclaim, 'France is a disoriented, panicky country, which is scared of its own shadow, which finds it hard to turn towards the future'. It is, in fact, a mix of Leftist anti-capitalist globophobia on the one hand, and a hardening against uncontrolled, inassimilable immigration on the other.

The traditional anti-capitalist feelings in France are both cultural and historical in origin. They relate, in part, to a supposed Anglo-Saxon hegemony, both economic and strategic, simmering from the days of the Cold War and France's desire to go it alone outside NATO, and intellectual tradition.

Jean-François Revel, in his most recent book, *Les Plats de Saison*, underlines the importance of Leftist thinking in France. With the disappearance of the Eastern Bloc, it is now possible to dream of an alternative to economic liberalism without facing

'real society'. The hard Left, the far Right and the trade unions, unlike in the English-speaking world, constitute a *majority* in France. Although there has, admittedly, been extensive privatization by stealth and a reduction in labour costs—economic rationalism, the 'Anglo-Saxon disease' is indeed encroaching on the *exception française*—the French cannot admit it. Mr Jospin, when Prime Minister, never 'privatized', he 'opened public companies to capital'. The conservative President Chirac said two years ago that 'globalization was a cause of world poverty'. Since his re-election, he has emphasized the importance of 'controlling globalization'.

The hard Left, the far Right and the trade unions, unlike in the English-speaking world, constitute a majority in France

Illegal and violent protests are an accepted part of the way in which the French do things. Anti-capitalist demonstrators demanded free tickets to take the train to Nice to disrupt the European summit, and the Transport Minister offered them a 50 per cent reduction. 'It is a revolution subsidized by those against whom it is directed', comments Revel. The hateful anti-American, anti-globalization 'farmer', José Bové, is treated as a national hero for trashing a McDonalds. Faith in markets is equated with *ultra-liberalisme* in France. Remember

that the first Mitterand Cabinet in 1981 had four communist ministers, when the CPF attracted 25 per cent of the votes!

Contributing to French paranoia is a relative decline in France's wealth, sliding from 14th to 17th in the OECD, a diminishing role in the EU with the reunification of Germany and the prospect of a flood of new members from the East. Young French professionals are flocking to London where there are jobs and a future.

As for immigration, Hervé Alglarondo, in a new book, *Securité: La Gauche Contre le Peuple*, explains that, for the Left-wing intelligentsia, criminals of immigrant origin now take the cherished notional place of the old proletariat, and that they are valued in proportion to the intensity of their hatred for French society.

Le Pen has been the only one to speak up. 'Socialist ministers had been talking about making immigration rules more flexible. And here we are with young north Africans turning to fundamentalist Islam, with immigrants who were once integrated un-integrating themselves, and our crime problem escalating out of all proportion—and no one is talking about it.'

Chirac has listened and appears to have responded to the concerns of the electorate. And, like Hanson in Australia, Le Pen has disappeared. It remains to be seen, however, if he has the courage to do what he promised; it goes against the national grain. Berlusconi's Italy has just moved to the Left in municipal elections. The idea that Europe is moving comfortably to the Right may yet be premature.

Andrew McIntyre is Public Relations Manager at the Institute of Public Affairs.

I P A

REVIEW

Peter Bauer: A Third World Hero

JAMES SHIKWATI

THE recent nomination of Lord Peter Bauer, the 86-year-old, Hungarian-born British economist, for the Milton Friedman Prize for advancing liberty is good news to all those who have seen international aid as a danger to Kenya's development. He died a fortnight before receiving his award from the Cato Institute.

Described as a lone voice in the wilderness, Lord Bauer wrote books which challenged the myth that poverty is self-perpetuating, and which argued that Third World countries are not immune to wealth accumulation. Writing on the popular myth of the cycle of poverty, he noted, 'Throughout history innumerable individuals, families, groups, societies, and countries—both in West and the Third World—have moved from poverty to prosperity without external donations. All developed countries began as underdeveloped. If the notion of the vicious circle were valid, mankind would still be in the Stone Age at best'.

He was known for urging countries to avoid foreign aid and for showing that donor agencies, such as The World Bank and International Monetary Fund, do more harm than good to poor countries. Swaminathan Aiyar of India observes that Bauer's ideas were ignored as politically incorrect and still are. His warnings were drowned by a host of other voices ranging from naïve do-gooders (who saw aid as a White Man's Burden) to cynical Cold Warriors (who saw it as a way of buying corrupt Third World dictators).

For decades, Bauer stood almost alone against the consensus that government aid was the primary driver of Third World growth. In the 1950s, he

argued that state planning for developing economies would be a disaster and that foreign aid perpetuated poverty by supporting corrupt and oppressive governments. Today, there is plenty of empirical evidence for this thesis: take the Asian Tigers, which followed the market path to unprecedented growth; and Russia, which started getting its act together after being abandoned by the IMF do-gooders. Compare these with Africa, which has shown little or no economic growth despite the billions it has received. Kenyan government officials have been throwing stones at the

'If the notion of the vicious circle were valid, mankind would still be in the Stone Age at best'

World Bank for delaying aid; but the public has discovered at the same time that the donor agencies are the source of those same officials' personal wealth.

Writing in *The Wall Street Journal* in April 1991, Lord Bauer noted that since the Second World War, subsidies in the form of grants or soft loans from richer countries to poorer ones had ballooned from a few hundred million dollars a year to about \$50 billion by the 1980s. The subsidies, he noted, did not go to the poor in the aid propaganda, but to their rulers. The rulers were often directly responsible for the harsh conditions of their subjects. Upon re-

flexion, one will note that resumption of aid to Kenya is not tied to the change in behaviour of the citizens; rather it is tied to the rulers. The citizenry have been rendered powerless in their electoral roles, hence the back-and-forth dance typical of our leaders with donor agencies. Democratic systems have been watered down, too, where aid money is used to finance party politics.

Kenyans give birth to already-indebted children. Stalled projects, from buildings at the universities, roads, and government vehicles now dot our landscape. Over-reliance on aid has led the government to devise policies which do not address national needs, but the needs of donor agencies. Retrenchment of workers has been largely due to poor public policy that serves political interests rather than economic interests. The World Bank and the IMF have been famous for offering prescriptions to Kenya, which explain the outburst from finance ministers about being forced to sign 'on the dotted line'. But Kenyans have tasted the fruits of economic liberalization—especially in the information sector—and would not wish to go back to the Dark Ages. It can rightly be argued that the Cato Institute's recognition of Lord Bauer not only makes him a Third World hero, but also calls for a rethink in international aid strategies.

Let Kenyans learn how to fish. We are fed up with the ready-to-eat fish that has come our way since independence.

James Shikwati is Director, Inter Region Economic Network—Kenya. This article is published courtesy of the IREN.

I P A

REVIEW

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The Blair Files

TIM BLAIR

Let's Talk

There's your founding principle of the United Nations. Of course, in its own version, the UN uses rather more words: 'To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples' etc, etc, and so on, until sleep or death intervene. But talking about problems as a means of solving them is central. Sounds sweet, doesn't it?

Except that talking about problems doesn't always solve them, especially in cases where the person you're talking to is the problem—as in the Middle East, where years of talking to Yasser Arafat has led not to peace, but to families being blown to pieces.

Or where the discussion is framed in such a way as to create more problems—as at last year's UN Conference Against Racism, which provoked the worst outpouring of racism since lynch mobs prowled the Deep South.

Or when someone from the UN is doing the talking.

Oh, they do so love to talk. It saves them the trouble of actually doing anything. See if you can identify UN human rights worrier Mary Robinson's post-September 11 feelings from the following edited transcript, taken from a BBC interview she gave last December:

I am concerned ... I am concerned that in the way in which events have developed, the long-suffering people of Afghanistan, are paying a very high price ... the concern that I have ... Our joint concern is that any measures taken to combat terrorism must be within very strict limits and must

uphold the values of human rights and mustn't erode them ...

I am concerned ... it's hard to analyse everything and I am concerned ... I am concerned about that prison revolt. I am concerned about the reports we've had ... the United Nations is very concerned about human rights problems ... governments have to be concerned about violations of human rights by governments elsewhere ... I am and continue to be very concerned ... I am concerned that the United States and other countries may ease up on addressing the human rights violations.

At a glance, I'd say Mary was concerned.

She'd do better to be concerned about her own organization, which lately has been exposed as a hive of sex-for-rations gangsters (in places like Guinea and Liberia), a haven for murderous liars (Robert Mugabe brazenly told the UN's hunger conference this year that starvation in Zimbabwe was caused by a famine, instead of his policy of 'removing' white farmers) and an active hazard in the cause for peace in the Middle East.

In the wake of Israel's counter-attack in Jenin, following the terrorist deaths of dozens of Israelis, and with soon-disproved claims that hundreds of Palestinian civilians had died in that attack being floated by Palestinian propagandists, here's how the UN's special co-ordinator for the Middle East, Terje Roed-Larsen, summed up events: 'Israel has lost all moral ground in the conflict'.

Hey, Terje; I thought you were there to make friends, not point

fingers. Especially before the evidence was in—which showed you and the Palestinians to be exactly wrong.

Australia pays a disproportionate amount of attention to UN talk. In 2000, the broadsheet newspapers and the ABC ran hot on the UN's condemnation of mandatory sentencing in Western Australia and the Northern Territory. The shouting didn't abate even when it was revealed that the author of the negative UN report, American activist Ms Gay McDougall, had never bothered to visit Australia. She'd just listened, in the UN's way, to a whole bunch of talk.

So why have anything to do with the UN? Why should it exist? Why do nations need a level of foreign representation above diplomats and consulates? I asked this of Keith Suter, former president of the United Nations Association of Australia, a few weeks ago when we discussed the UN on ABC radio. He looked astonished. I had to repeat the question.

His answer went along these lines: We need the UN to provide safety and stability in this dangerous world. In fact, we need the UN now more than ever, because the world is now so much more dangerous.

That would be the world the UN has overseen for the past five decades. And he continued: If the UN didn't exist, small countries like Australia would never get a chance to have their say on world events.

In other words, let's talk.

Tim Blair is a Sydney-based writer, a columnist at The Australian, editor of Sports Illustrated, and a former senior editor at Australia's Time magazine.

IPA

REVIEW

Regulating Telecommunications Trade Practices Overkill

JIM HOGGETT

LORD Kelvin described the telephone as 'the wonder of wonders' when it was first exhibited in 1876. Despite contemporary cynicism, we still marvel at the endlessly creative wonders of telecommunications.

Telecommunications have progressed from one experimental phone to a range of services and technologies that pervade our lives. The market for telecommunications services is rapidly evolving, complex, vigorously contested, heavily regulated and, for all these reasons, imperfect.

Imperfect markets may need monitoring and intervention to correct abuses of monopoly power and to protect consumers from unscrupulous operators. The *Trade Practices Act* exists to do both.

But you can have too much of a good thing. The regulation applied to the telecommunications market has shown the same rate of growth as the industry itself. We can see this not only in the size of the rule book, but also in the propensities of the principal regulator, the Australian Consumer and Competition Commission (ACCC).

REGULATION BREEDS MORE REGULATION

Good regulation should result in its own demise. In the case of telecommunications, regulation has only bred more regulation and has not bred competition in some crucial markets.

To induce and sustain new competitors, the regulator must restrain the full competitive power of the incumbent(s). In other words, the regulator hopes to encourage long-term competition by limiting competition now. With telecommunications,

the privilege to new entrants has extended beyond this competition 'holiday'. The ACCC also arranges for access to the incumbent's network at a controlled price. The danger is that the regulator may end up building permanent shelters for the (not so) new entrants and discourage them from using or building their own facilities. It is similar to the 'infant industry' case beloved of protectionists. The 'infants' never grow up. As time goes on, more regulation is required to sustain the infants.

Such seems to be the case in telecommunications. Most of the new entrants don't want to be exposed to full competition yet. The building and use of new facilities, particularly new networks, has fallen far short of what was hoped. There seems little prospect that this situation will change. The present structure of regulation is failing in its task.

THE REGULATION IS OVERKILL

The attitude of government towards the telecommunications industry hovers between a fear of its fertile and uncontrollable ingenuity and a determination to exploit it politically.

In the early 1990s, when the telecommunications market was opened to competition, industry-specific provisions were included in the *Trade Practices Act* to provide for access to essential facilities (mainly the Telstra network) and to restrain the abuse of market power. This was in addition to regulations prescribing price control, the imposition of several community service obligations on Telstra, and a long list of licence conditions.

It is doubtful whether the specific provisions were necessary in the first

place. There are similar general competition provisions in Part IV of the *Trade Practices Act*. The action was no doubt dictated by prudence. This is understandable in a country where communications are so important and our embrace of market solutions so timorous. ▶

The Productivity Commission Report

The Productivity Commission (PC) recently reviewed the competition provisions for the telecommunications industry in the *Trade Practices Act*.

The PC looked closely at Parts XIB and XIC of the Act, which specifically regulate competition in the industry and the access to vital facilities, mainly the Telstra cable network.

In its Draft Report, the PC took a relatively robust view and raised the possibility of repeal of Part XIB. The IPA had argued for even more extensive rollback of legislation, given the strong general provisions of the Act, which deal with both anti-competitive behaviour and access.

In the event, the PC took a much more cautious, even timid approach and advocated only a few, mainly procedural, changes to the industry-specific provisions of the Act. This is disappointing as this was an opportunity to deregulate which occurs only once in a decade.

The Report also gave the Government room to do little, which it has proceeded to do. So this informative and interesting report is likely to have minimal impact.

What transpired was not what was intended by those who set the industry on the road to liberalization. Regulation now covers pricing, access, connectivity, pre-selection, number portability, record-keeping, technical standards, service standards, and universal service obligations as well as competition regulation. There are at least seven regulatory entities.

The result is exemplified in the area of price-setting. Eight of the main services provided by Telstra are included in a global price control. Then there are numerous price sub-caps and other price conditions. Then there are controls on prices for access to the Telstra network.

The most recent and best opportunity for radical reform has been a disappointment (see Box). The ACCC had also recommended the removal of most of the price sub-caps. The Government has responded by announcing its intention to extend the regulatory régime, including price regulation.

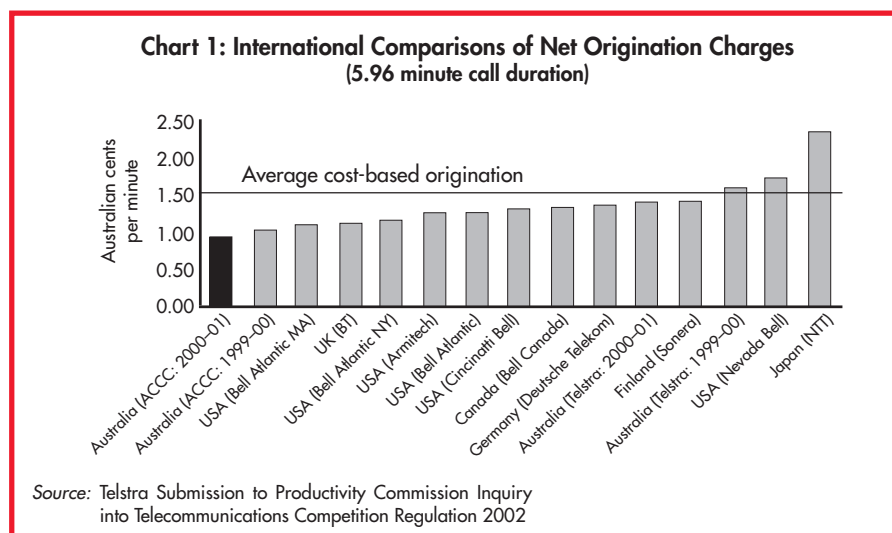
What we now have is a structure of regulation described by the Opposition Shadow Minister for Communications, Lindsay Tanner, as 'so complicated that it is virtually impossible to judge whether an appropriate balance between the interests of the incumbent former monopolist [Telstra] and the interests of competitors seeking access has been achieved'. One might add, 'let alone the consumer'.

Yet, as we tie ourselves into regulatory knots, we look for relief in more of the same.

THE ACCC IS IN OVERKILL MODE

The ACCC is charged with administering much of the regulation and thus it effectively controls many of the crucial retail prices, sets access conditions (wholesale prices) and sets service standards (product quality).

It is a fact that the ACCC now exercises far greater market power in the telecommunications market than any other entity, and it does so with the backing of the law and without any penalty for errors or excessive zeal.



If a government delegates power to an agency in this way, it also abrogates a great deal of its responsibility. In such a case, there is an almost inevitable temptation for the regulator to see itself as able to produce results superior to those that might come about from a free interaction in the market. This leads it progressively to exercise its powers to the full and to restrict avenues of appeal against its decisions.

This has happened. More and more detailed intervention in the telecommunications market has been the feature of the past decade. There are now 32 different steps on multiple alternative pathways to arrive at settlement of access terms and conditions in any given case.

Such detailed regulation inevitably leads to delays, often extreme delays, which are costly to business and slow down or stifle innovation. For example, local call resale prices took more than two years to settle. Products have even been declared under the Act before they get launched or where no disputes exist. Delays can be made worse by regulatory gaming on both sides, an inevitable accompaniment of over-prescriptive regulation.

Besides the inefficiencies they generate, the regulations stumble into inequity:

- Poor people in cities subsidize well-off people in the regions.
- Small business battlers subsidize wealthy residential users.

- Poor users pay while the better-off use their business phone.

The propensity to overkill is exacerbated by the dual role of the ACCC as the consumer and competition watchdog. It has to weigh the demands of consumers against the needs of industry. Consumers are more numerous and politically significant, so the pressure to favour them is strong. For example, the ACCC recommended PSTN (local copperwire network) conveyancing charges for Telstra that were the lowest among benchmarked international prices, including the USA, Canada, the UK and Germany (see Chart).

The consumer remit also encourages the use of the media to attack companies. The pressure on the ACCC to be seen to be active is intense, but public comment should be scrupulously fair and be backed by more than the complaints of one or a few individuals. Business is as entitled to a presumption of innocence as individuals. Similarly, attacks on the parties to out-of-court settlements, as occurred in the PSTN case, only serve to inflame disputes.

THE RESULT IS REGULATION-INDUCED CONFUSION AND INVESTMENT UNCERTAINTY

When government intervention in an industry is so pervasive, it is a form of state planning, with the usual result.

Because all regulation is distorting, the pinning down of one price or one corner of the market inevitably leads to a distortion elsewhere and the need for further regulation.

Continual intervention today also suffocates the technologies of tomorrow. The innovators and their backers should find, develop and utilize new technologies that will offer more and cost less. Government wants our industry to take a lead in this.

But if companies know that there is a permanent prescriptive mindset, then they cannot undertake research and development with confidence. They know that the rewards from their risk-taking and expenditure will be regulated away by controls. So they won't innovate here. They will do it in more friendly jurisdictions. Australia will be a residual and late beneficiary rather than a creative leader.

ONLY DEREGULATION WILL HELP

At present we have a severe attitudinal problem among the regulators. It is a propensity to control this highly creative sector in detail and to limit the reward for effort or creativity, rather than let the market sort out the inefficiencies.

The Government is doing nothing to correct this. Indeed, government both reinforces the attitude and itself uses telecommunications as a social policy tool at the expense of the industry and its customers. Telecommunications is a performing milch-cow.

A lighter hand on the tiller, directed at real abuses, would allow more and faster industry development and elimination of activities lurking inefficiently in regulatory shelters. A return to the generic competition provisions of the *Trade Practices Act* would simplify the régime and provide sufficient protection against abuses.

Jim Hoggett is a Senior Fellow with the IPA.

IPA

Food Police Are At It Again in Victoria

STEVE CLANCY

VICTORIAN roadside food sellers and fruit and vegetable markets will soon be squeezed further by ever-increasing regulation. The Victorian Department of Human Services (DHS) is spearheading an initiative requiring all food businesses to submit a detailed Food Safety Programme (FSP) annually. The regulation is similar to voluntary quality standards such as ISO9000 and FQS2000. The detailed FSP must be lodged with local Government on the next annual food business registration. Further to this, the business must submit to an annual audit by a third party or local council.

Easy enough, until one actually sits down and reads an 'official template' of the FSP. The DHS has produced an 81-page document which goes to absurd lengths to regulate businesses into operating 'the proper way'. All measuring devices are to be calibrated annually, and mid-year testing (including buckets of ice and pots of boiling water) is described for the benefit of the reader. A detailed log must be kept whenever a business decides to thaw out sauce. The business should keep a thermometer at hand to go inspecting the insides of delivery trucks and delivered packages (keep it logged, remember). The enterprise must also keep a detailed log of when every piece of 'high risk' food has passed through

a 'danger zone'—right before they throw the food away (log that too).

The onerous new requirements will be policed by the municipality in which the business resides. Ballarat City Council, for example, will be charging an annual registration fee of \$275 for lodging and maintaining the required FSP, although the fee may vary from shire to shire. Possible penalties for not complying are substantial: \$5,000 for the first offence, and \$10,000 for each subsequent breach of the regulations. This sort of heavy-handed approach, while typical of an over-active bureaucracy, is daunting for most small food businesses.

The reasons for the drastic new requirement are almost non-existent. The DHS could only point to the much-publicized Kraft Peanut Butter and Garibaldi food contamination cases. Yet these businesses already had food safety programmes in place that paralleled the DHS plans. Victorian Farmers Federation Horticulture President, Terry Burgi, 'does not know of any major health scares from roadside sellers'. Mr Burgi fully supports safety, but questions the risks associated with roadside seller and growers. He feels that the DHS may be targeting fresh food markets, while the other States are sitting on their hands waiting to see the mess Victoria gets into.

When pushed as to why the regulations were being imposed

with no major reasons, the DHS bluntly said that the regulations 'were 6 to 7 years in the making'. The DHS contact could not even point to any readily available impact statement about the regulations. These new requirements are of major concern to many food businesses, so an impact statement should have been the least that the DHS could do to recognize possible implementation issues. It would appear that the DHS has simply ignored the real-life concerns of Victorian food businesses. Such an oversight will most probably result in businesses leaving the industry.

Sensible public policy dictates that before a regulation is imposed, there must be some major causes for the regulation, and that an appropriate study must be done on the costs and benefits of the regulation. The DHS has apparently done neither. What then, was the DHS's big reason for pushing the regulations? 'Because we're better than the other States' was the answer provided by the department's contact.

Victoria's DHS may be 'better' than the rest of Australia, but not yet ready with the details of the new requirements. In a rush to push the Food Safety Programme onto the public, the department has neglected to tend to the fiddly things; such as implementation issues regarding definitions and procedures. Ballarat Chartered Accountant Ian Bell said that it was difficult to consult with growers on the issues raised in the regulations, because the DHS has not yet finalized many of the details.

One organization particularly affected by the sweeping new requirements is the Melbourne Market Authority. This statutory body, based in Footscray in Melbourne's western suburbs, is composed largely of small growers/wholesalers. The FSP concerns them because most of the marketers have difficulty in reading and writing English. Many of the market occupants are of Chinese and Vietnamese descent, and a substantial portion do not speak a word of English. The DHS has not offered any assistance with the practical concerns of implementation.

Most commentators within the debate recognize that most major food businesses already have appropriate food safety plans in place. This is not the case for many of the smaller food businesses. Yet, while not being able to implement a robust ISO9000-type programme, many small players have begun to develop their own quality programmes. This sort of spontaneous order approach to the food business is not what a bureaucracy such as the DHS wants. In their attempt to impose an impractical, cumbersome, ill-fitting uniform code to the food industry, the DHS has left many small businesses behind. The DHS is tilting at windmills. And removing hundreds of fresh food suppliers from our economy for no reason is definitely not a 'human service'.

Steve Clancy is a Student Intern with the Institute of Public Affairs.

I P A

Economic Freedom

Over the past five years, Australia's economy has proven to be both robust and resilient. It has, despite the Asian crisis and a rolling recession in Japan, produced high levels of growth in outputs, jobs and exports.

The pundits are predicting that the good run will continue, with Australia expected to produce the best set of growth numbers in the developed world over the next year.

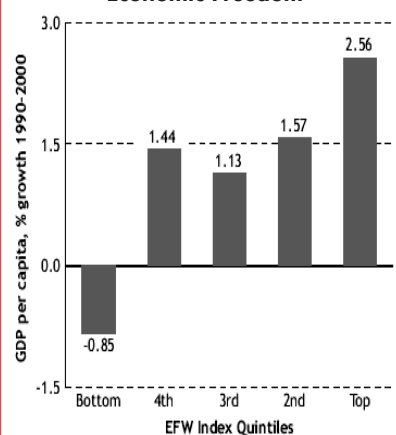
Why? Well, the answer in large part is contained in the latest Economic Freedom of the World Report.

In 1975, Australia ranked a lowly 16th out of 70 nations rated in that year. As result of policies designed to open the economy to trade and investment, reduce government regulation and ownership, reduce inflation and restrain the growth government spending, Australia's economic freedom rating improved and, by 2000, ranked eighth out of 123 nations.

As shown in the Chart, the movement from a second-ranking to the top rank of free nations, as Australia has done, gives a country's growth rate a real boost.

In short, our new-found economic strength can, in large part, be put down to the pursuit of economic freedom.

Economic Growth and Economic Freedom



More details can be found at the Free the World Website:
<http://www.freetheworld.org/>

The 'R' Files

ALAN MORAN

Renewable Energy: Chasing Moonbeams, Passing Wind or Basking in the Sun?

ASKING THE QUESTIONS ON CLIMATE CONTROL

In relation to combating the supposed global warming trend, environmentalists are fond of saying, 'If nuclear is the answer, we are asking the wrong question'. The answers favoured by the greenhouse warriors range from a draconian reduction of energy usage to adopting the Kyoto emission targets for 'greenhouse gases', primarily carbon dioxide.

But implementing the Kyoto agreement can never be more than a very hesitant move to first base. Full implementation of the Kyoto Protocol would have only a trivial effect on the build-up of global CO₂ levels. It would delay any possible effects, adverse or otherwise, by only four years. In other words it would put back some scientists' forecasts of a 2°C rise in global temperature from 2100 (under business-as-usual) to 2104.

The pain in achieving even the apparently modest Kyoto goal is now being seen across a great many nations. In Australia's case, it involves limiting greenhouse gas emission increases to 8 per cent above the 1990 levels by 2010. This is unattainable, given that our present output is 23 per cent above the 1990 level.

AUSTRALIA'S REGULATORY RESPONSE

Australia's approach to Kyoto involves fostering the four most common sources of renewable energy: wind; certain small-scale hydro schemes; biomass from waste; and so-



lar thermal and photovoltaics. To promote the shift away from high-carbon fuels, Australia has implemented a mandated renewable energy targets programme for electricity supply which involves the creation of renewable energy certificates from these eligible sources of generation. The certificates are readily tradeable and unused ones can be 'banked' for future usage.

There are two schemes currently in operation:

- the Mandatory Renewable Energy Target (MRET); and
- the voluntary 'Green Power' sales.

The MRET scheme requires approximately 2 per cent of 'additional' electricity by 2010 to come from the approved green sources. This is set at 9,500 GWh (equivalent to about 4.2 per cent of the total electricity usage by 2010). Direct users and retailers are allocated shares of this and the penalty for non-compliance is \$40 per MWh (4 cents per kWh); for many firms this is up to \$57 per MWh in after-tax terms. Moreover, firms may pay a premium on the \$40 per MWh (although at present they can meet their needs at a discount) since non-compliant companies are likely to face unwelcome publicity.

The Green Power scheme is based on the consumer opting to pay

a premium (commonly \$1 per week) for an additional percentage of green power to come from certified green sources, over and above those falling within the MRET obligations.

A recent audit¹ estimated that about 70 per cent of additional green energy used the MRET subsidy with 30 per cent being funded through Green Power. Most of the voluntary funding is by government agencies.

COSTS OF UNCONVENTIONAL LOW-CARBON ENERGY SOURCES

The exotic energy supplies are far more expensive than conventional ones. The general range of costs of generation in Australia are as follows:

Table 1: Generation Costs

Generation type	Costs of generation (cents/kWh)
Advanced brown coal	3.3
Advanced black coal	3.7
Conventional brown coal	4.0
Gas	4.0
Wind	7.5-8.5
Biomass	8.0-9.0
Solar	10.0+

Some specific cost estimates of renewables that have been brought together by the Sustainable Energy Development Authority of NSW are identified in Table 2.

Of the exotic forms of energy, only certain waste products, landfill and sewage gas, and some hydro schemes offer generation at costs that

Table 2: Generation Costs—Renewables

Type of generation	Average generation costs (cents/kWh)
solid waste gasification	9.5
forestry waste	6.1
food and ag. waste	8.6
bagasse	5.3
landfill gas	5.3
sewage gas	6.6
small hydro	6.8
large hydro	5.0
micro hydro	10.2
wind	11.9–33.0
solar voltaic	73.5
solar hot water	7.2
tidal	20.5
geothermal, aquifer	19.2
geothermal, hot rock	15.6
solar thermal	23.9
photovoltaic for remotes	146.4
mine waste methane	4.3–6.6

Source: SEDA February 2002.

and the availability is episodic—in the hands of the Almighty, not man. And most wind power is worse than episodic, because it is more frequently available at night, when demand, and therefore price, is lower.

Episodic power in other than trivial quantities would be discounted in value by at least 30 per cent, unless people can be persuaded to pay a premium for its environmental attributes. Because it is unreliable, wind power needs extensive back-up ‘ancillary’ services. Managing these, in addition to their costs, can present severe difficulties, and it is for this reason that modern electricity systems would be hard

cost of wind and coal. Moreover, modern windmills already draw 45 per cent of the available energy from wind and the theoretical maximum is said to be 59 per cent.

GROWTH IN WIND GENERATION

There has been a rapid increase in new installations of wind generators across the world. In all cases, this has been on the back of hefty subsidies.

Denmark has been the stand-out case with, on some estimates, up to 17 per cent of its electricity coming from wind. But this is likely to be pared back by a new government keen to address electricity costs which, as a result of existing energy policy, are three times the Australian level.

Germany and the US are other major users. Germany boasts that it has wind power capacity equal to 3.5 per cent of total electricity-generating capacity. In the US, with 2,500 MW, the share of capacity is 0.2 per cent. In both cases, the low availability of wind means that the actual production share is much lower than capacity share; in the US, for example, wind actually provides only 0.13 per cent of electricity.

The following figure shows the major wind installation capacity and its share in the major countries with such installations.²

approach competitive levels. All of these are relatively limited in their availability and are likely to be quickly taken up. Solar hot water is the next cheapest, and would be highly competitive if users could rely on it totally and thereby avoid the costs of wires bringing energy to them.

The fact that solar relies on back-up mains-supply brings into relief some additional costs to be factored into comparisons of different fuel-sourced electricity. Even though all electrons are the same, some involve additional costs.

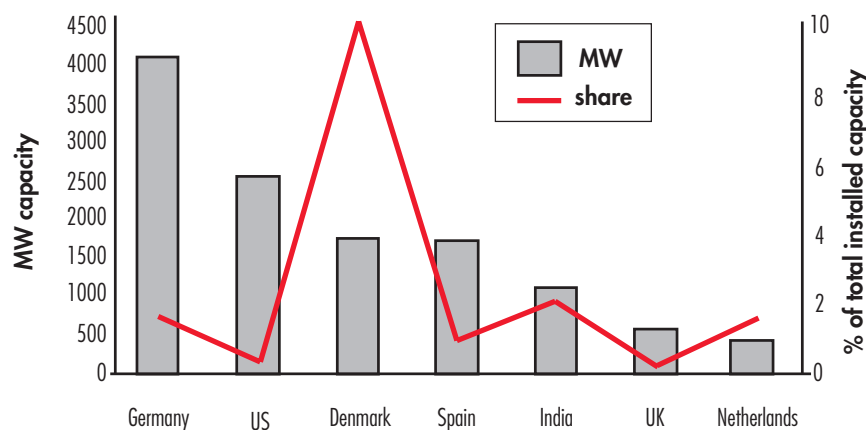
The most valuable power is the fast-start plant, such as hydro, which may be worth, say, \$70 MWh because it can be turned on and off to meet high price contingencies. Flat contracts offered by coal base-loaders may be worth \$40 per MWh.

Power from windmills, which is the most prevalent exotic alternative to conventional sources, is only available, at best, 30 per cent of the time,

placed to cope with more than 10 per cent of wind power.

There are suggestions that the efficiency of the exotics will increase over time. Doubtless this is true, but it is also true of other forms of power. Over recent years, there has been little or no narrowing of the relative

Figure 1: Major Wind Capacity—Selected Countries



Source: Global Wind Energy Market Report, 1999.

COSTS OF MOVING OUT OF CONVENTIONAL ENERGY

If unconventional electricity supplied 1 per cent of total electricity in Australia by 2010 the cost would be considerable. (And it is worth noting that European advocates dream of wind at 10 per cent, while those in the US are aiming at a still-ambitious 6 per cent.) For Australia, with a penalty of \$40 per MWh, even the 1 per cent target would mean an annual tax on energy amounting to \$380 million, with the funds largely diverted to high-cost, mainly wind, solutions. And that amount is simply for the Commonwealth measures—it takes no account of additional requirements or pressures from State Governments.

Each additional 9,500 GWh would require another \$380 million per annum if capped at \$40/MWh. Moreover, these sums do not take into account the further costs that grid managers are required to incur to accommodate the low quality of wind and some other exotic renewable energy sources. These costs involve ensuring the availability of additional very-fast-start generation, which is necessary to combat the unreliable energy flows from the subsidized sources.

All this brings us back to the whimsical aphorism in the opening paragraph. If nuclear is ruled out as an answer, and wind is incapable of offering a solution, we should make sure that the question is addressing a real problem.

NOTES

- 1 National Green Power Annual Audit, March 2002, SEDA, March 2002.
- 2 The left-hand side is in MW capacity and the right-hand side is percentage of total installed capacity.

Dr Alan Moran is Director, Deregulation Unit, at the Institute of Public Affairs.

I P A

Education Agenda

KEVIN DONNELLY

How Successful Are Australian Schools?

Judged by the recently released national literacy and numeracy results, we're doing great. The benchmark tests, carried out during 2000, show that 92.5 per cent of Grade 3 students successfully reached the reading standard and that 92.7 per cent reached the numeracy standard.

Better still, not only are the overwhelming majority of Australia's students achieving success, but the results have improved year after year. In literacy, for example, in 1996, only 73 per cent of Grade 3 students met the set standard, compared to 92.5 per cent last year.

Instead of criticizing education departments, we should be applauding a job well done. After all, as everyone agrees, a strong and rigorous education system is essential if Australia is to be internationally competitive and a successful 'knowledge nation'.

Unfortunately, there is only one thing wrong with arguing that Australian students are doing well. The reality is that the national literacy and numeracy benchmarks are fundamentally flawed and, compared with overseas benchmarks, sub-standard.

First, raising literacy standards from 73 per cent to 92.5 per cent in just under four years beggars belief. Instead of standards really improving, what the 'educrats' have done is to simply 'lower the bar'. As with high-jumping, so with schooling, the easiest way to guarantee that everyone can succeed is to set the standard so low that everyone gets over.

Second, most parents expect education to be about promoting excellence. Students should be motivated to do their best and to aim high. The national benchmarks take the opposite approach. Those responsible for Australia's benchmarks are happy to state that the national benchmarks 'represent minimum acceptable standards'. This is unlike England and America, where standards are usually broken into three levels such as 'basic', 'proficient' and 'advanced'.

Third, instead of representing strong and rigorous standards, Australia's literacy and numeracy benchmarks are sub-standard and 'dumbed down'. This explains why, when the benchmarks were first developed, academics attacked them for being weak. Such was the concern that the Australian Council for Educational Research (ACER) was asked by the Commonwealth Department of Education, Training and Youth Affairs (DETYA) to compare Australia's draft national benchmarks with overseas standards.

The results of the international studies published in 1999 concluded that Australia's benchmarks are the weakest. For Grade 3 and 5 numeracy, one report states that standards 'were set at higher standards in other countries'.

Instead of aiming for excellence, the approach is one of mediocrity. As quoted in the numeracy report: 'the Australian draft benchmarks performance standards have probably been set at a low level relative to standards in use in other countries'.

Australia's literacy benchmarks were also compared with overseas countries and, once again, our stan-

dards were lower. For reading, the ACER report states: 'In almost all instances, expectations at Grade 3 level in the nine countries are higher than the expectations described in the Year 3 Australian standards'.

It now appears that the governments of the day, both Labor and Liberal, preferred to ignore the ACER report and instead implemented 'benchmarks' that were both sub-standard and inherently flawed.

A second example of how Australian parents are being misled is the way in which the Program for International Student Assessment (PISA) results were released earlier this year. PISA 2000 is an international test on behalf of the Organization for Economic Co-operation and Development (OECD). It involved 32 countries and measured the literacy performance of 15-year-olds.

When the results were released, it appeared that Australian students did very well as they were ranked fourth in the combined literacy score. But what this ignored is that countries that have always outperformed Australia in international tests (Hong Kong, Singapore, Taiwan and the Netherlands) were not involved in PISA.

Also ignored is the fact that PISA did not measure the traditional school curriculum. In the words of those responsible for PISA:

PISA is built on a different framework from other national and international studies. It aims to advance understanding of how well equipped young people are for their future lives, by emphasizing items that have a real-world context. PISA content is not drawn strictly from school curricula.

Instead of measuring academic content and skills as do tests such as TIMSS, the approach adopted by

PISA emphasized process and the types of understanding associated with what are termed 'everyday situations'.

The bizarre result is that even though PISA is a test of literacy, students were not penalized for spelling or grammatical mistakes. As stated in the ACER report on how Australian students performed:

Errors in spelling and grammar were not penalized in PISA—if they had been, probably all countries' achievement levels would have gone down, but there is no doubt that Australia's would have. It was the exception rather than the rule in Australia to find a student response that was written in well-constructed sentences, with no spelling or grammatical error.

While those in the 'real world', such as parents and employers, might expect that good literacy has something to do with correct spelling and

grammar, as this quotation shows, those responsible for developing PISA obviously had other ideas.

For years, Australian parents have been worried about falling standards. Many students cannot spell or punctuate correctly. Mental arithmetic is a thing of the past and teachers seem

more worried about promoting self-esteem than telling students that they have failed.

Across Australia, State and Territory education departments have responded by introducing benchmarks and arguing that standards, as reflected by international tests such as PISA, have improved. Nothing could be further from the truth.

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I P A

New Online Resource at IPA

Just How Many Are There? Employees? Independent Contractors?

Over recent years there has been a debate over just how many employees and independent contractors there are in the workforce.

The Institute of Public Affairs has released an analysis of the issue, using available Australian Bureau of Statistics data. It found that

- 23 per cent of the total workforce (or 1.2 million Australians) are independent contractors.
- 28 per cent of the private-sector workforce are independent contractors.

The report also found that union membership was

- only 21 per cent of the total workforce; and
- only 16 per cent of the private-sector workforce.

Accurate analysis of the workforce numbers has particular importance for

- The Australian Labor Party, currently working through its connections with the union movement, which needs to address its relationship with the new, emerging class of independent contractors.
- The Cole Commission, which has announced an investigation into the independent contractor workforce in the building industry after allegations made against independent contractors by the CFMEU.
- The committee reviewing the *Trade Practices Act*, because contractors work under commercial contracts regulated through the *Trade Practices Act*.

The full text of the report is available online at the IPA's Website:

<http://www.ipa.org.au>

Letter from London

JOHN NURICK

You Can't Even Tell a Joke

Political correctness is a force in the land these days. A Shadow Agriculture Minister lost her job last month for telling an ethnic joke at a rugby club dinner. You know the kind: an Englishman, a Frenchman, an American and a Mexican are in an aeroplane. The engine fails, and there's only one parachute. The Englishman mutters something about stiff upper lips, says 'God save the Queen!' and jumps without a parachute. 'Sacré bleu!' says the Frenchman. 'I cannot be upstaged by an Englishman. *Vive la France!*' and jumps without a parachute. Seeing these magnificent sacrifices, the American does not hesitate. Crying 'Remember the Alamo!' he ... throws the Mexican out.

Except that the joke at the rugby club wasn't like that. According to the newspapers, it was: 'An Englishman, a Cuban, a Japanese man and a Pakistani were all on a train. The Cuban threw a fine Havana cigar out the window. When he was asked why he replied: "They are 10 a penny in my country." The Japanese man then threw a Nikon camera out of the carriage, adding: "These are 10 a penny in my country." The Englishman then picked up the Pakistani and threw him out of the train window. When the other travellers asked him to account for his actions, he said: "They are 10 a penny in my country."'

There's no narrative tension. There's no twist in the tail. The only people who'd find it funny are those who agree with it: that Asians in Britain are worthless. Telling the story was at the very best a crashing error of judgment—apparently the people at the dinner didn't find it funny—and Conservative leader Ian Duncan Smith swiftly sacked the teller.



A few days later, a Conservative on my local council had to resign because of an article on his personal Website entitled *There's Nothing Wrong with Racism*. He took it down before I could read it, but later said that 'feelings of at least mild preference for one's own race are a normal universal part of human nature which are built into us by the same processes of biological evolution that build into us attraction to the opposite sex.'¹ This is naïve, given what we now know about genetic variation between and within human populations.

Preference for people like oneself probably is a product of evolution, but the 'like-ness' is much more about culture than genetics. Even our appearances and smells are matters of culture as much as inheritance: clothes, hairstyles, diet, ablutions, perfumes. Putting it in terms of 'race', however, demands an exclusively genetic explanation which no longer makes scientific sense (if it ever did). For that matter, as the parent of any toddler will tell you, just because something's natural doesn't mean it's right.

It's not only Conservatives who have been getting into trouble. There was a storm when David Blunkett, the Cabinet Minister responsible for immigration, said that asylum centres

needed classrooms because asylum seekers' children were 'swamping' some local schools.

His Foreign Office colleague Peter Hain—famous for sabotaging South African sporting tours in 1970—then said that 'Muslim immigrants can be very isolationist in their own behaviour and their customs' and that this could 'create real difficulties' and be exploited either by Islamic extremists or by racists. It was necessary to 'send a clear message that British Muslims are welcome here and enrich our culture but also they must be a part of our culture.'² For this he was roundly condemned by Muslim 'representatives'.

Both are still in their jobs. They are ambitious and very able politicians, in good control of their tongues. (Mr Blunkett claims that 'swamped' doesn't connote anything different from 'overburdened', but he is blind, so his conception of a swamp may conceivably be different from yours or mine.)

So: difficult things can still be said. But if you're Conservative, and silly, and politically incorrect, you may do better to keep your mouth shut. Remember how Bertie Wooster used to say 'Good egg!'? Apparently 'egg' is now rhyming slang, short for 'egg and spoon'. Just as well Aunt Agatha didn't know, what?

NOTES

- 1 Geoffrey Sampson in interview on BBC *Today*, 13 May 2002.
- 2 [www.telegraph.co.uk/news/main.jhtml?xml=/news/2002/05/12/nhain12.xml]

John Nurick is a management consultant based in the South of England. From 1985 to 1990, he was editorial director of the Australian Institute for Public Policy, and later edited newsletters reporting on the UK Parliament and European Union institutions.

IPA

NEW BUSINESS vs OLD, OR THE DEATH OF MICKEY MOUSE

How many times have you heard a news report on the radio about some new bit of technology, closely followed by commentators' remarks that 'the law has to catch up'? Or, worse, that the law needs to anticipate these developments. Rarely is the thought offered that perhaps the law needs to move back, fail to respond, reduce its interference.

The new technologies about which most is heard on the radio are biological: genetically modified foods, stem cells, cloning and other new reproductive technologies. Because it is less sensational, however, not so well-reported are the clashes between law and commerce, progress and economic conservatism, in the field of intellectual property.

Great philosophers and economists alike have held that liberty is impossible without property rights. Natural law theories of liberty argue that property is the fruit of one's body (directly, through labour, or indirectly through purchase) and consequently that interference with a person's property should be as unacceptable as interference with a person's body. Of course, few governments have actually balked at interfering with people's bodies, so in practical terms these theories offer little protection.

But to the extent that we retain property rights, what is the property in respect of which we retain those rights? Does it include intellectual property?

Clearly—or perhaps not so clearly, since so few people seem to be able to recognize them—there are major differences between physical and intellectual property. The

most obvious difference lies at the heart of the line put out by industry organizations when they talk of the 'theft' of computer software, movies or music. They are not talking about masked individuals stealing disks from shop shelves, but normal people copying the *content* of those disks.

This is *not* stealing, at least in common-law jurisdictions. One of the elements of proof of the crime of larceny is that the owner has been *permanently deprived of the use of the property*. Yet intellectual property remains with its owner or originator even after someone else has copied or used it.

LEGAL MONOPOLIES

A person who controls any physical good has a monopoly over it. But the originator or possessor of an idea, an expression, an invention, cannot exercise a monopoly over it once it

incentive for a person to write a book or invent a useful contrivance.

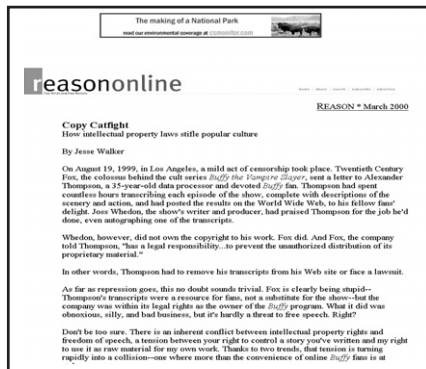
Patents are usually awarded for fixed, reasonable time periods: usually of the order of years. Copyrights, by contrast, have long had extraordinarily lengthy protection: in the case of works by natural people, this was until recently the life of the author plus fifty years, or 75 years from the work's creation in other cases (in the United States, with similar standards in most Western nations). But a few years ago, Disney noticed that its 1928 creation, Mickey Mouse, would soon become unprotected and lobbied for new laws. The Sonny Bono *Copyright Term Extension Act* was promptly passed, adding twenty years to each term. Mickey remains in the safe hands of Disney until 2024. Emboldened by this success, Disney is lobbying the US Congress to require all new consumer electronics and computer equipment to be hobbled to prevent copying of copyright material.

Oddly enough, copyrights and patents are an explicit power in the US Constitution: '[t]o promote the progress of science and useful arts' by securing monopolies 'for limited times'. How 'limited' has exercised not only Disney, but many others of late.

Originally, copyrights in the US extended for 14 years. The 'life plus 70 years' rule now in place has been challenged in the United States Supreme Court on the basis that is effectively *unlimited*. A superb essay on the whole copyright saga appears in *Reason OnLine*:

**reason.com/0003/fe.jw.
copy.shtml**

In one of those fun twists, a quick Google search reveals that this ar-



has been disclosed, unless a government intervenes.

This is precisely what governments do: they confer monopolies on expression and inventions in the forms, respectively, of copyrights and patents. The arguments for this are based on the incentive theory: that without protection of an economic monopoly, there will be little

title has itself been mirrored (Internet terminology for a copy of a document being hosted elsewhere) on several sites.

FAIR USE?

One of the points raised in that paper is that much of any original creation is derived from other work. The Disney that seeks to keep Mickey out of the public domain is the same Disney that has plundered the public domain for such movies as *The Little Mermaid* (although the utterly different outcome in Disney's version compared to the original does, perhaps, make it an original work!), *Beauty and the Beast*, *Snow White*, *Sleeping Beauty* and so on.

Copyright and patent protections (and trademark rights) have been used increasingly not just to preserve the economic value of in-

placed annotated copies of these on his Website to provide a detailed response (since the magazine would only permit him a 1,000 word rebuttal in a later edition, to which it, in turn, published a 700-plus word rejoinder). The magazine threatened to prosecute him for breach of copyright, forcing him to remove its text from his full response. Go to:

www.lomborg.com/critique.htm

and also to:

www.greenspirit.com/lomborg/

HOW MUCH DOES PIRACY COST ANYWAY?

Industry organizations occasionally issue press releases—or issues briefs to politicians when seeking new legislation—that include figures which hugely exaggerate the financial costs to their members of copyright breaches. The methodology seems to be to estimate the number of pirated copies of CDs, movies, software or whatever there are in a market and then multiply this figure by the average unit costs had these been sales of non-pirated items. This assumes that were the illegal copies not available, those sales would have been made.

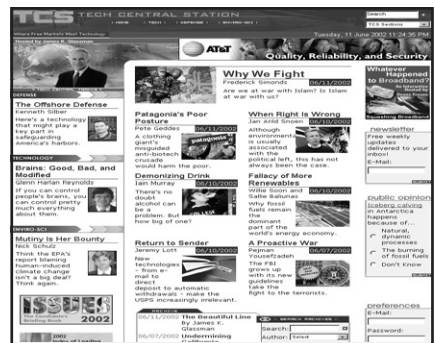
This model has been utterly destroyed by an analysis at:

kmsself.home.netcom.com/Rants/piracy.html

Amongst other things, this points out that with total 1997 legitimate software sales of \$US60 million in China, the industry estimates of \$US1.4 billion in sales lost in that market to piracy are grossly overstated.

CLONING AND COPYING

The issue of copyrighting genes has been controversial lately. But if 'A' can copyright a gene created through novel technologies, can 'B' copyright an organism formed by



genes created through time-honoured technologies ... such as parenthood? Go to:

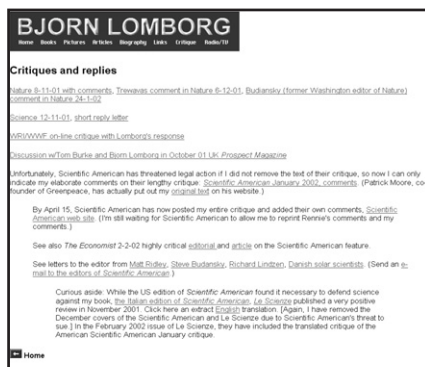
www.gwilly.ca/357/harvard.html

A regular defender of freedom, particularly in the high technology field, is a publication entrancingly entitled *Tech Central Station*. This is accurately subtitled 'Where Free Markets Meet Technology'. During the US Government harassment of Microsoft, this site proved to be one of the most consistent defenders of the right of innovators to achieve market dominance: to achieve monopolies of their own. Its writers recognize that such monopolies will only be temporary ... unless the government steps in to make them permanent. For this and much more, go to:

www.techcentralstation.com

FEEDBACK

I would welcome advice from readers on any other sites of interest to IPA Review readers. E-mail me on scdawson@bigpond.net.au.



tellectual property, but to restrict criticism. For example, strategic patenting of potentially competitive innovations by large concerns can ensure that competition is destroyed before it can even start up.

Or consider the experience of Bjørn Lomborg. His landmark book, *The Skeptical Environmentalist*, was subjected to 11 pages of negative reviews in the January 2002 edition of *Scientific American*. Lomborg

What's A Job?

KEN PHILLIPS

A Competition Con Job?

These days, the Australian Competition and Consumer Commission seems to be at war with business. The ACCC holds itself up as the champion of the oppressed consumer, firing righteous gunshot at business price-fixers and competition rorters.

That the ACCC, or some other body do this, is necessary. Forget whether they have the balance right or not, successful market economies hinge around managing tension between the natural and creative urge of humans to want monopoly and the societal need to frustrate monopoly.

But nothing is what it seems, because the ACCC actively endorses price-fixing and the prevention of competition when it suits. The process works this way.

The ACCC is legislatively barred from intervening in labour relations. Yet Australia's industrial relations system is a process in which anti-competitive, price-fixing processes are legalized. Every object traded in a society is nothing more than the sum total of multi-layered labour inputs. A coffee cup begins life as a piece of dirt. Labour extracts the dirt and labour adds value through to the end product. Our economic laws enforce competition and bar price-setting in the trading of objects (coffee cups), but employment law legalizes price-fixing on labour inputs.

The dividing line between when to allow price fixing and when to bar it is identified by the type of contract at play. If a contract is commercial, price-fixing is banned. If a contract is employment, price-fixing is legalized. Hence the ACCC's

powers, by design, do not encroach into labour issues.

This has not, however, stopped labour regulators seeking to move into the ACCC's power zone. One of the current thrusts of labour regulators is to bring within their authority people who supply their labour through commercial contracts. The labour regulators' justification is the 'need' to protect persons who allegedly are incapable of working under commercial contracts. Clothing outworkers have become the symbol of these alleged incompetents who need protection.

Based on allegations of \$3-an-hour pay rates, the labour regulators have moved to 'protect' outworkers. Although recent IPA research [www.ipa.org.au] proved the low rates to be a sham, the exploitation story has been promoted long and hard enough to have entered political mythology. Consequently, the labour regulators have secured legislation that controls labour prices under commercial contracts.

This is the intent and structure of the NSW *Industrial Relations (Ethical Clothing Trades) Act*, passed in late 2001, which relies on the ACCC's approval for its existence. The Act does much more than simply guarantee minimum rates to outworkers, which have always been secured under standard employment regulations. The Act makes every manufacturer in the supply chain responsible for the pay rates of outworkers at every lower level in the supply chain. To achieve this, the Act treats commercial contracts operating in the supply chain as employment contracts and, in effect, determines and fixes the price of every commercial manufacturing contract in the NSW clothing industry.

During 2002, manufacturers' adherence to the Act's price-fixing is voluntary. In 2003, the price-fixing is likely to become mandatory.

It could have been expected that this would create concern for the ACCC. But no, the second reading speech of the Act explains that:

A specific exemption from the requirements of the *Trade Practice Act* is provided for.... The Australian Competition and Consumer Commission has already granted ... an authorized exemption under the *Trade Practices Act* after concluding that any anti-competitive effect is outweighed by the benefit to the public.

The 'benefit' of the anti-competitiveness is self-evident for the labour regulators, but unexplained by the ACCC. However, the outcome can be predicted. The domestic clothing industry is already in severe recession. The process of ACCC-endorsed, legislative price-fixing will suck out any capacity of the industry to find solutions to its structural problems, and will force the balance of the industry into import replacement.

This leap by labour regulators to control non-employment commercial contracts—with the ACCC's blessing—raises serious questions about how well the ACCC understands the principles that are supposed to guide its actions. If the ACCC is not prepared to protect the core sanctity of the commercial contract, what is the value of its high-profile business prosecution activity?

Ken Phillips is a workplace reform practitioner who promotes the principles of 'markets in the firm'.

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REVIEW

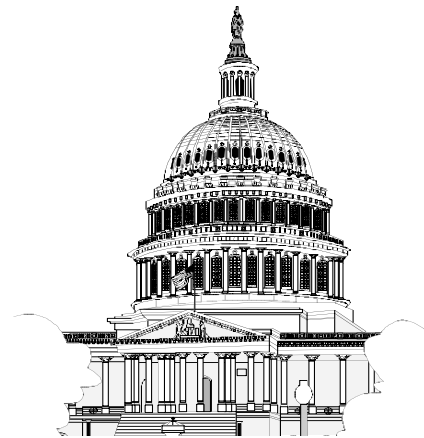
Letter from America

NIGEL ASHFORD

Bush's Trade War

During his 2000 Presidential campaign, George W. Bush championed free trade and open markets. Yet, in 2002, he signed several highly protectionist measures passed by Congress. First, there was the imposition of higher steel tariffs by up to 30 per cent. Second, was the imposition of 27 per cent duty on Canadian lumber, in what is supposed to be a North American Free Trade Area. Third, was the greatest reversal of all, the farm bill, which raised farm subsidies by 80 per cent and will cost the US taxpayer \$190 billion over ten years, more than doubling the current cost. This was a total U-turn from the 1996 farm bill, which had begun the process of phasing out subsidies, and which Bush had praised in 2000.

The new US protectionism has been met by almost universal condemnation outside America, accompanied by counter-productive tariffs and quotas against US goods. The US threatens to undermine any progress towards freer trade promised under the Doha agreement in November 2001. This is not, however, a case of the USA against the rest of the world. The President was strongly urged to oppose the bills by his closest advisers on trade policy, Treasury Secretary Paul O'Neill and US Trade Representative Bob Zoellick. These bills received hostile coverage in all the mainstream media, including *The Washington Post* and *The New York Times*. Most House and Senate Republican leaders refused to vote for them, even after Presidential endorsement. There is no evidence that public opinion wants more protectionism. Its strongest proponent in 2000, Pat Buchanan, received very few votes as a Presidential candidate. The costs to the US are massive: to taxpayers in subsidies, to consumers in prices and



to US companies struggling to export. Furthermore, such laws discourage the protected industries from responding to competition with greater efficiency and thus undermine their long-term future.

How could it happen that measures that are clearly against the interests of the vast majority of the American people pass into law? The answer is that useful phrase from public choice economists: 'concentrated benefits and dispersed costs'. The benefits of protectionism are concentrated in the hands of a small number of people: those in the farm, steel and lumber industries. The losers are other American taxpayers, consumers and workers. Yet those seeking special subsidies, tariffs and quotas are likely to be vigorous in working actively for their side. The average American is unaware of the costs to him of these measures, but even if he did know, the cost to each individual is so small that there is little incentive to become a free-trade activist.

Why this happened is widely recognized as electoral politics. President Bush's top political priority is to be re-elected in 2004. His second priority is to elect a Republican majority in Congress this November, enabling him to pass his legislation. He has identified three key states in his re-election: West Virginia, Pennsylvania and Ohio—

steel states. He sees this year's most likely Republican Senatorial gains in South Dakota, Montana, Minnesota, Iowa and Georgia—farm states. These laws are not in the interests of most voters even in these states. But it is in the interests of farmers or steel workers strongly represented in these states, and whose votes can be won.

Privately, the Bush Administration defends its actions by saying that such compromises were necessary to gain passage of legislation granting Trade Promotion Authority (formerly known as fast-track), in which Congress surrenders the right to amend trade deals, allowing the President to negotiate effectively in international trade. This would be a victory for free trade if it can be passed without substantial amendment. What the Administration fails to recognize, however, is that free trade requires champions to explain the value to Americans and the world of removing trade barriers. Widespread understanding that trade is in the national interest is a necessary counterweight to the special interests. Bush has failed to use his position as a bully pulpit for that cause and any credibility for doing so has been severely undermined by the legislation he has now endorsed.

What hopeful signs are there? The heart of this Administration is for free trade. It would probably behave differently if it had a Republican Congress and victory in 2004. It is the congressional Democrats who are the most protectionist, heavily dependent for money and campaign workers upon their union allies. But in the meantime, opponents of a free world continue to rack up their victories.

Dr Nigel Ashford teaches in the Institute of Humane Studies at George Mason University, and is co-author of US Politics Today (Manchester University Press).

IPA

Compiled by IPA staff, columnists and consultants ...

FEATHERING THE NEST, AS USUAL

Despite all the big issues facing the health system and the paucity of research undertaken in that area, the boffins at the ANU National Centre for Epidemiology and Population are on the sniff for real research funding ... from the Kyoto bandwagon.

Their new interest includes the measurement of the collateral health costs and benefits of social policy decisions stemming from the Kyoto protocol and the imposition of carbon trading.

They wish to appoint an economist who will be involved in research on the economic burden of illness attributed to environmental change.

INEDIBLE SCIENCE

'Everything gives you cancer.' That's what food cops and anti-consumer activists would have us believe. *The Wall Street Journal* declares, 'Bread kills,' reporting that Swedish scientists have found that the 'starch present in dough, when it is heated to bake the bread, turns into a 'probable human carcinogen...'

So, now that we know that bread kills, what next? For the EU at least, the way ahead seems clear. The precautionary principle, enshrined in EU law as the governing doctrine in cases of scientific uncertainty, surely indicates that a bread ban is in order, at least until more evidence about its real risks can be gathered. Perhaps a bakery quarantine, pending expensive 'bread abatement' procedures, should be considered.

DEMOCRATIC REPUBLIC OF DISASTER

East Timor has won its independence, but what now? It has taken on the ominous new name, Democratic Re-

public of East Timor, the sort of name that usually gives democracy a bad name. Fully half of the ministers in the new cabinet come from the so-called Mozambique clique within Fretilin, a freeze-dried version of the 1975 Marxist organization based on the communist Frelimo of Mozambique. And a bizarre decision has been made to make Portuguese the new official language, although only around a quarter of the population speak it. Are they already hearing the aid dollars ringing?

DECLARATION FOR PLANT RIGHTS

The organization, United Poultry Concerns (UPC), where they love chickens—as personable and intelligent pets—is now talking up the intelligence of vegetables. Its Website asks, 'Don't plants have feelings too? It is very possible that plants have sensitivities that we do not yet understand'. UPC claims that recent scientific evidence suggests that plants do indeed experience pain and suffering. 'To become a plant-rights activist, just stop eating meat', UPC suggests. 'When we eat animal products, we consume many more plants indirectly than if we ate those plants directly, because the animals we eat are fed huge quantities of grasses, grains, and seeds.'

LIQUID HOT DOGS FOR SOCCER CROWDS

Choi Han-Gwon, leader of a South Korean association of dog meat restaurants, said that visitors to Seoul's Sangam Stadium would be offered samples of dog meat juice in a bid to allay foreign prejudice against the delicacy. 'We plan to develop canned dog meat tonic juice, which football fans can enjoy in their stadium seats while watching games,' said Han-Gwon. But he denied local reports

that the association he heads up would offer dog meat burgers or sandwiches to visiting football fans.

MACRO NEUROTIC FOOD

The US Government has said time and again that organic foods have no added health benefits, and some researchers have even suggested that organic growing methods can increase the risk of *E. coli*. A New Zealand study, the first critical review of research comparing organic and conventional foods to be published by a leading international science journal, claims that they 'found no strong evidence that organic and conventional foods differ in concentrations of various nutrients'. They also found no convincing evidence of any differences in taste between conventional and organic produce.

So what's the difference between organic and traditional produce? Just the cost, it seems: organic can cost twice as much. Not deterred, Theresa Marquez, marketing director for Organic Valley, logically argues, 'The question is not, why is organic food so expensive. The question is, why are the foods we are eating now so cheap?'

A NEW SOLUTION FOR EQUAL OUTCOMES

Since the passage 30 years ago of a law known as Title IX, college administrators in the US have been bound to assure that sports participation by women is on par with those of men. If there are fewer women who want to participate in the field, or pool or stadium, then fewer men can participate in their own activities. Since the law was passed, more than 170 wrestling programmes, 80 men's tennis teams, 70 men's gymnastics teams and 45 men's track teams have been eliminated.

IPA

Immigration vs Democracy

JAMES FRANKLIN

ONE of the awkward features of democracy is that some of the stakeholders in a government's decisions do not have votes. They include orphans in institutions, those suffering severe mental disability, foreign nationals, and refugees seeking asylum. It is thus no surprise to find them at various times the victims of governmental interventions ranging from bureaucratic hassles to indefinite confinement. Special difficulties arise if a government decides, for one reason or another, that it needs to act on behalf of one of these groups, but the voters are unlikely to be convinced. Should the government conspire against the electors and pull the wool over their eyes?

A case in point is the Australian immigration program since World War II. The transformation of Australia into a multicultural nation since 1947 is not something that the Australian people were asked to approve. Nor were they told the reasons why their successive governments agreed to it.

In 1946, Australians were almost entirely of British and Irish descent. There were no plans to change that. Meanwhile, there were a million anti-Communist Eastern Europeans—Baltic peoples, Poles, Ukrainians and various others—in camps in Germany and Austria, refusing to be shipped back East. They threatened to disturb the reconstruction of western Europe. In contrast to the ineffectual responses of the international community in almost every other refugee crisis, this one was solved firmly, efficiently and quickly. In 1950, the camps were empty and were burned down. The million refugees had been parcelled out to countries with plenty of money and space.

180,000 of them—two per cent of the Australian population—were New Australians, and Australia's road to multiculturalism had begun.

The Australian people were not told any of this—of the behind-the-scenes arm-twisting to round up reluctant host countries, of the cables from Whitehall instructing the Australians to get on with it, of the worldwide lobbying efforts by Catholic representatives (Immigration Minister Arthur Calwell, later a Papal knight, wrote in reply to his thank-you note from the Vatican,

The transformation of Australia into a multicultural nation since 1947 is not something that the Australian people were asked to approve

'no letter which I have written in the six years in which I have been privileged to hold Ministerial office in this country has given me greater pleasure than this acknowledgement of the Holy Father's appreciation of my humble efforts in the cause of distressed humanity'.) For local consumption, the story was cast in terms of 'populate or perish' considerations and arguments about labour for national development. Those reasons were genuine enough as far as they went, but they were far from the full story. The Australian people were told only what they were likely to want to hear.

When overpopulation threatened the political stability of Italy and Greece in the early 1950s, the same co-ordinated action was undertaken, and Australia was again among the largest recipients. Australia helped again with the smaller Hungarian refugee crisis of 1956. It was not so keen to help after the fall of Saigon in 1975; according to Employment Minister Clyde Cameron, Gough Whitlam angrily refused to have any 'f***ing Vietnamese Balts' coming here. But when South-East Asian nations began towing boat people back to sea in 1979, the US State Department organized international pressure, and Australia, by then under the Fraser Government, was yet again among the largest contributors to the resettlement of all the Vietnamese in the camps.

Contrasting those events with recent ones, Malcolm Fraser noted that Calwell knew unionists in his time would not have agreed to large-scale immigration, so he avoided asking them. Similarly, Fraser said, 'If I had asked Australians, do you want me to embrace policies which will lead to about 200,000 Vietnamese ... coming to Australia; ... if I'd taken that vote people would have said 'no'. But we believed that it was necessary in Australia's interest ...'

As a reason for policy change, 'we were pressured by great and powerful overseas friends' is not something a democratic government can sell to its constituents. It may be a sound and honourable reason for action nevertheless.

James Franklin, Senior Lecturer in Mathematics at the University of New South Wales, is, with R.J. Stove, writing a book on the international dimensions of Australian immigration.

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Summaries and excerpts from interesting reports

RUSSIA'S FLAT TAX REFORM

This year, Americans will pay accountants and attorneys \$140 billion to do their taxes and help them navigate the 46,000-page US Tax Code. Too bad, observers say, that this isn't Russia:

- Since 1 January 2001, Russians have enjoyed a 13 per cent flat tax.
- Even the old Russian system was simpler than the USA's, with three tax rates—12, 20 and 30 per cent.
- The US has six—6, 10, 15, 27, 30, 35 and 38.6 per cent, the last of which takes hold at \$307,500 for married couples filing jointly.

The majority of Russian taxpayers don't need to file forms. The 13 per cent rate has exceeded expectations in terms of revenue, as real rouble revenue increased 28 per cent.

- Three years ago, tax revenue equaled 9 to 10 per cent of Russian gross domestic product.
- By last November, that had grown to 16 per cent as a result of following the Laffer Curve: lower marginal tax rates produce higher revenues.
- The new system has also greatly reduced the underground economy, where people were paid in goods, rather than cash, to facilitate tax evasion.

In other pro-market moves, President Vladimir Putin has signed legislation to cut the corporate tax rate from 35 to 24 per cent. The Kremlin may also offer Russians privately-invested social security accounts, much as President Bush wants for Americans.

As one observer has noted, V.I. Lenin, analyzing all this from his dacha in hell, must be stroking his beard in utter bewilderment.

Source: Deroj Murdock, 'Even Russia Realized the Wisdom of a Flat Tax', *Dallas Morning News*, 4 March 2002.

For more on Russia <http://www.ncpa.org/iss/int>

WOMEN, CHILDREN SAFER IN MARRIAGE ENVIRONMENT

Marriage is the only institution that protects mothers and children from domestic abuse, according to a new study from the Heritage Foundation.

- The report reveals that domestic abuse is twice as high among women who have never married as among those who have.
- Children of divorced or never-married mothers are six to 30 times more likely to suffer from serious abuse than children raised by both biological parents who are married.
- Never-married women experience more domestic abuse than those who are married.
- Children who live with their mother and a boyfriend who is not their father are 33 times more likely to be abused.

The rate of abuse is six times higher in stepfamilies, 14 times higher in the single-mother family and 20 times higher in cohabiting biological-parent families.

Source: Ellen Sorokin, 'Marriage Safest Bet to Prevent Abuse', *Heritage Data Show*, *Washington*

Times, 15 April 2002; based on Patrick F. Fagan and Kirk A. Johnson, 'Marriage: The Safest Place for Women and Children', *Backgrounder* No. 1535, 10 April 2002, Heritage Foundation.

HOW ASIAN BRAIN DRAIN WINDS UP BENEFITTING ASIA

Some critics view the influx of technologically sophisticated immigrants from China and India into Silicon Valley as robbing their home countries of the very talent those countries need to compete in world markets.

But new research shows that the process is a two-way street.

Here are some findings of a survey by the Public Policy Institute of California:

- It is common for immigrants who have become a staple of Silicon Valley's growth to export their experience—and northern California's entrepreneurial culture—back to their homelands.
- Immigrant entrepreneurs and professionals—particularly those from China and India—are increasingly meeting with government officials and consulting with companies in their homelands.
- The study found that 18 per cent of the immigrants surveyed had invested in their own start-ups or in venture funds in their homelands.
- Researchers found that 40 per cent of the immigrants surveyed had helped arrange business contacts in their countries—and 30 per cent had met with

government officials in their homelands.

Some 76 per cent of Indian immigrants and 73 per cent of Chinese professionals said that they would consider starting a venture in their own countries.

Manufacturing isn't the only thing being exported. Ideas are, as well—specifically the culture of entrepreneurship, those involved point out.

Source: Matt Richtel, 'Brain Drain in Technology Found Useful for Both Sides', *New York Times*, 19 April 2002; AnnaLee Saxenian, 'Local and Global Networks of Immigrant Professionals in Silicon Valley', 2002, Public Policy Institute of California.

DEMISE OF GENETICALLY-ENGINEERED CROPS PREMATURELY REPORTED

Just two years ago, anti-biotech activists were rejoicing at signs of the end to genetically-engineered farming. But that millennium didn't arrive for them, and biotech plantings are increasing, thank you very much.

- About 74 per cent of this year's US soy crop will be genetically engineered—compared with 68 per cent last year and 54 per cent in 2000.
- Some 32 per cent of the US corn crop will be of biotech varieties—compared with 26 per cent in 2001 and 25 per cent the year before.
- About 71 per cent of this year's cotton crop will be bio-engineered—compared to 69 per cent last year.
- The National Center for Food

and Agricultural Policy will release a report in June showing that corn farmers are paying, on average, an extra \$6.50 per acre for this technology and getting back \$8 to \$9 in return on their investment.

Nature also benefits, agricultural specialists report. For example, plants genetically engineered to resist the herbicide glyphosate allow the chemical to be sprayed 'over the top' of crop and weeds alike, thereby reducing or eliminating the need to churn up the soil to kill weeds. This allows no-till farming, which tremendously reduces runoff and makes farmland more attractive to birds and other small wildlife.

Source: Michael Fumento (Hudson Institute), 'Beating the "Frankenfood" rap', *Washington Times*, 9 May 2002.

UNSELFISH CAPITALISM

Capitalism has been criticized for centuries for its single-minded pursuit of self-interest. It is often claimed that pastoral and agrarian societies foster social co-operation and sharing, while industrial societies promote materialism and greed.

But scientists who actually tested these assertions found that people raised in market economies are more trusting and willing to share than those raised in most pre-industrial cultures.

Over two years, 11 anthropologists and an economist conducted experiments in diverse cultures, including three hunting-and-foraging societies, six slash-and-burn agricultural communities, four nomadic-herding groups and two farm villages.

People from these groups played the same economic games that had been extensively tested on college students in developed countries. In an 'ultimatum' game, a player divided a sum of money (or cigarettes or other valuable goods) between himself and an anonymous partner, who could accept the division—in which case both received that amount—or reject it, in which case neither got anything. The results reveal concepts of fairness and the degree of trust.

- Peruvian forest dwellers, for example, usually offered 15 per cent to 25 per cent of the pot—and responders agreed to nearly all offers, even below 15 per cent.
- Tanzania's Hazda hunter-gatherers made similarly low offers, but responders usually rejected them.
- In contrast, American undergraduates usually tender 30 per cent to 40 per cent of the total, and most responders reject anything below 20 per cent.
- And in another 'trust' game, people in a rural Missouri town usually ended up with equal shares.

'Industrialized nations promote a stronger ethic of fairness than do many of the traditional societies', says anthropologist Joseph Henrich. And, suggests economist Colin Camerer, 'The opportunity to trade in economic markets may create social expectations about sharing and trust that exist over and above individual decisions and motivations...'

Source: Bruce Bower, 'A Fair Share of the Pie', *Science News*, 16 February 2002.

I P A

Globalization Is Not An Ideology

AN INTERVIEW WITH FR PIERO GHEDDO

Father Piero Gheddo, of the Pontifical Institute of Foreign Missions, and author of *David and Goliath: Catholics and the Challenge of Globalization* (St. Paul Publications, 2001), replies to some of the questions addressed by the anti-globalization movement at a meeting in Porto Alegre, Brazil, as a counterpart to the Davos summit held in New York.

Q: What do you think of globalization?

Father Gheddo: There are negative and positive things, but to demonize globalization is not realistic: It is to close one's eyes to reality; it induces pessimism about the future because the world—whether we like it or not—is moving toward unity.

The problem lies in making it go forward while respecting the rights of man, and not in demonizing an unstoppable phenomenon. Research by Harvard University has shown that between 1970 and 1990 the economy of poor countries open to the outside world grew by 4.5 per cent a year; while that of the autarkic nations stagnated at 0.7 per cent.

Q: Influential currents of the anti-globalization movement state that the South of the planet is poor because the North is rich.

Father Gheddo: I don't agree. When it is said that 20 per cent of the world population has 80 per cent of the wealth and 80 per cent of the population has only 20 per cent of the goods, we are playing with words.

What should really be said is: 20 per cent produces 80 per cent of the wealth and 80 per cent of people produce only 20 per cent. This is the reality and we cannot ignore it. The prob-

lem lies in producing wealth. If wealth is not produced, there is impoverishment.

We don't realize that a good part of poor peoples do not know how to produce; they are not educated to production. In Italy, between 7,000 and 8,000 kilos of rice are produced per hectare, while in African agriculture between 400 and 500 kilos are produced. Why?

Because they do not have selected seeds, or artificial irrigation; they don't have instruments to level the ground; they don't use fertilizers. The gap between 8,000 and 500 kilos is the gap between the rich and the poor. It has its origin in the capacity, and education, to produce.

Q: Currents of the anti-globalization movement state that, in environmental terms, the earth cannot sustain the present level of production of goods and consumption.

Father Gheddo: I don't at all share these catastrophic predictions that, since the time of Malthus, have been continually denied by history.

The earth has enormous possibilities of space, production of foods, of environmental paradises for all men. We do not know the limits of our universe nor of Man himself. The more one progresses, the more one discovers that God has made things well; that is, we discover unimagined resources. Of course the environment, air, water, the seas, etc., must be protected.

Q: What is the ideological origin of the anti-globalization movement?

Father Gheddo: There are many currents. However, I think there is a 'Third World' ideology that still pre-

vails. It is a theory of dependence: a theory that is clearly declining among experts, because it has been contradicted by the facts, but which remains alive.

The theory of dependence states that the evils of the poor always have external roots, creating among them a profound conviction of frustration. In this way, people are discouraged and responsibility is removed from them.

African bishops have written: 'It would be unsustainable to state that colonization alone has put an end to Africa's capacity to take the reins of its own destiny'.

Third World ideology has become an excuse for tyrants and continues to create illusions among African peoples.

In Ecuador, Comboni Bishop Enrico Bartolucci of Esmeraldas told me as early as 1989: 'Since the subject of the external debt has come up, it is not possible to speak about any problem in the country without blaming the external debt'.

He took me to visit his city's hospital, built by the European Community in 1982. By 1989 the elevators did not work; the mattresses and sheets had been stolen; the doors did not close; the operating room no longer had air-conditioning; and there was filth everywhere.

'If you tell them', Bartolucci said, 'that they must clean and maintain the installations, the first thing those responsible tell you is that the country is poor because of the external debt.'

NOTE

This is an edited version of an interview first published by ZENIT at www.zenit.org

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