

Running Roughshod Over U.S. Laws

The rule of law, the great principle underlying our constitutional system of government, is under attack as never before. Two of the prominent threats to the rule of law in America are the 1993 North American Free Trade Agreement (NAFTA) and the 2005 Security and Prosperity Partnership (SPP). President Bush is an ardent champion of the former and a coauthor of the latter.

Nevertheless, the president regularly invokes the “rule of law” in his speeches and press conferences. As he did, for instance, at the January 2004 Summit of the Americas in Monterrey, Mexico. Standing next to his host, Mexico’s then-President Vicente Fox, Mr. Bush said of the illegal-immigration controversy: “We are a country of law. Rule of law is important in America.”

This is perversely ironic, in that NAFTA and the SPP are daggers aimed at the very heart of the rule of law. However, before examining these threats, it might serve to examine briefly just what that three-word phrase, “rule of law,” so revered in American heritage, actually means.

Our Founding Fathers believed that the primary function of government is to protect the inalienable, God-given rights of the individual.

Thus they devised a constitutional republic in which the powers of the national government were “few and defined,” as well as clearly separated into the three spheres of operation (legislative, executive, and judicial) and loaded with checks and balances to guard against arbitrariness, encroachment, and usurpation. Thomas Jefferson warned his fellow citizens to keep tyranny in check by binding government officials down “by the chains of the Constitution.” John Adams, in drafting the Constitution



Rule of law? President Bush and Mexican President Vicente Fox at 2004 Summit of the Americas meeting in Monterrey, Mexico. Bush declares his devotion to “the rule of law.”

Under NAFTA and the SPP, the rule of law — including our U.S. Constitution and Bill of Rights — is being replaced with arbitrary rule by unaccountable elitists.

by William F. Jasper

ITEM: “NAFTA court is law of the 3 lands.” So proclaimed the headline in the *Sacramento Bee* on April 18, 2004. The article, taken from the *New York Times*, reports on a NAFTA tribunal overriding the Massachusetts Supreme Court and the U.S. Supreme Court.

ITEM: “State Laws Take Back Seat to Trade.” That was the headline of a *Los Angeles Times* story for December 5, 2004

on how rulings by courts created under NAFTA and the World Trade Organization are striking down state laws.

ITEM: “Mexican Trucks Begin Deliveries Beyond U.S. Border.” The September 9, 2007 Bloomberg.com story reported on the controversial move by the Bush administration to advance NAFTA objectives by opening the United States to long-haul Mexican trucking companies, in violation of state safety, labor, and environmental laws.

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for the Commonwealth of Massachusetts, gave us the famous phrase, “a government of laws and not of men.”

However, under the subversive processes established by NAFTA, the SPP, and other so-called free-trade agreements, the limitations on government are rapidly being destroyed. This became strikingly obvious when a NAFTA tribunal struck down U.S. state laws and court rulings in the case reported in the *New York Times/Sacramento Bee* article cited at the top of this story. John D. Echeverria, a law professor at Georgetown University, said that the NAFTA judiciary represents “the biggest threat to United States judicial independence.” Peter Spiro, a law professor at Hofstra University, likewise noted: “It’s basically been under the radar screen. But it points to a fundamental reorientation of our constitutional system. You have an international tribunal essentially reviewing American court judgments.”

However, adverse court rulings are not the only (or even principal) means by which NAFTA and the SPP threaten our constitutional rule of law.

A fundamental principle of constitutional law is that a law passed by Congress, or a treaty ratified by the Senate, that violates the Constitution is null and void. Though approved by Congress in 1993, many features of NAFTA, including the jurisdiction of NAFTA tribunals, should be declared unconstitutional. NAFTA also established dozens of secret tri-national working groups that develop “norms” and “rules” to govern all activities under NAFTA’s alleged jurisdiction. This unconstitutional legislative process has been carried over into the SPP, which, unlike NAFTA, was never even put before Congress. President Bush simply launched it in 2005 as an executive measure.

The SPP working groups are a developing legion of public officials and private citizens who are secretly crafting policies and rules on matters ranging from education, taxes,

immigration, and customs, to transportation, banking, and law enforcement. These “official” SPP working groups collaborate with privileged private organizations such as the Council on Foreign Relations (CFR), the North American Forum, the North American Competitiveness Council, and the Council of the Americas.

The CFR’s main spokesman promoting the SPP, is Professor Robert Pastor, who favors merging the United States, Canada, and Mexico into a North American Community with a common border European Union-style. He also supports deep “integration” that would subject to tri-national jurisdiction many matters that our Constitution says can only be decided by the United States government, state and local governments, or the American people.

Dr. Pastor has been a key participant at SPP meetings that have been closed to the American people and their constitutionally elected representatives. One of Pastor’s influential SPP allies in this transformation of America from the rule of law to the rule of men is Princeton University law professor Anne-Marie Slaughter, the CFR’s lead-

ing exponent of “transgovernmentalism,” the growing trend of regional and global governance by networks of private-public actors independent of the nation state.

Ms. Slaughter’s 1997 essay, “The Real New World Order,” for the CFR journal *Foreign Affairs*, presents the case for governance by network and outlines precisely what has been taking place under NAFTA and the SPP. Slaughter enthusiastically notes that informal networks of judges, diplomats, technocrats, and business executives are circumventing national sovereignty and creating “a form of global governance” by performing “many of the functions of a world government — legislation, administration, and adjudication ... without the form.” She praises transgovernmentalism for being “fast, flexible, and effective.” No need for those slow, messy, constitutional checks and balances!

It is precisely individuals like Pastor and Slaughter — and their fellow globalists inside of and outside of government — whom Jefferson admonished that we should bind down “from mischief by the chains of the Constitution.” ■



Secretary of State Condoleezza Rice with David Rockefeller, founder and honorary chairman of the Council of the Americas, one of the principal private groups promoting a North American Union.

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