

On My Mind
5/7/10

On many people's minds, this week, is the report issued by the Department of Interior on the status of foreign workers in the CNMI. The report offers five alternatives for the future status of foreign workers in the CNMI: U.S. citizenship; permanent residency leading to U.S. citizenship based on five-year residence anywhere in the U.S.; permanent residency leading to U.S. citizenship based on five-year residence in the CNMI; a freely associated state (FAS)-like status allowing travel to the U.S., and an FAS-like status restricted to living and working in the CNMI.

Accommodation to these alternatives, apparently, are all readily or easily available under present U.S. law. There are, however, other options that could have been offered, and one wonders why they were not considered or discussed in the DoI paper. Take the definition of "permanent residency," for instance. According to the web's *Wikipedia*, permanent residency, a concept recognized by many countries around the world, refers to **people allowed to reside indefinitely within a country of which they are not a citizen.**

With some exceptions, depending on the country, the permanent residents have the same rights as citizens, except: they may not vote, they may not run for office, may not hold government jobs, may not own certain classes of real estate, are not issued a passport of that country, and may not apply for jobs involving national security.

The DoI report, however, does not offer the alternative of permanent residence per se. It offers it only in connection with U.S. citizenship. Moreover, it suggests a five-year minimum residence requirement - either in the CNMI or in the U.S. - again, without offering alternatives.

It may be remembered that when the move for improved status for foreign workers in the CNMI first got organized, it was called the "dekada" movement - presumably because the thought was that after ten years in the CNMI, workers should be eligible for an improved status. I thought it a mistake to shorten the period to five years then, and I still think so. In this setting, here in the CNMI - in what is in many ways a closed, self-contained society - five years simply isn't long enough to learn to accommodate to its ways, or to be accepted by it. Yet the DoI paper offers no alternatives.

If, today, foreign workers in the CNMI were given the right to vote, the character of the CNMI would change overnight - totally, radically - since there are nearly the same number of workers who have been here five years and would be eligible, under the DoI recommendations, to vote, as there are registered voters. That is simply unacceptable.

Unfortunately, the number of those who have been in the CNMI for ten years or more was not included in the DoI report. It is theoretically possible that that number would constitute less of a threat to the stability of the CNMI, and therefore make the granting of citizenship - including the right to vote - of less concern.

While giving foreign workers citizenship - and the right to vote - after five years may fit into the types of status now recognized by the U.S., it doesn't take into account the differences, the uniqueness, of the CNMI. The CNMI simply does not fit into the same

category as any other U.S. entity - except perhaps American Samoa. The CNMI is a tiny enclave. It is physically much smaller. Not counting the foreign workers, it has a smaller population, and that population is more homogeneous than that of most other U.S. entities except, perhaps, American Samoa. Its absorption capacity, in other words, doesn't begin to match that of southern California, Florida, Arizona, other areas that contend with large numbers of foreign workers/immigrants. Existing U.S. laws, policies, rules and regulations in this regard just aren't relevant, useful, practical, workable, here.

And because the CNMI is so different, its immigration policies should not be lumped in with the national dialogue on immigration reform. To do so would make it more difficult to carve out a separate policy for the CNMI. It could also create considerable delay as the two houses of Congress fight over the shape of national reform.

It's not that I don't support foreign workers in their desire for improved status. I do indeed. I believe the rigamarole that they have to go through to get a job, to earn a living under present CNMI labor law, is punitive. I believe they should have a right to travel freely - back to their home country, to the U.S., to wherever else they may choose, and are eligible to go. I believe they should be given permanent residence in the CNMI - after 10 years. And as the ratio of eligible foreign workers to eligible local voters changes, I believe the right to vote should be reconsidered. After all, the workers - and their families - must abide by the law of the land. It does not seem fair that they have no voice in what that law says.

Will the CNMI reject all of the recommendations? Or will the governor's working group, charged with devising a unified response to the DoI report, opt only for the most restrictive status? Or will it show some compassion - and some initiative - and formulate a position more suitable to the uniqueness that is the CNMI, that of permanent residency status, leaving open the possibility of citizenship - and the right to vote - as a future option?

Short takes:

On the positive side, the CNMI's Family Court, presided over by Judge Kenneth Govendo, has recently won well-deserved recognition in two different venues. Govendo just received notice that the Court's Client Services Program has been awarded the 2010 National Criminal Justice Association "Outstanding Criminal Justice Program Award" as the top "best practice" evidence-based program in the country. The award recognizes the most effective use made of federal funds in helping clients through the court system. The CNMI's program had been described at the recently-held regional meeting of the NCJA and the Bureau of Justice Assistance in Phoenix, Arizona. The national award will be presented August 3, 2010 in Ft. Myers, Florida.

Govendo's Family Court also received regional recognition when its "success story" of satisfactory resolution of a domestic violence case was highlighted, along with four others, at the Department of Justice's Office of Violence Against Women conference conducted in San Francisco earlier this year. The CNMI story was recognized as captur-

ing the spirit of the Services, Training, Officers, Prosecutors (STOP) program. Ironically, this case is the same one in which Judge Govendo has been accused of violating judicial ethics.

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Kudos, as well, to Ryan E. Ortizo, winner of the recently held AG's Cup competition. Printed in full in the *Marianas Variety* 5/4 issue, the speech pulls no punches in identifying the CNMI errors that have led to its present sorry economy, but holds out hope for the future provided people, rather than relying on government, ask what they can do for themselves, their communities and their commonwealth.

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Roilin' Froilan is at it again. In a move totally in keeping with the CNMI's reputation of an unstable business environment, the House speaker has filed H.B. 17-70, which would re-instate smoking in restaurants, and increase the number of smoking rooms in hotels, to better accommodate tourists. Has he got his head under the table? Emphasis today is on health, not sickness and pollution! The CNMI should be proud of its anti-smoking laws!

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Also of concern: the announcement by the Department of Public Land of a proposed land exchange where the private land owner will get a parcel of public land three times larger than the size of what will be turned over to the government. Isn't the ratio wrong here? Isn't public land, a rare CNMI asset, in scarce supply? Shouldn't that make it more, rather than less, valuable than private land? The announcement appeared in the *Saipan Tribune's* 5/6 issue, page 16.

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Unannounced and largely unnoticed, the table of contents of the *Commonwealth Register* has just begun appearing on the web page of the Law Revision Commission, at < www.cnmilaw.org >. Click on "legal documents" and then on "Commonwealth Register." The table of contents for February, March and April of this year are available.

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Those who carp at the fact that the CNMI did not opt into the U.S. Social Security System when the Commonwealth was established might want to remember that the Social Security System only starts paying retirees when they reach age 62. At that time - in the late 1970's - the life-span of most Chamorros and Carolinians was much shorter, and the expectation was that most would not live long enough to benefit from the Social Security System's retirement program.

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Last but not least, a big thank-you to the Department of Lands and Natural Resources' Division of Parks and Recreation for keeping the Marpi path swept and navigable!