

Norman R. Augustine

When Politics Interferes With Science

History is replete with instances of how human progress and the process of discovery have been stifled by the imposition of political, religious or ideological beliefs on independent scientific inquiry and exploration. Our nation now threatens to provide the latest example of such unfortunate interference as the result of two recent appellate court rulings involving the National Academy of Sciences.

In a decision issued May 6, the U.S. Court of Appeals for the District of Columbia affirmed its earlier ruling that panels formed by the Academy of Sciences to study difficult and often controversial issues for federal agencies or Congress are subject to the 1972 Federal Advisory Committee Act (FACA). This law, intended to control government-appointed advisory committees, required that such groups be closely managed by their sponsoring agencies and that they provide public access to their deliberations and working documents.

There are two fundamental problems with applying this law to the Academy of Sciences and, by extension, to its affiliated organizations—the National Academy of Engineering, the Institute of Medicine and the National Research Council.

First, the court's ruling contravenes the explicit statement of legislative intent in adopting the Advisory Committee Act. Responding to a colleague's question during floor debate on the measure, the act's sponsor, Rep. Chet Holifield of California, stated: "The act does not apply to persons or organizations which have contractual relationships with federal agencies nor to advisory committees not directly established by or for such agencies. As the gentleman knows, the National Academy of Sciences was founded by Congress and, therefore, it comes under that category."

Even worse than this obvious case of judicial revisionism is the chilling effect that imposition of the act's provisions would have on the ability of the academy complex to provide unbiased, high-quality scientific advice to Congress and federal agencies such as the Departments of Commerce, Defense, Energy, Health and Human Services, and Transportation.

After the Challenger accident in 1986, the presidential commission chaired by former secretary of state William Rogers sought out the National Research Council to oversee redesign of the space shuttle's solid rocket boosters, recognizing the importance of keeping this vital endeavor independent of the political mael-

strom in which the National Aeronautics and Space Administration and its contractors were then embroiled. A committee of experts convened by the council met 99 times over 30 months, focusing from the outset on development of objective, quality standards for the boosters' redesign and the shuttle's safe return to flight.

This effort would not have been possible under the act, since the act's meeting notice and agenda publication requirements alone would have prevented the panel from meeting as frequently or completing its work as quickly. Moreover, the act's open-meeting requirements would have subjected the panel's deliberations to contemporaneous public commen-

tary and the same sort of nonproductive laying then so prevalent.

Similarly, the Institute of Medicine's assessment of the integrity of the nation's blood supply during the early stages of the AIDS epidemic might not have produced important recommendations for dealing with threats to blood safety had it been subject to control by any of the federal agencies' actions were reviewed and, in some cases, criticized.

I ardently believe in open government and in the premise that—with few exceptions such as those involving critical national security matters—decisions should be made with an opportunity for public comment, discussion, debate and scrutiny of the end results.

So why am I critical of the appellate ruling, which, on the surface, would seem to make the process of government even open and accessible? The answer lies in the fundamental difference between fact-finding and decision-making—between review of a final product and oversight of a work in process.

The panels of the academy complex do not make decisions on behalf of Congress, the executive branch or the independent of our federal government—all of which provide ample opportunity for the airing of political and ideological views as they formulate public policy. Rather, the academy panels perform research so those empowered to make decisions can do so with the benefit of information and the best scientific expertise our nation has to offer—a process that demands both independence and objectivity. Further, all academy reports are made public—both in print and on the World Wide Web. Even when national security imperatives require classification of a report, an unclassified summary always is issued.

The academy has announced its intention to appeal the district court's ruling to the U.S. Supreme Court. An even more direct and expeditious remedy would be for the Congress to reinforce legislative history—not rewrite it, as the courts seem inclined to do—by specifically exempting the complex from the provisions of the Federal Advisory Committee Act.

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Demetrios Papademetriou

A Solution Under Our Noses

To control illegal immigration, enforce the labor laws.

In the flare-up of concern for deaf-mute Mexicans found working under conditions of near-enslavement, an important lesson about our approach to controlling illegal immigration is being lost. Namely, penalizing employers for hiring unauthorized workers is a far less effective tool than strengthening the enforcement of existing labor laws, such as minimum wage and overtime rules, child labor restrictions, occupational health and safety rules and civil and human rights standards.

The public's horrified reaction to this incident has shown again that Americans are more outraged at exploitative labor practices than they are at the simple hiring of illegal immigrants. Yet our public policies go in exactly the opposite direction. We seem to be concentrating almost exclusively on employer sanctions—to the point of moving into the uncharted waters of a national identification system. This approach gives rise to the very situation we are now recoiling from: the growth in underground networks providing unscrupulous employers with undocumented workers too ignorant of their rights and too intimidated to insist on them.

Outlawing the hiring of unauthorized workers is a necessary part of a comprehensive illegal immigration control effort. It should not, however, be the centerpiece of our overall interior enforcement strategy. That role belongs to the enforcement of employment standards and other workplace rules.

An increase of 250 Department of Labor compliance officers would take on the additional duties effectively. The Immigration and Naturalization Service could be left to focus on its principal enforcement missions: controlling the border, intercepting organized smuggling and ferreting out and deporting criminal immigrants.

Failing to follow this prescription makes us appear much more concerned about the employment of unauthorized workers than about exploitive working conditions that erode the security of all workers.

A strong commitment to enforcing workplace rules would send a signal to employers who violate these laws with near impunity that we intend to move beyond rhetoric and pledge to improve working conditions for all workers. Such a commitment would help diminish the practices that have come to light—such as those affecting the deaf Mexican vendors—that are only the tip of a shameful iceberg.

It would level the playing field for workers who are authorized to work in the United States by not asking them to compete with workers whose undocumented status contributes to their willingness to work in substandard conditions. And it would stand a good chance of attaining the elusive consensus on how best to approach the goal of controlling illegal immigration.

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