

Nativism as a diplomatic problem: Proposition 187

*Barbara A. Driscoll**

The results of the vote on Proposition 187 in California were announced about a week ago and to the surprise of many, the measure was strongly approved by the California electorate. As just about everybody must know, this infamous referendum,

now state law, is allegedly intended as a strategy to limit the state's financial responsibility toward undocumented immigrants and their families.

Of course, the debate inside California and throughout the United States, as well as Mexico, that the Proposition generated about undocumented immigrants and their role in society, went far beyond the parameters laid out in the proposition itself. Indeed, few observers would deny that

* United States Studies Coordinator of the Center for Research on North America, UNAM.



Heron Altmán / Imagenlatina.

Is this really the way to "save" California?

“We hope SOS doesn't bring us
back to the wild, wild west”

The Editors.

the public discussion about Prop 187 and undocumented immigrants assumed a life of its own, spurring a generalized and polarized debate about immigration itself. If the Save Our State movement intended to do just that, the result was a disagreeable and unnecessary division of public opinion about the role of immigrants.

But that was probably the purpose behind the Proposition. Governor Pete Wilson and other prominent supporters admitted on more than one occasion that even in the best of circumstances most of the measures included in Prop 187 would be difficult to enforce, and would probably be found unconstitutional by state and federal courts.¹

The clause that would deny public education to children of undocumented immigrants has already been covered by a 1982 Supreme Court decision based on a case emanating from Texas. Moreover, restricting the access of undocumented immigrants to public health facilities would not affect emergency room services, and might create public health problems by denying preventive medicine to many individuals who routinely work with food.

Further, teachers and some medical personnel have already indicated that they will refuse to collaborate in enforcing the law. Indeed, even a cursory analysis of the proposition reflects a poorly-designed strategy to deal with undocumented immigration, based on faulty reasoning and misrepresented information.² In fact, as these lines are being written, Prop 187 has been placed on hold by temporary restraining orders issued by state and federal courts, whose ultimate decisions we can only surmise. But, if the principle proponents of Prop 187 knew that the referendum would probably not survive the courts, we can only conclude that Wilson and his supporters intended something other than prompt enforcement of the law in California. At the very least, they must have anticipated that the referendum would

¹ Editorial, *New York Times*, October 25, 1994.

² See the article by Cardinal Roger Mahony, archbishop of Los Angeles, published in the *Los Angeles Times* (October 25, 1994) regarding the deleterious effects of the law on the children of California.

spark an emotional and complicated dialogue within the state and probably outside.

Although Prop 187 seems to many Latinos and liberals to be an outrage, it is entirely consistent with California politics. While many still think of California as a golden land of opportunity, and in many ways it is, ironically the state has a long history of ambivalent treatment toward the very immigrants that helped create its wealth.

In the late nineteenth century, the infamous xenophobic campaign in California against Chinese immigrants led to outright national exclusion of immigration from China.³ About fifty years later, forced repatriations of Mexican immigrants from some parts of the United States during the early days of the Depression originated in the Los Angeles area.⁴

In this sense, Proposition 187 is not an aberration in the state's history, but merely a more inflammatory expression of latent nativism toward a growing and increasingly heterogeneous undocumented immigrant population. Wilson and the authors of Proposition 187 were surely aware of the theme of nativism in California politics, and framed the initiative within parameters that would be consistent with it.⁵

Furthermore, although ostensibly California Republicans tried to use the measure to force the federal government to assume the financial responsibility for implications of national immigration policy (namely, undocumented immigration), the result seems to be an attempt by the state of California to direct its own immigration policy.

“Mexican workers have
contributed to the richness of
California's economy”

The Editors.

³ Sucheng Chan, *This Bittersweet Soil: The Chinese in California Agriculture, 1860-1910* (Berkeley: University of California Press, 1986).

⁴ See Abraham Hoffman, *Unwanted Mexican-Americans in the Great Depression: Repatriation Pressure, 1929-1939* (Tucson: University of Arizona Press, 1974) for a well-documented treatment of repatriations in Los Angeles.

⁵ See Tyler Anbinder *Nativism and Slavery: The Northern Know Nothings and the Politics of the 1850s* (New York: Oxford University Press, 1992) for an analysis of the historical impact of immigration on domestic American politics.

It was not, for example, until Governor Wilson really developed his critique of undocumented immigrants and until the approval of Prop 187 seemed a real possibility that the Clinton administration was forced to take more dramatic steps to control extralegal immigration at the Mexican border. These measures, most notably Operation Guardian, seemed to legitimate the claims of the Wilson campaign that undocumented immigration from Mexico was harmful to the state.

We shouldn't forget, though, that President Clinton has tried to address the myriad of challenges presented by undocumented immigration nationally. However, his approach was far less inflammatory. A special commission, presided over by ex-Congresswoman

“Hasn't the United States
always been a melting pot?”

The Editors.

Barbara Jordan of Texas, was charged to study the phenomenon of undocumented immigration and develop recommendations; the commission's final report was delivered at the end of September of 1994.⁶ While the recommendations are strong and do not meet with everyone's approval, they do represent a more politically accepted strategy to address the problem.

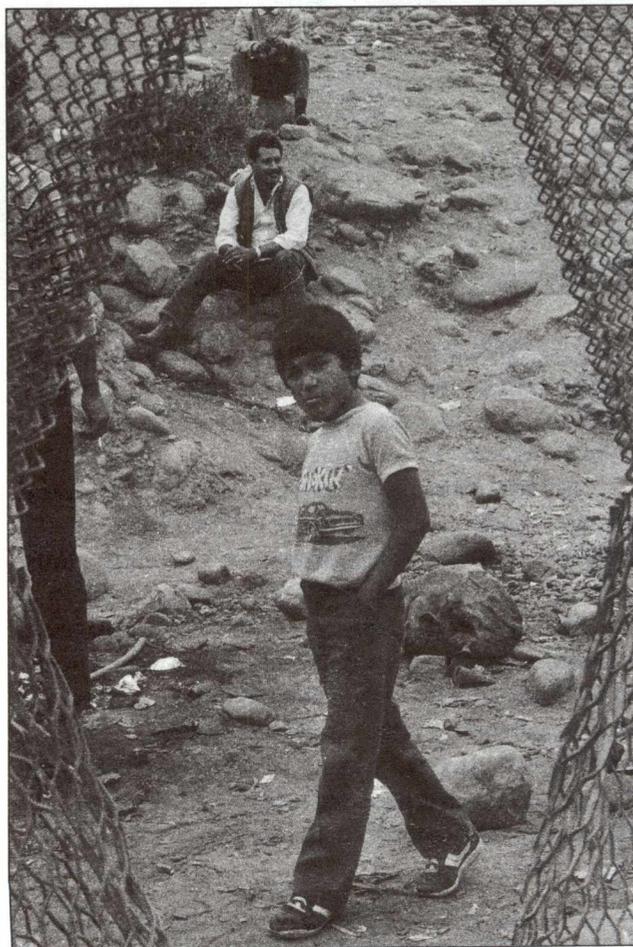
It follows that we must not consider Proposition 187 in too isolated a fashion. In spite of the fact that Wilson and other supporters have protested that Proposition 187 is strictly a state concern, its implications clearly reach beyond California. Therein lies part of the danger it poses; the overt political goal was to communicate to the federal government that the state government felt besieged by national immigration policy, but a deliberate secondary effect was to spawn an emotional and potentially destructive debate about the role of immigration.

Moreover, the fact that immigrants are the primary concern of the Proposition *ipso facto* thrusts it into the international arena. Harold Ezell, an ex-director of the Immigration and Naturalization Service and one of Prop 187's authors, publicly declared that it was a strictly

internal state matter and that the Mexican government had no business expressing its opinion.⁷

While it is true that many nationalities are represented in California's undocumented immigrant population, especially Asians, their respective governments are so distant as to limit their ability to react. However, the proximity of Mexico, together with the intense and intertwined relationship of the two countries' border regions, as well as the recently signed North American Free Trade Agreement (NAFTA), thrust Save Our State, Proposition 187 and the attendant debate literally into

⁷ Carlos Elizondo Mayer-Serra argued (Reforma, October 28, 1994) that the Mexican government did, indeed, have the right to publicly criticize Prop 187, not only due to the diplomatic reasons mentioned above, but also within a broad conceptualization of national sovereignty. That is, Mexican immigrants living in California, regardless of their legal status, fall within a political definition of national sovereignty. Although obviously too complicated an issue to discuss here, such a concept must be mentioned.



Heron Alemán / Imagenlatina.

Restricting health facilities might create public health problems.

⁶ New York Times, October 1, 1994.

The image of Mexicans in the USA

In November, UNAM's Center for Research on North America (CISAN) sponsored the lecture "Proposition 187 in the State of California," given by Raúl Izaguirre, Director of the National Council of La Raza (NCLR).

NCLR has carried out studies on changes in the image of Mexicans presented over the last fifty years, which led to the conclusion that the communications media has significantly contributed to the worsening of this image.

According to the council's data, in the 1950s the presence of Latinos presented in an agreeable way was 3 percent (in contrast to 1 percent for blacks, who made up a larger segment of the population than Latinos). In the 90s, blacks' presence rose to 17 percent while that of Latinos—generally presented as criminals and unsuccessful people—fell to 1 percent.

Izaguirre notes that what has occurred is that blacks' voice and demands have been louder and more forceful. "Rejection of blacks has been principally on the basis of skin color, whereas with Mexicans the differences have to do with skin color, culture and language. Among minorities, Mexicans are almost at the top of the list in terms of bad image."

A survey of Anglo-Saxon Americans showed that, when asked reasons for non-acceptance of Latinos, and Mexicans in particular, the most common answer was that they are "lazy and un-American." Nevertheless, a number of studies have demonstrated that among minority groups, Mexicans often work the longest hours and avoid committing acts of rebellion against the government. Many Mexican immigrants feel the U.S. has provided them with a higher standard of living than they could have obtained in their own country.

Mónica Ching
Assistant Editor.

Mexico's political face. Mexican society and government could not simply ignore a movement and political strategy so obviously designed to hamper the lives of Mexican immigrants living in California.

Most importantly, under universally accepted international law, the Mexican government has the right, indeed the obligation, to extend consular protection to all its citizens living outside the country regardless of their legal status.⁸ Since Proposition 187 would greatly complicate the lives and status of all Mexican immigrants living in California, the consuls would automatically become involved. While the national policy of the Mexican government in the past has been less than assertive regarding undocumented immigration, the responsibility of the local consuls is well defined, and remains that of extending diplomatic protection to Mexican nationals.

⁸ See Remedios Gómez Arnau, *México y la protección de sus nacionales en los Estados Unidos* (Mexico City: CISEUA, Universidad Nacional Autónoma de México, 1990).

“Arnold Schwarzenegger strikes again, now supporting SOS. Has he forgotten he's an immigrant himself?”

The Editors.

While many have criticized the performance of the Mexican consuls in California, perhaps justifiably, we must recognize that the conditions surrounding Proposition 187 present an unusual challenge for local foreign relations officials. Not only have they had to confront the stringent requirements of Prop 187, but they have also had to confront a wave of prejudice, and even racism, generated by the referendum which transcends the usual diplomatic boundaries.

At first, President Carlos Salinas, some high officials of the Foreign Relations Ministry and others tried to argue in Mexico and in the United States that Proposition 187 was a direct violation of human rights.⁹ While a valid argument and, from a Mexican perspective, a compelling one, such a posture about the human rights implications of an allegedly domestic measure in the United States did not, and would never find acceptance among the American public. Some would even interpret such a criticism as intervention in internal U.S. affairs.

Then, while some in the Mexican government continued to advocate an argument about human rights violation, others modified their stand to frame the implications of Proposition 187 within a context of the intensifying commercial relationship spawned by NAFTA. Some editorials began to point out that the discrimination against individuals of Mexican origin that would inevitably result from implementation of the proposition was entirely inconsistent with the spirit of NAFTA.

The debate in Mexico then took root at the border, and developed into the organization of boycotts, aimed essentially at stopping Mexican shoppers from going to the United States. Based on the premise that U.S. merchants would have to be shown the extent of their interdependence with Mexico, the boycotts in California and Texas demonstrated binational solidarity and a high level of interest in Mexico.¹⁰ Although not entirely successful, *Operación Dignidad* nonetheless served as a demonstration that at least some sectors of Mexican society were concerned about the plight of Mexican immigrants in California.¹¹

Indeed, during the two weeks prior to the elections, all sectors of the Mexican media became obsessed with Proposition 187 and information about it was issued every day. Editorials appeared in all the major newspapers, many by individuals not particularly knowledgeable about the United States or its political system. Somehow this nativistic movement in California sparked an interest

among the Mexican public about the United States, heretofore unparalleled, with the possible exception of NAFTA. Proposition 187 has also generated a discussion in Mexico about the possibility of allowing double citizenship for Mexican immigrants living in the United States. Under present regulations, Mexicans automatically lose their citizenship if they seek that for another country. But permitting those eligible to seek United States citizenship to do so without losing their Mexican citizenship would enable them to participate in U.S. politics by voting.

Moreover, in the context of an analysis of Proposition 187 and Save Our State, we should mention the binational study approved earlier in 1994 by the U.S. State Department and Mexico's Foreign Relations Ministry. This is the first

“ Save our state? Not quite! Just take a look at countries where inequality—which promises to be the No. 1 result of Prop 187—prevails. A low educational level means marginalizing part of the population, which materially and spiritually impoverished the people ”

The Editors.

official binational study of immigration ever undertaken, and comes at a critical juncture in the political debate about immigration in the United States. Although the final results will not be released for some time, we can expect that binational cooperation aimed at a comprehensive understanding of undocumented immigration could produce a paradigm useful in bilateral talks.

The potential of the binational study on undocumented immigration contrasts with the dangerous precedent established by Proposition 187. Instead of examining the consequences of undocumented immigration in an open and unbiased manner, the assumptions behind the proposition inevitably led to a mean-spirited political debate, which is already resulting in incidents of discrimination against persons “suspected” of being undocumented.

Because the constitutionality of the initiative is not well defined, and the courts have not yet had time to examine it, ambiguity is leaving the way open for some to enforce the new state law as they see fit. Of course, individuals perceived as being undocumented Mexicans are suffering the consequences. Is this really the way to “save” California? ❧

⁹ An article in *La Jornada* (October 28, 1994) discusses the insistence of the Catholic Church in Mexico that undocumented immigrants be treated justly.

¹⁰ *La Jornada*, October 28, 1994.

¹¹ *El Financiero*, October 28, 1994.