

Mexican Migration to the U.S. Is Regularization Possible?¹

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Ela Medina

Waiting to cross "the line."

The twenty-first century is beginning very differently from the decade of the 1990s when the United States was going through a severe economic crisis and conservative anti-immigrant movements harped on the problems immigrants brought, labeling them job stealers, welfare leeches, criminals, drug traffickers and disease carriers, among other racist epithets that took the place of arguments. Their impact on public opinion and the U.S. Congress was so great that anti-immigrant bills like Proposition 187 in Cal-

ifornia passed, in turn a determining factor in the approval of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), one of the most restrictive immigration laws of the twentieth century.

Despite all this, an inescapable fact remains: the Latino population has increased steadily, particularly in the last years of the twentieth century. While this community made up 6.4 percent of the U.S. population in 1980, by the end of the 1990s it represented 11.6 percent. The main reasons given to explain this increase have been the constant demand for cheap labor in the United States and

the existence of a large foreign work force seeking better job opportunities, higher wages and a better quality of life; the high birth rate among Latina women;² and a recent increase in the number of naturalizations, a growing trend among Latinos in general and Mexicans in particular.³

Certain projections indicate that the Latino community will be the largest minority in states like California and Texas by 2020 and in the entire country by mid-century. Of the 400 million U.S. inhabitants projected for the year 2050, one out of every four will be of Hispanic origin; that is, there is a trend toward the "Latino-ization" of

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the United States, a terrible piece of news for the nativists.

We are faced with an unavoidable fact: Mexico is the most important source of both legal and undocumented migration to the United States. The percentage of Mexicans in the U.S. community of foreign residents increased substantially in the last 30 years, going from 8 percent to 28 percent by the end of the 1990s. Mexican-Americans make up the largest single group in the

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Latino community, representing almost 60 percent of it. There is no doubt Mexicans have contributed to the economic growth of the United States in general and to the Southwest in particular. Proximity and growing interconnections between both countries' communities and labor markets in the light of important technological advances have been important incentives to emigration, but a 10-to-1 wage differential, which grows in times of economic crisis, has been the determining factor.

It is a fact that U.S. employers have shown a preference for Mexican labor—available, docile, loyal and as productive or even more productive than anyone else—despite the fact that they frequently discredit it publicly decrying its lack of training and education.

CENTRAL PROPOSALS ON IMMIGRATION POLICY IN THE UNITED STATES

Today, in contrast with the recent past when anti-immigrant attitudes prevailed, some unions, officials, congresspersons and minority leaders have come out for liberalizing the border to allow foreign workers to enter. This should be taken into account: it is a historic change. Proposals to not



Fox proposed free transit of workers across the border.

only grant an amnesty but to increase the number of visas for temporary workers—both skilled and unskilled—have come up in the debate. This can be explained by the fact that the United States has experienced the biggest economic expansion of its history with an unemployment rate of only 4 percent, the lowest since 1969.

Recent statements by both Federal Reserve President Alan Greenspan and John Sweeney, the leader of the most powerful U.S. union confederation, the AFL-CIO, to the effect that regulated immigration is better than unregulated, illegal immigration are unprecedented. This stance qualified as legitimate U.S. employers' need to hire workers, even if they were foreigners.⁴

In the same vein, under the slogan "The New Economy Needs New Americans," bills have been presented to

Congress seeking to increase the number of visas for temporary foreign workers. It has been proposed that the number of one-year H1-B non-immigrant visas issued to skilled workers be increased to 200,000. There have even been bills proposing eliminating the ceiling on visas, as long as the employer complies with certain prerequisites.⁵

With regard to the H2-A non-immigrant visa for seasonal agricultural workers, some businessmen have brought pressure to re-launch a guest worker program similar to the Bracero accords between Mexico and the U.S. in effect from 1942 to 1964. In July 1998, the U.S. Senate passed (68 votes to 31) the Agricultural Job Opportunity Benefits and Security Act of 1998 (or AgJOBS Program) that would create a guest worker program for agricultural workers. The House of Representatives has still not passed this bill, but among its main proposals are: a) granting undocumented workers conditional non-immigrant status if they can prove they have worked in agriculture 150 days a year. They could obtain legal residence as long as they continued to work in the agricultural sector for at least 180 days each year for five of the following seven years; b) culling every state employment service to find all citizens who seek employment and accept job offers from certain employers.

But one of the most interesting pieces of news has been the public, unprecedented union proposal that undocumented immigrants be granted amnesty and employers no longer be subject to sanctions for employing them, sanctions approved in the 1986 Immigration Reform and Control Act but scantily applied. This proposal is a historic reversal: traditionally, this

sector had opposed legalization and supported sanctions to employers. In February 2000, the AFL-CIO issued a call to grant legal status to the almost 6 million undocumented foreigners that it estimated were residing in the United States. It should be pointed out that if all these workers' migrant status were regularized, they might swell the ranks of the unions, which have been losing membership in massive numbers in recent years.

All these proposals have become an electoral issue. Both presidential candidates, taking into consideration the growing Latino vote, have spoken to the immigration issue, specifically with regard to the amnesty and guest worker programs. In April, Democratic candidate Al Gore proposed that any unauthorized foreign resident be granted legal status if he or she could prove residence since 1986, when IRCA was approved. One month later, Republican George W. Bush said that he did not favor an amnesty, but did endorse a guest worker program.⁶

CENTRAL PROPOSALS ON IMMIGRATION POLICY IN MEXICO

Simultaneously, former National Action Party candidate, President-elect Vicente Fox—who during his campaign said the Institutional Revolutionary Party administrations' stance on migration was solely interested in opening an escape valve and eluding their responsibility of creating jobs for the 350,000 people who seek employment on the other side of the border every year—has proposed a very ambitious long-term economic development plan that would include seeking bilateral financing for gradually opening up the border.

Fox estimates that emigration will continue as long as the wage differential remains so high.⁷ He proposes a 7-percent annual growth rate, which would allow for the creation of the 1.35 million new jobs the Mexican population needs every year. This policy would put a brake on the tendency to emigrate abroad. The new element in his discourse is that, to end undocumented immigration into the United States, he proposes the border



He also proposed including labor in NAFTA.

be opened up completely in 10 years creating a free transit zone for workers. He has even proposed the possibility of extending the North American Free Trade Agreement (NAFTA) to include labor.⁸ He thinks that if Europe has achieved it, we could probably do it in North America. Fox's daring statements have stirred reaction in the United States, particularly from officials and specialists. Many of them have said that our future president has great ambitions in this area, like Robert J. Samuelson, who wrote, "We should not let good will slip into sentimentality. American and Mexican interests sometimes collide—on immigration, for instance, where Fox seems to have large ambitions. Our interest lies in less immigration from Mexico, while Mexico's interest lies in more."⁹

Fox has also proposed eliminating the growing violence on the northern border because it only leads to tensing bilateral relations. This is the case of the Arizona ranchers' campaign to apprehend undocumented migrants entering the country through their land, hunting them down like animals.¹⁰ They think that the way to solve the situation is by legally admitting more immigrants. "If we decide we need them for jobs, it should be

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through a legal port of entry—not across my land."¹¹

Despite Fox's proposals seeming very idealistic and running the risk of raising expectations nationwide that will not necessarily come to fruition during his term, we Mexicans should take them under advisement, not only so that they be included on the bilateral agenda, but also so that the public on both sides of the border discuss them openly. It would be a good idea to know what people's positions are on this issue.

POSSIBLE ALTERNATIVES

My starting point is the premise that in the growing bilateralism generated over the last decade as a result of the greater institutionalization of Mexico-U.S. relations, it is essential to con-

Under the new AgJOBS program, undocumented workers could be granted conditional non-immigrant status if they can prove they have worked in agriculture 150 days a year.



tinue establishing new links and mechanisms for cooperation, as well as exploring new, fresh ways to initiate negotiations about migration and take advantage of the temporary change in the tone of the U.S. debate, the recent demands by businessmen and minorities alike for the approval of an amnesty and the creation of temporary worker programs. The coming changes in the administrations of both countries could be a historic breakthrough for the ambitious proposals about migration now under consideration and achieving greater bilateral cooperation on the basis of common interests.¹²

In the post-NAFTA era framework of growing regionalization and globalization, a review of the different possibilities for neighboring countries living together is urgent. To do that, we must analyze new national and regional security arrangements in order to set boundaries—in the broad sense of the term—and thus be able to both reinterpret and redefine concepts like sovereignty, nation-state, intervention, extraterritorial application of laws or norms and the possibility of the free transit of individuals.

As Mexicans, we cannot allow the border to continue as practically a war zone. We must determine the kind of border we want and then a border project should be redesigned establishing specific lines of action to systematize and administer the constant movement of human beings and achieve optimum management of the region that facilitates their crossing with dignity.

It would be important that both the United States and Mexico be aware of and recognize their geographical proximity with its *sui generis* history, sufficient in itself to justify a special relationship. If goodwill exists, I am sure that ad hoc bilateral migratory arrangements could be established without necessarily affecting other matters, much less either country's sovereignty. Also, one of the main objectives in achieving better understanding, given the migratory issue, is better articulated communications among the different participants, such as government leaders, local officials, business people, legislators, academics and members of nongovernmental organizations, among others, to

establish points of view and the ways that lead to broad cooperation.

I am convinced that for optimal bilateral cooperation, the Mexican government must adopt a much more ambitious and aggressive attitude. Firstly, domestic policy on emigration must be designed to be consistent with the immigration policy we practice vis-à-vis our neighbors to the south. Once that policy is designed, we would have to lay out a joint program of migratory cooperation with the United States and Canada, as the center of a regional migratory policy. Although far from covering all the existing possibilities, the following are a series of goals and proposals for the short and medium terms that could be considered for formulating such a policy:

1. Create a permanent commission or collective working group on migration made up of people from different sectors: federal, state and local government; the legislature; the judicial branch; academia; the business community; unions; and NGOs. Using data from domestic and binational studies, these bodies could analyze and exchange



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points of view about migration in order to generate new proposals and possible solutions that would end in the urgently needed formulation of a global policy on emigration. In developing policy recommendations, the importance that emigration has attained for our communities, the northern border and the nation as a whole would have to be taken into account.

2. Institutionalize an inter-ministerial body to administer, coordinate and implement the national policy on emigration.

3. Improve conditions for Mexicans who decide to migrate to minimize the risks they may run when crossing the U.S. border and once abroad.

4. Accept responsibility for the undocumented emigration of our nationals and set up mechanisms for acting legally, perhaps case by case, to defend their most elemental human rights.

5. Carry out an informational campaign about migrants' human and labor rights as well as about how they would benefit—in terms of greater safety and social and political participation, for example— by requesting legal res-

idence, naturalization and dual nationality, all of which are steps Mexican emigrants do not usually take.

6. Analyze and evaluate whether we are allowing our best workers and brains to leave when our economy may well need them in the short and medium term. Here, we should take into consideration that some employers in northern Mexico are now expressing a growing demand for labor. When they cannot find workers to satisfy it, they hire workers from southern Mexico. Certain demographic factors should also be taken under advisement given that the Mexican birth rate is declining. Projections for the age group of people between 15 and 44, the most productive years, will decline almost by half by 2010. If this trend continues, not only could Mexican migration north diminish, but, to the surprise of many, the country will need foreign labor.¹³

7. Make a study of Mexico's brain drain to the United States, concretely, the case of increasing numbers of young people who decide to study in a U.S. university and after graduation receive

attractive job offers, making it possible to arrange their migratory status. These young people unfortunately do not return because of the significant wage gap between our two countries.

Given the current political situation, with both countries beginning new administrations in 2001, we could study the possibility of bilaterally negotiating different proposals, some backed up by different sectors in the United States. Among those I consider the most important are:

1. Putting their migratory status in order or formulating an amnesty for the thousands who have been working for years for U.S. employers in a significant number of states.

2. Creating a program of special visas for Mexico. This could be set up with an annual entry quota for Mexicans who want to work in different sectors and regions, taking into consideration both the mistakes made in the application of the Bracero Program and the Mexico's and Canada's current Temporary Agricultural Workers Program¹⁴ and the recently proposed AGJOBS, without being restricted to farm labor. This program could contain the following guidelines, among others:

a) Granting 150,000 special visas a year, a number which corresponds to half the annual net flow of undocumented workers into the United States.

b) Making it possible for workers hired not to be tied to any specific region, branch of the economy or specific employer. Workers would also travel free of cost to their first place of work.

c) Giving workers the rights to the social benefits corresponding to the taxes withheld from their paychecks, equal to those earned and withheld from U.S.-born workers doing the same kind of job.

d) Renewing these visas annually and granting permanent residency to temporary workers after five years if they can demonstrate having been employed three-quarters of the time they were in the United States. This could become the framework for negotiating a possible amnesty for our undocumented migrants who have worked for more than five consecutive years and who continue to make their way without legal status.

3. Setting up a repatriation program with incentives for returning to Mexico not only for temporary workers but also for legal U.S. residents who wish to come back to their communities of origin. This program would also require setting up:

a) A binational complementary resources fund and/or a U.S.-Mexico repatriation trust financed from different sources that would provide economic support such as no-interest loans to temporary or permanent legal residents who wish to return to Mexico.¹⁵

b) A savings fund as an incentive for temporary workers to return to their communities of origin. A previously determined percentage set by both governments withheld from workers' paychecks could be withdrawn at the end of their stay in the United States. Every

dollar withheld could be matched by a dollar from the complementary resources fund mentioned above. The amount the worker withdrew, then, would be double what he/she had contributed because of the complementary nature of the program and interest earned. This would make returning very attractive. If he/she withdrew these funds, he/she would sign a document promising to return definitively to Mexico. To protect the program against fraud, if he/she became an undocumented worker, he/she would incur a heavy fine.

4. Negotiating the eventual demilitarization of the border in order to protect human dignity. Surveillance along the border has quadrupled in the last six years and the results have been dramatic. As a consequence, the business of trafficking in human beings has become even more lucrative than before. Today, the *polleros*, or traffickers, charge significant sums for getting people across the border and sometimes even getting them jobs, but they make them cross the border over rough terrain, endangering their health and causing a greater number of deaths. Violations of migrants' human rights are on the rise and, in a boomerang effect, migrants tend to stay longer than they originally intended and in other circumstances would have.

In general—and continuing in the spirit of collaboration that the NAFTA negotiations brought—it would be essential to create even more incentives for cooperation among border states, so that they can develop their own ways of managing migratory flows. It might be a good idea for neighboring states to create pilot immigrant programs for temporary jobs. These programs would be useful in designing future cooperation accords.

Finally, we should explore, discuss and evaluate the possibility of setting up

a long-term project—including a specific program and overall guidelines—for integrating both our economies and societies in order to move gradually toward the creation of the North American Community. Although this may irritate some sectors of U.S. society, we should be able to openly discuss the possible creation of an area without borders like the European Union where goods, capital, services and people could flow both ways. Nevertheless, we must be conscious that when we accept the abolition of control over our northern border, as the Europeans have done, we would have to trust in the proper external supervision by the United States of the entry of persons from third countries that were not members of this future North American community, and assume the corresponding responsibility and consequences.

Meanwhile, we must try to achieve a more harmonious relationship in migratory matters, with bilateral focuses, rejecting as much as possible unilateral measures that so negatively affect our relations. Let us develop this tendency to consultation and bilateral cooperation which, I am sure, will lead us to better regional cooperation in the interest of both countries. **MM**

NOTES

¹ This article is a summary of another, "La migración mexicana a los EUA. Perspectivas para el siglo XXI: ¿será posible su regularización?" included in a book currently being prepared in the CISAN for publication by Rosío Vargas, Remedios Gómez y Julián Castro, comp., *Las relaciones de México con Estados Unidos y Canadá: Una mirada al nuevo milenio*.

² Latina women have an average of three children and non-Hispanic white women, 1.8. "United States: Oh say, can you see," *The Economist*, 11 March 2000.

³ The jump in naturalizations has stemmed both from the Amnesty Program approved by the 1986 Immigration Reform and Control Act

(IRCA) and the anti-immigrant atmosphere of the 1990s. About 4 million immigrants have been naturalized since 1995, an unprecedented number. Of these, 1.9 million are Latinos. An estimated 1.33 million applicants for naturalization are now on the waiting list. Harry P. Pachon and Adrián Pantoja, "Domestic vs. Foreign Policy Concerns of Latino Leaders in the U.S." (paper read at the Twenty-second International Congress on Latin American Studies in Miami, Florida, 17 March 2000), p. 8.

⁴ "Piden aumentar en Estados Unidos empleo para migrantes," *Reforma* (Mexico City), 18 February 2000, p.1.

⁵ The current limit is 115,000 visas up until October 1, 2000, when it will drop to 107,500.

⁶ Gene Sperling, advisor for domestic affairs to President Clinton, opportunistically proposed giving legal status to some undocumented immigrants saying that it was only fair and equitable. In May 2000, Jack Kemp and Henry Cisneros also came out for an amnesty.

⁷ "Mexico President-Elect Seeks Open Border with U.S.," Reuters, 9 July 2000.

⁸ "Immigrants and the Mexican Election," Msk@cis.org, CISNEWS@cis.org, 5 July 2000.

⁹ Robert J. Samuelson, "The Limits of Immigration: United States Cannot Be a Sponge for Mexico's Poor, Even to Help the New President," *Newsweek*, 24 July 2000, p. 2.

¹⁰ Undocumented migrants now cross the border through the Arizona desert through land owned by ranchers and rural residents who are incensed because they pull down their fences and let the cattle out. Proud of hunting these migrants, they allege that they have the right to defend their property. For example, Roger Barnett, from Douglas, has captured up to 170 migrants in one day and has become the hero of the country's anti-immigrant activists. In the year from October 1998 to September 1999, official figures put the death toll of undocumented migrants crossing the border at 230. Between October 1, 1999 and March 31, 2000, 114 died, a substantial increase with respect to the 49 cases registered in the same period in 1997-1998. It is feared that 2000 may be a record year. "Border Clash," *Time*, 26 June 2000, p. 20.

¹¹ *Ibid.*, p. 19.

¹² For more information, see Manuel García y Griego and Mónica Vereá, "Colaboración sin concordancia: La migración en la nueva agenda bilateral entre México y Estados Unidos,"

Mónica Vereá, Rafael Fernández de Castro and Sidney Weintraub, comps., *Nueva agenda bilateral en la relación México-Estados Unidos*, Política y Derecho Collection (Mexico City: FCE/CISAN-UNAM/ITAM, 1998), pp. 107-134.

¹³ "La migración y el futuro," *Informe del Estudio Binacional de Migración* (Mexico City: Secretaría de Relaciones Exteriores, 1998).

¹⁴ A detailed analysis of both programs can be found in Mónica Vereá, "La migración mexicana a los EUA. Perspectivas para el siglo XXI. ¿Será posible su regularización?" op. cit.

¹⁵ Among the 12 steps that he proposes for a migratory policy, Douglas Massey includes the establishment of a binational agency for economic development as well as a migrant savings bank "that pays dollar depositors above-market interest rates as a means of attracting earnings back to Mexico." Douglas S. Massey, "March of Folly: U.S. Immigration Policy after NAFTA," *The American Prospect* 37 (March-April 1998) p. 33. (<http://epn.org/prospect/37/37massnf.html>) and Douglas S. Massey and Kristin Espinosa, "What's Driving Mexico-U.S. Migration? A Theoretical, Empirical, and Policy Analysis," *American Journal of Sociology* vol. 102 (1997), pp. 939-999.