

The U.S. immigration debate and its consequences for Mexico

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Mexican migration to the United States has traditionally been a difficult and thorny issue in bilateral relations. The United States has unilaterally opened and closed the door on legal and undocumented immigration many times during this century. At the end of the bilateral "Bracero Program" agreement that existed from 1942-1964, there was a significant increase in undocumented immigration as well as a rise in tension in bilateral relations. This was also the case during the 1920s and 30s, as well as in 1954 with the famous "Operation Wetback."

Perceptions of immigrants in the United States have become increasingly negative during the present decade. Measures for containing immigration include sanctions against employers of undocumented workers, promulgated as part of the Immigration Reform and Control Act (IRCA) of 1986; the recent Operations Blockade and Gatekeeper (1993 and 1994); and Proposition 187, a California law, approved by referendum in 1994, which excludes the undocumented from public schools and denies them other public services. U.S. public debates around these issues have caused a series of concerns among several sectors of Mexican and U.S. society, and have occasionally provoked tensions in bilateral relations.

In a recent article published jointly with Manuel García y Griego¹ the hypothesis was presented that Mexico-U.S. relations have advanced, along the road of

dialogue, from scarcely cordial relations in the '70s to relations characterized by the spirit of bilateral collaboration in the '90s. In other words, there was a transition from a unilateral to a more bilateral approach. This development is surprising, precisely because it occurred in the context of new anti-immigrant attitudes which will probably be sources of conflict and tension in the near future.

Thus, in the last two years both the U.S. executive branch and Congress have been considering various immigration control laws, which have provoked strong reactions.

U.S. immigration policy and Mexican immigrants

In spite of the new anti-immigrant attitude, over the past eight years Mexicans have been favored by several legal measures included in immigration policy reforms. The Immigration Reform and Control Act of 1986 (IRCA) and the Immigration Act of 1990 had a direct effect on the make-up and volume of the undocumented population in the United States, as well as on admission policies for new immigrants.

In order to take stock of the impact these new laws' application has had on the legalization and admission of immigrants, especially Mexicans, it is important to note the following:

Through IRCA two types of groups were legalized. Under the first heading — those who could prove that they had resided in the U.S. continually since 1982 — 1,757,957² people were legalized. The second category

¹ García y Griego, Manuel and Mónica Verea, "Bilateralismo en tiempos difíciles: la migración en la nueva agenda bilateral México-Estados Unidos," paper presented during the international seminar on "The New Bilateral Agenda," CISAN, Instituto Tecnológico Autónomo de México (ITAM), University of Texas at Austin, in press.

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² Seventy percent, that is 1,230,457 of them, were Mexicans, of whom 54.4% were legalized in California and 17.7% in Texas. (Carlos González Gutiérrez, "The Mexican Diaspora in California: Limits and Possibilities for the Mexican Government," in Lowenthal, Abraham and Katrina Burgess, *The California-Mexico Connection*, Stanford University Press, 1993, pp. 224-225.)

consisted of 1,480,971 "special agricultural workers" (SAW)—those who could prove that they served as temporary workers in the agricultural sector for a minimum of 90 days between May 1985 and May 1986.³ Thus, 2,270,725 Mexicans benefitted from these programs by regularizing their immigration status.

They also benefitted from the Immigration Act of 1990 since, starting in 1992, that law allowed for an increase in the legal immigration quota of Mexicans, through three provisions: overall, an increase of approximately 40 percent over and above the 500,000 corresponding to the number of immigrants who could be admitted annually; an increase in the limit per country, which in Mexico's case rose from 20,000 to 26,000; and an independent number (55,000) of three-year visas—which expire in 1995—for immediate family members of those recently legalized through IRCA and/or who were legally residing in the United States in May 1988. These measures were designed to reunite families of those who were recently legalized, the other members of which are, in some cases, already in the U.S. as undocumented immigrants. The law also made it easier to become employed in professional and highly skilled jobs, raising the limit from 58,000 to 140,000.⁴

While the North American Free Trade Agreement negotiations did not include immigration issues, they did lead to a number of provisions similar to those agreed upon in the Free Trade Agreement between Canada and the United States. The treaty permits entry of four categories of "business people" into the United States, Canada and Mexico, on a reciprocal basis. The limit set for Mexican professionals who may work temporarily in the United States is 5,500 annually.

The volume of undocumented workers has been more or less constant since 1990,⁵ in spite of the legalization implemented by both laws. There was a considerable drop in volume immediately after IRCA's approval, when the legalization process began.

The debate in Congress and executive-branch proposals

Due to the debate generated primarily by California's Proposition 187, the immigration issue has resurfaced amidst enormous controversy, and may continue to be a key question both at the White House and during the upcoming sessions of the 104th Congress.

³ 81.55% (i.e., 1,040,268) of the applicants were Mexican; the majority (53%) of applications were made in California. (*Ibid.*, p. 225.)

⁴ Vernez, George, "Mexican Labor in California's Economy," in Lowenthal, Abraham and Katrina Burgess, *op. cit.*, p. 162.

⁵ Between 1 and 3.5 million Mexicans are estimated to have immigrated to the U.S. without authorization. The net flow of undocumented people who settle in the U.S. each year is estimated at 150,000 to 300,000.

Lawmakers are seeking a range of restrictions on immigrants, since they consider that overall immigrants cost the nation much more than what they contribute. Up until now discussion has centered on stopping the entry of undocumented immigrants, through the following mechanisms: an increase in border security, so the undocumented may be deported; a struggle against smugglers of undocumented immigrants; promotion of a national identification registry; reduction of public benefits for non-citizens; and a push for reimbursement of expenses incurred by states with high levels of immigration.

The Clinton Administration, for its part, recently proposed a plan which includes the following measures: increasing the number of personnel responsible for tracking immigrants; extending and improving the system for work permits verification; denying all public services, except education and medical attention, to undocumented immigrants; and creating a border-crossing toll.

Both branches are discussing the immigration issue and, while illegal immigrants are the main target, there is a new skepticism regarding legal immigration, in terms of quotas and services utilized. In the following sections the principal initiatives on undocumented and legal immigration are explained.

Undocumented immigration

Increasing security on the southern border. Members of Congress as well as of the executive branch have been pressuring to stop the entry of and traffic in undocumented immigrants, increasing personnel for tracking them, primarily on the southern border. The main focus has been on improving and increasing human and economic resources for the Border Patrol, which currently employs 4,500 agents. In his budget, Clinton proposed allotting an additional billion dollars to the states with the aim of controlling the influx of undocumented immigrants, as well as denying them public benefits. In Congress, Representative Lamar Smith and Senator Phil Graham have proposed adding one thousand agents annually for the next five years, thereby increasing Border Patrol personnel to ten thousand agents in the year 2000.⁶ While more modest than those put forward by members of Congress, Clinton's proposal in this field is quite significant and will have a key effect along the southern border with Mexico. It is important to point out that several operations have already been implemented in order to try to control the flow of undocumented immigrants at the border: "Gatekeeper" in San Diego, California, "Safeguard" in Arizona and "Hold the Line" in El Paso, Texas. This has led to an increase in

⁶ "Clinton Will Seek Spending to Curb Aliens, Aides Say," *New York Times*, January 22, 1995.

the number of abuses committed, with virtual impunity, by the Border Patrol in its detentions of Mexican citizens.⁷

With the aim of supporting the costs of financing security on the southern border, the Clinton Administration originally suggested imposing a toll of \$3 per vehicle and \$1.50 per pedestrian crossing the border. This controversial measure was canceled and put at the consideration of each state, given that it was projected that it would discourage commercial and service sectors along the border, a zone affected by the recent devaluation of the peso. As a result of these criticisms, a plan was put forward for voluntary tolls to improve services.

Janet Reno has stated that she will present Congress with an initiative that would impose a \$500 dollar daily fine on foreigners who fail to leave the United States once their visa expires. This measure is directed at those who enter with legal visas but remain after the expiration date. It is calculated that 50 percent of undocumented persons in the United States entered this way, while the other half cross the land borders with Mexico and Canada. The majority of resources for detention and subsequent deportation are spent on the latter type of undocumented immigrant.

With regard to the traffic in undocumented immigrants, there is a plan to establish field teams along the border with Mexico in order to find and identify organizations involved in smuggling undocumented immigrants. The urgency of combating illegal immigration through the capture of traffickers in false documents has also been discussed.⁸

Reflecting concern about foreigners who commit crimes, a proposal for a 40 percent increase in related budget items (i.e., approximately 130 million dollars) has been put forward.⁹ Warren Christopher specifically indicated his commitment to fighting not only illegal immigration but organized crime and terrorism as well.

⁷ A report by Human Rights Watch Americas detailed numerous cases of beatings, shootings, rapes and killings allegedly committed by Border Patrol agents. ("Denuncia Human Rights a la patrulla fronteriza," *Reforma*, Mexico City, April 12, 1995.)

⁸ Los Angeles immigration officials revealed that they had captured a network of traffickers in identification documents. They seized 115,000 blank green cards, Social Security cards and other false documents, which were being sold at approximately \$0 dollars apiece. If convicted, each of the accused would be sentenced to five years in jail or a \$75,000 fine, in accordance with Proposition 187's section on document fraud—the only part of this bill which was not welcomed by both Federal and state judges, given the potential for constitutional conflicts. It should be noted that, according to the U.S. Attorney General's office, the Federal contraband statute provides for punishments of up to five years in jail and \$250,000 in fines for each person smuggled. ("INS Breaks Up Ring that Made Fake IDs," *Los Angeles Times*, January 4, 1995.)

⁹ "White House Will Seek Increase in INS Efforts," *Wall Street Journal*, January 23, 1995.

Establishing a verification system. The goal is to interdict employment of immigrants without documents through the establishment of a computerized national identity system; this would permit employers to check the legal status of potential employees. This proposal has been strongly criticized by many groups since, on the one hand, it would tend to promote discrimination against people who look foreign, and on the other hand, mainly inside the Republican camp, it is opposed because of the high cost and invasion of privacy involved in setting up such a system. This proposal was one of the centerpieces of the Report of the Immigration Reform Commission presented for strengthening application of the 1986 law.

Representative Lamar Smith proposed creating a type of identity card with the aim of blocking illegal immigrants' access not only to employment but to public benefits as well. Majority leader Newt Gingrich, a Republican from Georgia, presented a more complex initiative that puts forward the idea of requiring a sponsor or financial guarantor for immigrants over a five-year period.¹⁰

The White House intends to apply severe sanctions against employers who hire undocumented workers and thereby violate Federal immigration and labor laws. To accomplish this a national system, parallel to that of the Federal Bureau of Investigation (FBI), would be established in order to permit rapid and accurate identification of undocumented foreign criminals and those seeking public benefits. Moreover, there is a plan to increase by 865 the number of inspectors who visit businesses in order to check documents, especially in traditionally low-wage industries.

INS Commissioner Doris Meissner stated that despite the agency's 25 percent budget increase (the highest to date), the amount for sanctioning employers was cut; this could spark a heated debate in Congress. The Commissioner pointed out that there are around 7 million employers in the United States and the INS has only 1,000 agents to verify that the workers being hired are legal, while voluntary personnel dedicated to this task are scarce.

Reimbursement for immigration expenses. The states with high rates of immigration intend to seek reimbursement for the expenses they incur through receiving large numbers of illegal immigrants, and the additional cost of imprisoning them. The main arguments in favor of this measure are that immigration is a national problem and should therefore be a responsibility shared by all the states, not only those along the border. California, Florida and other border states with fiscal problems have already requested Federal compensation. The Urban Institute reported costs for the seven states

¹⁰ "Tougher Rules, ID System Planned, INS Chief Says," *Los Angeles Times*, January 10, 1995.

with the largest numbers of illegal immigrants reached 471 million dollars per year, and that in 1994 the Federal government provided 130 million dollars for partial reimbursement of their expenses.¹¹

Denial of citizenship. One of the most radical proposals is to deny automatic citizenship for children born in the United States of undocumented parents. This was initially proposed by California Governor Pete Wilson and later supported, as a constitutional amendment or statute, by the Capitol.

Legal immigration

Lowering quotas. The majority of politicians have focused on discussing viable ways to stop illegal immigration. Some call for lowering the annual quota for entry of legal workers. The quota is presently 800,000, and covers refugees and immediate family members of residents, as well as those offering certain skills necessary to the labor market. Senator Simpson has proposed that the quota be reduced to 600,000 while others have proposed more drastic reductions, with some even considering a temporary moratorium on immigration.¹² Questions have also been raised regarding priorities for legalization, with debate on lowering the numbers of those legalized through family reunification and raising those related to job skills needed in the U.S. labor market.

Reforming the welfare system. The "Personal Responsibility Act," recently passed by the House of Representatives, involves reforming the Federal welfare system, decentralizing it so the states will have more control; this would generate a savings of 66 billion dollars.¹³ One proposal for achieving this savings would deny legal immigrants access to almost all Federal public services. Until now, legal immigrants and their dependents were eligible for health-care and public assistance programs; this has generated intense debate on social welfare reform. The majority of Republican representatives support the initiative, which would lead to denying teenage mothers and legal immigrants help under Federal anti-poverty programs. The Federal government insists that states adopt a five-year minimum residency period as a prerequisite for granting assistance under the Aid to Families with Dependent Children program.

¹¹ "House Panel Backs U.S. Reimbursement for Jailing Illegal Immigrants," *Washington Post*, January 28, 1995.

¹² Idelson, Holly, "Proposals Would Crack Down on Illegals and Tighten Rules for Legal Immigrants," *Congressional Quarterly*, Vol. 53, No. 15, Washington, D.C., April 15, 1995.

¹³ "House Passes Sweeping Welfare Reform Measure with Grim Immigration Consequences," *Interpreter Releases*, Vol. 72, No. 13, Federal Publications, Inc., Washington, D.C., March 31, 1995.

Conclusions

It is clear that in the United States, perspectives and views on immigration have changed in significant ways, and this has led to a debate which is quantitatively and qualitatively different from those heard only a few years ago. In this new situation, an anti-immigrant atmosphere prevails in the nation; Proposition 187 has fostered an anti-Hispanic and particularly anti-Mexican mood in California. Various sectors have taken advantage of this environment in order to push for drastic changes in the structure of U.S. immigration policy.

The recently published, controversial book *Alien Nation*¹⁴ is representative of the new conservatism as well as the concerns voiced by certain sectors of U.S. society. One of its hypotheses is that current immigration flows are not only high in volume but also culturally distinct from previous immigrant groups. It calls the Immigration Law of 1965 disastrous because it did not pay attention to nationality; that is, it treated European immigration as less important, favoring entry of legal residents families —that is, immigrants from Latin America or Asia who, in the author's opinion, often fail to assimilate and are sometimes even rejected by their communities.

Thus, in a highly emotionally charged atmosphere, the immigration issue divides along partisan lines or viewpoints. It has more of an impact now, with the new Republican majority in Congress; traditionally, minorities are unlikely to support the Republicans, considered to favor restrictive measures which generate discrimination and racism. It is important to stress that both houses are led by Republicans: Alan Simpson in the Senate and Lamar Smith in the House of Representatives. Both have pushed for drastic measures to control immigration, above all from across the southern border.

For their part, the Clinton Administration and some Democrats are also considering putting more emphasis on border control. However, it seems that their goal is to be part of the political game, proposing and supporting immigration control measures to satisfy public opinion and reduce support to the Republicans.

Governor Pete Wilson's bid to be the Republican Party's presidential candidate aggravates the situation, since his most important campaign themes are immigration control and reform, and overhauling affirmative action programs.

What is quite clear, in any case, is that this has become a key, priority issue for both parties in the period leading to the 1996 elections. It will also be one of the most dynamic and intense issues on the bilateral relations agenda for years to come. ■

¹⁴ Brimelow, Peter, *Alien Nation*, Random House, New York, 1995.