

# Legal and Unauthorized Mexican Migration to the U.S. In the NAFTA Era<sup>1</sup>

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Lucy Nicholson/Reuters

In the 20 years since NAFTA came into effect, it has brought broad regional economic interaction among many sectors in Mexico, greater dynamism in foreign investment, and myriad trade transactions that have led to diverse businesses opening. However, the predicted growth of the Mexican economy due to NAFTA's implementation was supposed to create enough jobs to eventually diminish the flow of Mexican migrants to the United States; that did not happen. The flow of legal and unauthorized migrants increased, mainly for the first 15 years, since the push-pull factors of Mexican migration to the United States have persisted, particularly in periods of economic growth. NAFTA's twentieth anniversary gives us an opportunity to reflect on what has happened to migration flows from México to the United States.

## MEXICAN LEGAL MIGRATION TO THE U.S. DURING THE NAFTA ERA

### *a) Mexican Population and Immigrant Admissions*

The United States has always been the most important immigrant-receiving country in the world; today it receives 20 percent of all international immigrants, and its immigrant population has been growing steadily for the last 40 years. Mexicans have been the largest group of migrants in the United States in recent years. Generally speaking, in 2013, nearly 11.6 million foreign-born U.S. residents were from Mexico, around 65 percent of them without authorization. This represents 4 percent of the U.S. population of 315 million and 29 percent of the country's 41.3 million foreign-born population.<sup>2</sup>

Mexicans in the United States are immigrants or legal permanent residents (LPRs); naturalized U.S. citizens of Mexican origin; non-immigrants, who have temporary visas, mainly as

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tourists and workers; and unauthorized or irregular migrants. In terms of LPRs, about 3 million (3 086 000) Mexicans were admitted as immigrants to the United States from 1994 to 2013, an average of 155 000 a year. Mexico is the country whose citizens receive the most green cards every year; for example, out of 990 553 LPRs admitted in 2013, 14 percent were from Mexico (see Table 1).<sup>3</sup>

According to the Department of Homeland Security, 1.3 million Mexican LPRs became citizens over the last 20 years, representing only 9.5 percent of the almost 13.7 million foreigners naturalized from 1994 to 2013.<sup>4</sup> Nearly two-thirds of LPRs of Mexican origin still have not taken the step toward naturalization. This may be because it is costly or they do not intend to stay all their lives in the U.S. and plan to return to Mexico when they retire.

*b) The Growth of Mexican Non-Immigrant Admissions*

In the 1990s, an important number of foreign high- and low-skilled temporary workers were hired in the U.S. labor market due to the decade’s sustained economic growth. According to the most recently available Department of Homeland Security (DHS) estimates, in 2012 about 850 000 foreign nationals were temporary workers residing in the U.S.

Even though the largest share of U.S. work visas for all nationalities goes to highly skilled workers, Mexicans have not played an important role in this category, compared to other foreigners from India and China who have occupied first and second places in recent years. Table 2 shows the number of highly skilled Mexican temporary workers granted H1-B visas during the NAFTA era. It grew from 2 785 issued in 1997 to 3 683 in 2013, representing only 2.4 percent of a total of 153 223 H1-B visas granted in that year. The same has happened with L1 visas (intercompany transferees): in 1997, 2 346 L1 visas were granted to Mexicans (6 percent of a total of 36 589), and the number grew to 4 079 L1 visas in 2013, representing the same proportion of a total of 66 700.

Based on the bilateral Free Trade Agreement signed by the United States and Canada in 1989, NAFTA established four types of persons to whom a non-immigrant Trade NAFTA or TN visa would be granted: business visitors, merchants, investors, and people transferred between companies. Around 60 classifications of professionals receive this status. The number of Mexican professional TN visa holders grew from 171 in 1997, to 9 548 in 2013. However, although they have grown significantly mainly in recent years, their numbers are insignificant compared with the tremendous size of trade between the two countries. Intraregional trade flows have increased by roughly 400 percent; from around US\$290 billion in 1993 to over US\$1.1 trillion in 2012.<sup>5</sup> Mexico grew its exports almost ten-fold, from US\$144 million to US\$1 billion a day, making it the United States’ fourth largest trading partner.

Unskilled Mexican workers have obtained an important number of visas, mainly as agricultural workers (H2-A) and non-agricultural laborers (H2-B). While in 1997, 16 011 H2-A

TABLE 1  
ADMISSION OF IMMIGRANTS FROM MEXICO  
AND THEIR NATURALIZATION IN THE UNITED STATES (2001-2013)

	2001	2005	2010	2011	2012	2013
<b>Total</b>						
Total Immigrants	1 058 902	1 122 373	1 042 625	1 062 040	1 031 631	990 553
Naturalizations	608 205	604 280	619 913	694 193	757 434	779 929
<b>Mexico</b>						
Immigrants	204 032	157 992	138 717	142 823	146 406	134 198
Naturalizations	103 234	77 089	67 062	94 783	102 181	99 385

Source: Department of Homeland Security, *Yearbook of Immigration Statistics*, several years.

visas were issued to Mexican workers (96 percent of all those issued), in 2013 the number grew by more than 300 percent to 69 787 visas (94 percent of the total issued). This demonstrates this sector's important dependence on Mexican workers. In terms of non-agricultural laborers, only 7 678 Mexicans were granted H2-B visas to work in 1997, but the number reached 41 883 in 2013. While H2-B visas issued to Mexicans represented 49 percent of the total in 1997, their participation steadily grew to 73 percent of the total for 2013 (see Table 2).

#### THE MEXICAN UNDOCUMENTED POPULATION DURING THE NAFTA ERA

##### *a) The Growth of Unauthorized Flows despite Severe Border Reinforcement*

Since the 1970s, U.S. immigration policy has focused on apprehending undocumented migrants on the border through enforcement policies. Contrary to the spirit of closer relations among the three countries through the establishment of a formal North American region with NAFTA, the same year it came into effect (1994), the Clinton administration be-

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gan militarizing the border with different operations that continued throughout the 1990s. Border enforcement became even tougher after the terrorist attacks in 2001 and much more brutal since the 2007 financial crisis, with budget hikes for that purpose as a policy priority.

It is important to mention that the Bush administration took steps to limit the use of informal returns (voluntary return and departure) at the border in favor of formal removals and non-judicial removal, which have had more severe consequences for the repatriated, whose numbers grew from 70 000 in 1996 to 419 000 in 2012. Today, unauthorized immigrants are increasingly subject to formal removal and criminal charges. Three factors have been the key drivers of major changes in deportations during the last two decades: new laws that expand the grounds for removal; a faster removal process;

TABLE 2  
VISAS ISSUED TO MEXICANS BY THE DEPARTMENT OF STATE (1994-2013)

Categories	H1-B <sup>1</sup>	H2-A <sup>2</sup>	H2-B <sup>3</sup>	L-1 <sup>4</sup>	TN <sup>5</sup>
<b>Total</b>					
1994	42 843	7 721	10 400	22 666	4
1997	80 547	16 011	15 706	36 589	171
2013	153 223	74 192	57 600	66 700	9 548
<b>Mexico</b>					
1994	ND	ND	ND	ND	ND
1997	2 785	15 335	7 678	2 346	168
2012	3 543	61 324	36 341	3 890	7 600
2013	3 686	69 787	41 883	4 079	9 480

<sup>1</sup> Workers in specialty occupations    <sup>4</sup> Intra-company transferees

<sup>2</sup> Agricultural workers

<sup>5</sup> North American Free Trade Agreement (NAFTA) professional workers

<sup>3</sup> Non-agricultural workers

Sources: For 1994, <http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/tri3fullreport.pdf>; for 2012, [https://www.dhs.gov/sites/default/files/publications/ois\\_ni\\_fr\\_2012.pdf](https://www.dhs.gov/sites/default/files/publications/ois_ni_fr_2012.pdf).

and sizeable and sustained increases in immigration enforcement personnel, infrastructure, and technology.<sup>6</sup>

To appreciate the dimension of border enforcement during the NAFTA era, it should be mentioned that in 1992, only 5 000 border patrol officers were watching Mexico's 1 969-mile northern border at different points. Twenty years later, 21 500 agents were hired by the DHS. The Customs and Border Protection (CBP) budget doubled between 2005 and 2012, growing from about US\$1.5 billion to roughly US\$3.8 billion. Clearly, such spending hikes for reinforcing the border have been reflected in the number of apprehensions and deportations: they rose throughout the 1990s and peaked at 1.7 million in 2000. After dropping to somewhat lower levels between 2001 and 2007, they fell dramatically from 2007 to 2011 during the financial crisis. According to Department of Homeland Security statistics, in 2014 the Border Patrol apprehended 485 651 illegal immigrants, compared to 420 789 in fiscal year 2013. Apprehensions of non-Mexicans have been increasing. The increase/decrease in immigrant flows has traditionally been tied to push-pull factors that also correspond to economic cycles.

Despite this tremendous spending on their "enforcement only policy," the undocumented population in the U.S. has tripled during the NAFTA era: while in 1994 there were about 3.8 million undocumented migrants, their ranks grew to 9.4 million in 2001, peaked at 12.2 million in 2007, and fell to 11.3 million in 2009 during the economic recession. In 2014, the undocumented population was estimated at 11.7 million (58 percent of Mexican origin).

According to figures from Mexico's National Employment Survey (ENOE), the annual volumes of Mexican emigrants to the U.S. fell from 793 000 to 321 000 between 2007 and 2012, which has had a negative impact on inflows of family remittances to the country. According to the Bank of Mexico, remittances grew from US\$3.673 billion in 1995, peaked at \$25.1 billion in 2007, and then decreased to US\$21.9 billion in 2013.

#### *b) Return Migration: an Important Shift In Migratory Flows*

According to a Pew Hispanic study, for the first time in recent history Mexican-U.S. migration patterns have registered an important shift in flows. Net migration (the in-flow of Mexicans who come to the U.S., minus the out-flow of those returning to Mexico) has reached an equilibrium. Net migration

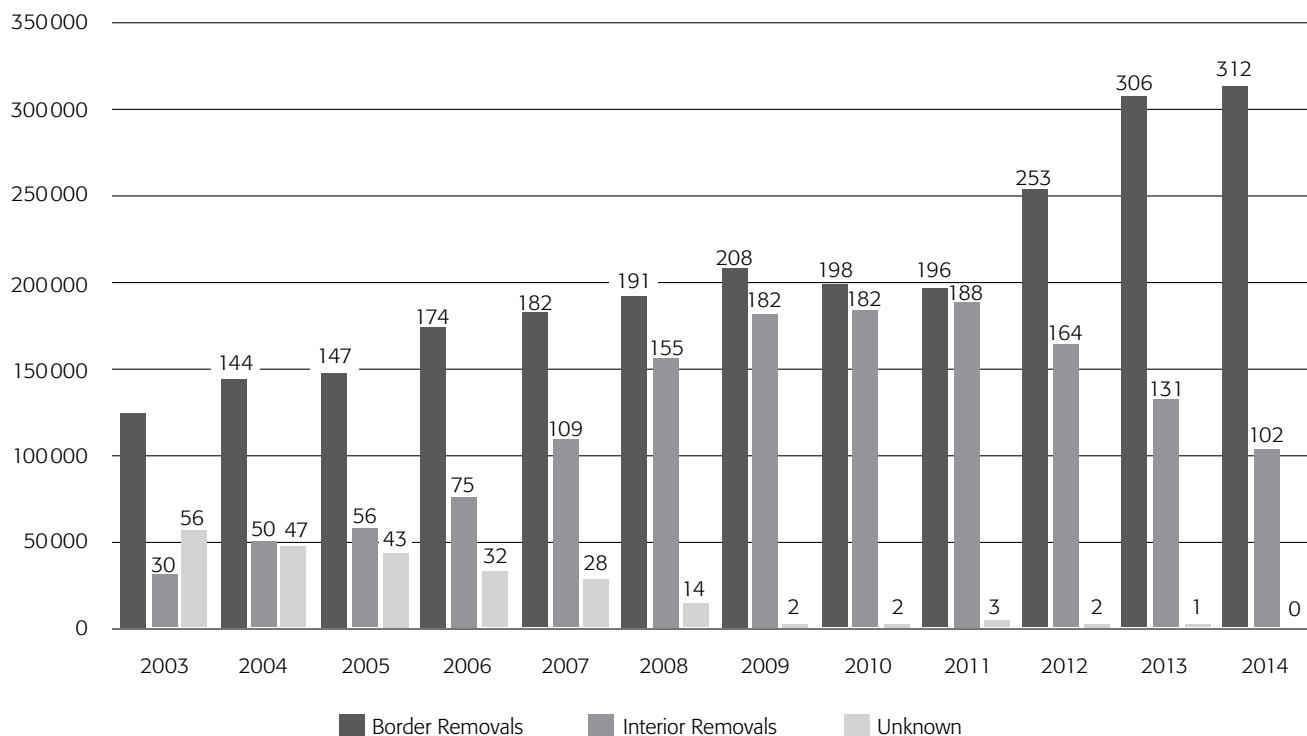
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from Mexico to the United States, both legal and illegal, now stands at zero or less. In other words, the number of migrants coming to the U.S. from Mexico is equal to, or smaller than, the number of migrants leaving or being deported from the United States and returning to Mexico.

This phenomenon, known as the "zero net migration point," seems to be the result of several factors: the U.S. recession and slow economic growth since 2007 have weakened the U.S. job market, especially in housing construction; the rise in the U.S. unemployment rate meant fewer jobs for both immigrant and native-born workers; increased border security, enforcement measures, and record-setting numbers of deportations of both unauthorized and legal immigrants (and their U.S.-citizen children); and the rising dangers associated with illegal border crossings. The establishment of more restrictive measures for U.S. employers like the E-Verify program has also made it harder to hire unauthorized immigrants. In addition, by expanding the participation of state and local law enforcement agencies through Secure Communities and 287(g) agreements, local authorities, sometimes aided by *vigilante* groups, have become involved in dealing with unauthorized migrants living in different states.<sup>7</sup>

Finally—but this is no minor problem—the very harsh anti-immigrant environment in some states during the last decade has had the effect of undocumented migrants emigrating to other states, going back to their countries of origin, or remaining and being much more vulnerable, because it is highly costly and risky to re-enter the U.S., and even more so if they have family members left somewhere.<sup>8</sup> At the same time, within Mexico, several reasons have influenced this slow-down of the migratory flow: the cost and high risk of emigrating, the long-term decline in the birth rate, and an increase in the average age of the Mexican population are some of the elements that have influenced the "zero net migration flows." In spite of this new situation, I agree with Francisco Alba that even though nominal wage differentials have been hovering for years at about a 10-to-1 ratio for manual and semi-skilled jobs in favor of the United States, it is still very attractive to

GRAPH 1  
BORDER REMOVALS, INTERIOR REMOVALS, AND UNKNOWN



Source: Alex Nowrasteh, "Interpreting the New Deportation Statistics," January 5, 2015, Liberty Cato Institute, <http://www.cato.org/people/alex-nowrasteh>.

migrate. Whether this change is cyclical or structural remains to be seen and will be put to a test once the U.S. economy is in full recovery and returns to dynamic growth.<sup>9</sup>

I believe that the main reason for this important change has been the significant numbers of undocumented migrants deported or removed in recent years. It is important to stress that almost half the border removals are "expedited." From 2004 to 2014 almost four million immigrants were removed from the border as well as from the interior (see Graph 1). Dur-

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ing the first six years of his presidency (2009-2014), Obama, known as the "Deporter-in-Chief," deported or removed 2 524 000 unauthorized immigrants in 1 575 000 border removals and 949 000 interior removals. If we compare this data with the last six years of the Bush administration (2003-2008), 1 669 000 unauthorized immigrants were removed, 962 000 from the border, 475 000 from the interior, and 232 000 of another nature. Removals grew from one administration to the other from 278 000 to 420 000 a year. Perhaps because the economy is growing again, during the last two years this "return migration" has dropped from a peak of 4.4 migrants per 1 000 in 2008 to 1.5 in 2014.

#### c) President Obama's Actions

The "Deporter-in-Chief" has reacted to Republican congressmen's ongoing refusal to pass any type of comprehensive immigration reform by implementing executive actions

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to temporarily alleviate the unauthorized status of some of the 11.7 million undocumented presently in the U.S. The first such act, the Deferred Action for Childhood Arrivals program (DACA), created in June 2012, grants renewable two-year work and residence permits to unauthorized foreigners who had arrived in the U.S. before the age of 16, had lived there at least five years, and were under 31. People who receive deferred action have been able to stay temporarily without fearing deportation and could be considered for employment authorization for a three-year period (537 662 applications were accepted for review out of 557 412 received). Two years later, Obama announced the expansion of DACA. After the Republicans took control of Congress in the November 2014 elections, Obama decided that he had to act on his own since Congress was not acting on immigration; he introduced the Deferred Action for Parental Accountability (DAPA) program, which would allow an estimated four million unauthorized foreigners whose children are U.S. citizens or legal permanent residents and who have lived in the U.S. at least five years to apply for renewable three-year deportation deferrals and work permits. So far, most Republicans in both houses have opposed Obama's actions, declaring that there was now no chance of enacting bipartisan immigration reform and exploring ways to prevent them from going into effect by denying funding for implementation.

#### FINAL THOUGHTS

No doubt, NAFTA, an expression of the economic ties among the three Northamerican countries, did create a space for greater formal and informal, documented and undocumented labor mobility between two of the countries than was expected when it was conceived. Given the infrastructure created by NAFTA, it is essential for the Mexican government to explore the possibility of establishing a collateral treaty within NAFTA, in order to increase the number of TN visas for Mexicans as an option for medium- or low-skilled

labor mobility, expanding the categories, so current Mexican undocumented workers could adjust their status to the TN status. From our perspective, it is urgent that the U.S. Congress approve a truly comprehensive immigration reform to provide opportunities for those increasingly vulnerable unauthorized migrants. Meanwhile, deportation relief through Obama's executive actions is a window of opportunity for them. NAFTA might be an ideal platform upon which immigration reform could be based, at least as it pertains to Mexico and Canada, in terms of legalization or establishing programs to import labor or increase the number of visas for that purpose. Transnational families separated between the U.S. and Mexico should be urgently given attention. New avenues should be built to share responsibilities among the member countries in trying to solve the migration dilemma that has been growing during the NAFTA era, for some 20 years. ■■■

#### NOTES

<sup>1</sup> This article is based on a longer version that includes immigration to Canada and México: Mónica Vereá, "Immigration Trends after Twenty Years of NAFTA," *Norteamérica*, year 9, no. 2, CISAN (July-December 2014); and on Mónica Vereá, "A 12 años de TLCAN = + migración," in Enriqueta Cabrera, ed., *Desafíos de la migración: saldos de la relación México-Estados Unidos* (Mexico City: Planeta, 2007).

<sup>2</sup> Jie Zong and Jeanne Batalova, "Mexican Immigrants in the United States," *Migration Information Source*, Washington: Migration Policy Institute, October 9, <http://www.migrationpolicy.org/article/mexican-immigrants-unit-ed-states>, accessed in December 2014.

<sup>3</sup> Fifty-four percent of green-card recipients in 2013 were status adjusters.

<sup>4</sup> In 2013 alone, about 779 929 LPRs became citizens; 99 385 (13 percent) were Mexicans.

<sup>5</sup> Carla Hills, "Las ventajas económicas del TLCAN: el punto de vista de Estados Unidos," *Foreign Affairs Latinoamérica* vol. 14, no. 2, ITAM (April-June 2014).

<sup>6</sup> Marc Rosenblum R. and Doris Meissner, *The Deportation Dilemma: Reconciling Tough and Humane Enforcement*, Washington, D. C., Migration Policy Institute, April 2014. <http://www.migrationpolicy.org/research/deportation-dilemma-reconciling-tough-humane-enforcement>, accessed in November 2014.

<sup>7</sup> Mónica Vereá, "El debate hacia una reforma migratoria en Estados Unidos durante los primeros años del siglo XXI," in Patricia Galeana, comp., *Historia comparada de las migraciones en las Américas* (Mexico City: UNAM, 2014).

<sup>8</sup> These states are emblematic precisely because they are relatively "new destinations" compared to the traditional ones. See Mónica Vereá, *Anti-Immigrant Sentiments, Actions and Policies. The North American Region and the European Union* (Mexico City: CISAN, 2012).

<sup>9</sup> Francisco Alba, "Mexico. The New Migration Narrative," *Migration Information Source*, Washington, D.C., Migration Policy Institute, April 2013, <http://www.migrationpolicy.org/article/mexico-new-migration-narrative>, accessed in January 2014.