

Mexico-U.S. Migration The Central Issue On the Bilateral Agenda

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LEGAL IMPLICATIONS OF MIGRATION

Migration is a phenomenon of the modern world. Most countries, particularly in the West, have been forged with groups of different nationalities, races and religions. The United States is a clear example.

Migration is linked to the concept of nationality. If there were no nationalities, there would be no migratory problems, or, at least, they would exist for other reasons. There is a conceptual relationship between nationality and foreignness. They are categories that mutually define and delimit each other because they are exclusionary and complementary. The matter is socio-political, but it also presupposes a legal content linked basically to human rights. For example, in Mexico, foreigners have the right to constitutional guarantees; however, the Constitution gives the president the exclusive prerogative to make foreigners whose presence is deemed inopportune leave the country immediately without trial, which is an indefensible exception to the rights the Constitution confers on them.¹

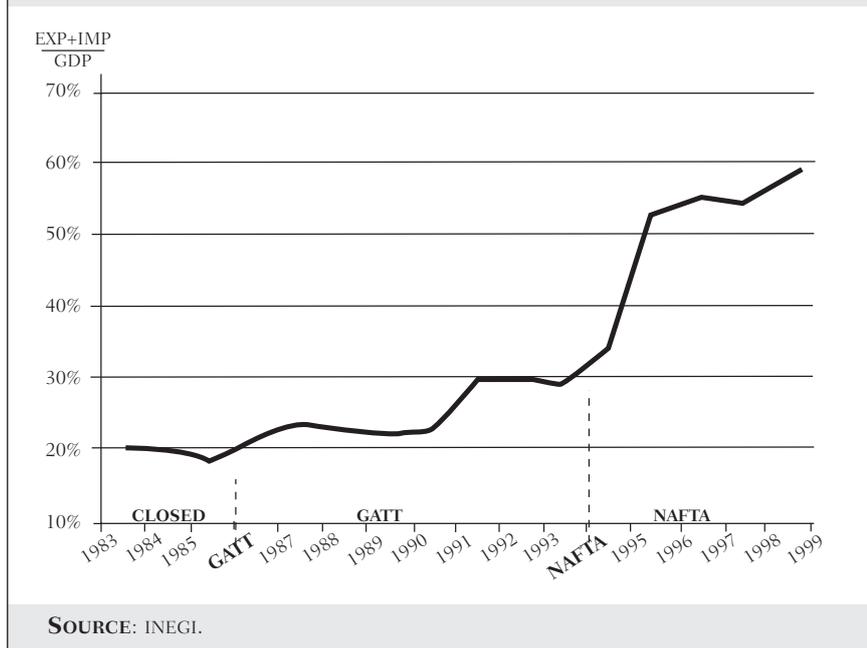
It is only logical that each country establish the norms dealing with for-



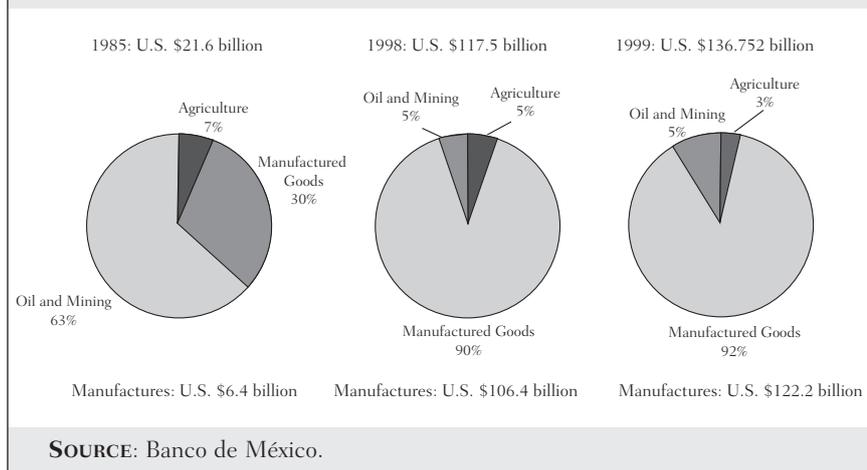
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GRAPH 1
DEGREE OF ECONOMIC OPENING



GRAPH 2
COMPOSITION OF EXPORTS



eigners' situation inside their territory according to its need to protect its sovereignty. On the other hand, these norms are part of international law. Each state writes laws about foreigners, and sometimes they are given similar treatment to nationals, although there are also exceptions. Some norms are based on an international conven-

tion, whether because they stem directly from a treaty or because provisions of a treaty have been incorporated into national legislation.

From the legal point of view, the situation of foreigners in Mexico is ruled by federal instruments such as the Law of Nationality and Naturalization and the General Law on Popula-

tion. The latter gives the Ministry of the Interior the prerogative of issuing permits for foreigners to enter the country, imposing the conditions and requirements it considers appropriate. It can also revoke these permits.

MIGRATION AND THE ECONOMY

Migration has many causes, although Mexicans' migration to the United States is fundamentally economically based. Given the disparity between the two economies, people migrate seeking better working conditions. The economic interdependence between Mexico and the United States—our country is the biggest purchaser of goods produced in the United States and the U.S. is the best buyer of Mexican products—has also contributed recently to increasing migration.

This became more noticeable upon the creation of the North American Free Trade Agreement (NAFTA). To explain the dimensions of the migratory phenomenon we need some figures that demonstrate the complex relationship between Mexico and the United States.

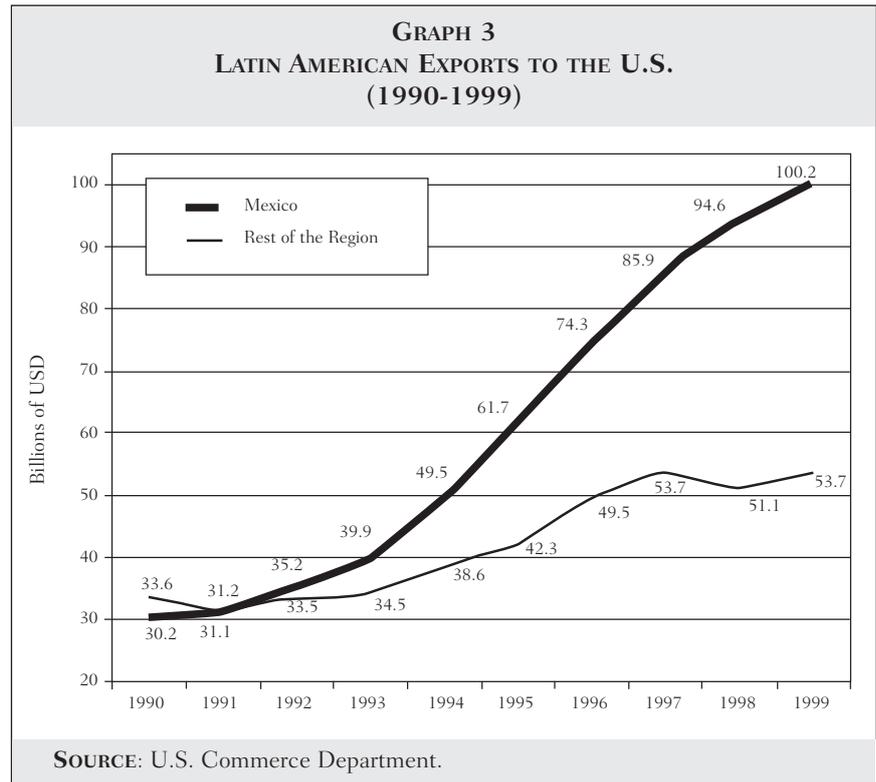
THE ECONOMIC OPENING AND LIBERATION

Mexico had been functioning with a mixed economy with major state participation in public enterprises, a protectionist duty system and import substitution development model. The economic opening and liberation of our markets beginning in the 1980s has had an impact on migration: the economic liberation of Mexico coincided with the growth of migratory flows to the United States.

Graph 1 shows the increase in the degree of economic opening, from 20 percent in 1983 when the new economic policy began, to 60 percent in 1999, when NAFTA was almost completely in operation. Graph 2 shows the change in the Mexican economy when it diversified and reduced its dependence on oil products. In 1985, the majority of exports were oil-related; however, by 1999, the majority were manufactured goods. From then until now, this type of exports has increased more than 20-fold, which has created important growth and integration of Mexican trade with the United States. As can be seen in graph 3, Mexican exports to the United States were practically double those of the rest of Latin America. Graph 4 situates Mexico in the world in terms of foreign direct investment.

This information might make us suppose that Mexico finally found its way toward economic development and that the industrial and commercial activity generated by the liberalization of the economy would increase employment and improve the population's socio-economic conditions. Nevertheless, some indicators are cause for concern and doubt about the benefits of the strategy adopted.

In a recent debate, experts on the issue like John Cavanagh and Sarah Anderson said that the 50-percent growth in productivity derived from NAFTA made it impossible to foresee that there would be a drop in real wages between 1994 and 2001.² The impact on the Mexican countryside is even more serious. According to these experts, Mexico opened up its borders to make imports of U.S. corn less expensive, and corn imports multiplied 18 times in this period. The devastat-



ing impact on small Mexican peasants is reflected in the increased poverty rate, which, according to the World Bank, rose from 79 percent in 1994 to 82 percent in 1998.³ This is Cavanagh's and Anderson's answer to the question of why the increase in trade and investment have not reduced poverty or increased wages: part of the explanation is that in globalized markets, management tends to get rid of workers who fight for more benefits. Many of these companies, they say, find allies among governments desperate to attract foreign investment.

On the other hand, U.S. workers have also felt the effects of globalization. Cornell University professor Kate Hofenbrenner has documented how U.S. business owners increasingly threaten to move their factories to Mexico and other countries in order to reduce wages and fight unions.

Another critique that is frequently loudly voiced relates to environmental deterioration. People residing on both sides of the U.S.-Mexico border perceive the environmental damage due to industrial development spurred by NAFTA. The treaty's defenders say that the economic growth derived from it would generate greater economic spillover. Cavanagh and Anderson conclude, as part of their argument against the treaty, that for 10 years they have warned NAFTA negotiators that we had to learn the lessons of the European Union treaty, which promoted a "social protocol," channeling resources to the poorer countries, which has increased the level of the overall playing field at the same time that economic integration advances.

For their part, treaty defenders Jaime Serra Puche and J. Enrique Espinosa, participants in the design of the model, claim that it has fulfilled its pri-

mary objectives.⁴ One of their arguments is the comparison of the evolution of Mexican exports with those of the rest of Latin America to the United States: 10 years ago they were practically the same and today, Mexico's are almost double those of the rest of Latin America. Data on foreign direct investment (FDI) has been equally decisive. For the 10 years prior to NAFTA, average yearly FDI in Mexico was U.S.\$3.47 billion. By 1994, this average surpassed U.S.\$13 billion. However, they say, the poverty of Mexican peasants is a legitimate concern, but it is not due to NAFTA. They agree with Cavanagh and Anderson that to close the gap between the United States and Mexico, a social program financed by the treaty's rich partners is needed.

When NAFTA was announced, then-president of Mexico Carlos Salinas de Gortari promised that it would raise Mexicans' living standards and reduce migration to the United States. The truth is that, regardless of the benefits or misfortunes that the treaty has brought, the flow of Mexicans to the United States in search of better living conditions continues to increase, as does the proportion of the Mexican population that lives in poverty.

MIGRATION

The twenty-first century begins with migration as a distinctive note. The explanation of this may be that in globalization, the trend is toward the integration of economic blocs that contribute to eliminating traditional barriers to the flow of individuals. Among all migratory flows worldwide, the most important in terms of magnitude and consequences is the one between Mexico

and the United States. While this has been the thorniest issue on the bilateral agenda, it has become important because of its economic, social and even national security implications for the two countries.

Mexican migration to the United States, particularly of laborers and agricultural workers, began in the time of Porfirio Díaz due to the socio-economic conditions and the asymmetries between both countries' economies and markets. Nevertheless, the United States had already been picked by the world's migrants as the promised land.⁵ U.S. authorities, beginning to see a problem of over-population and the risk of jobs being lost to Americans, passed laws restricting immigration. Entry began to be denied to persons with mental illness, criminals and indigents. This measure was particularly applied to the Chinese. Nevertheless, between 1866 and 1915, the wealth and size of the country made it possible to give 25 million foreigners the opportunity to live better than they had in their countries of origin.

The Mexicans, mainly peasants, who began to arrive in the late nineteenth century, also suffered discrimination, although as low-waged, easily hired workers, they were needed to work on railway lines, in agriculture, mining and the construction industry.

In his book about the history of the East Los Angeles barrio in California, Ricardo Romo points to the fact that the expropriation of communal land by the Porfirio Díaz regime (1873-1910) had grave social and economic consequences.⁶ For example, Jalisco, Michoacán and Guanajuato, three of the states that send the most Mexican migrants to Los Angeles had an estimated rural population of 2.5 million. In 1910, of that population, only 3.2 percent of

heads of families owned their own land. According to Romo, the loss of their lands forced the majority of these rural workers to seek jobs in mining, as peons on haciendas or emigrate to seek employment. The history of migration crisscrossed the twentieth century, becoming the biggest and most transcendental problem of bilateral relations. The flow of Mexicans led the United States to build electronic fences and put up other barriers, like a system of police surveillance, whose efficiency is measured by the very high number of daily deportations. After 9/11, border security has been reinforced even more.

We Mexicans have changed the demographics of the United States, modifying its social and cultural life, particularly in southern states. It has been said that in these communities, life has been Mexicanized, contrary to the usual idea that culture is becoming Americanized. An estimated eight million Mexicans live in the United States and 18 million more are of Mexican descent. A total of seven percent of the whole U.S. population is of Mexican descent. While Mexico is the country that generates the largest number of migrants in the world, the United States is undoubtedly the one that receives the most.⁷

Though Mexican migrants to the United States have traditionally been peasants, the difficulties in employment opportunities the middle class is confronting has changed that trend. Since the 1990s, there has been a constant and growing flow of migrants from urban areas, particularly from Mexico City, which has substantially raised the average levels of schooling of Mexican migrants.

Mexicans' crossing the border is not just a matter of migratory policies, but

has broader social and human implications. It is alarming that during the last four years more than 2,000 Mexicans and Central Americans have died in the attempt. However, the issue of Mexican migration to the United States had not been considered important on the bilateral agenda until the meeting of Mexico's and the U.S. presidents in Guanajuato in February 2001. At that meeting, they made the statement that their objective was to create a regimen of legal, safe, ordered migratory flows.

The content of that agenda created enormous expectation, as well as many reactions both pro and con in Mexico and the United States. Mexican immigrants who preserve their nationality, together with the population of Mexican origin—that is, born in the United States of Mexican parents, and even the second generation of Mexicans born there—represent 60 percent of the Hispanic population, which 2001 U.S. census data puts at 35.5 million people.

The age of these people indicates that most of them are economically active. About two out of every three migrants are between the ages of 15 and 44, and half have an average of 12 years of formal education, while in Mexico, only 37 percent of that age group has that level of schooling. In the years between 1993 and 1997, only one out of every three temporary migrants had any junior high school. The average number of years of schooling increased from 1998 to 2000, as can be seen in table A.

While the educational level of Mexicans in the United States is increasing because of a change in their socio-economic origins, there are still millions who have dropped out and do not have what the Constitution deems the mandatory years of schooling. Some ele-

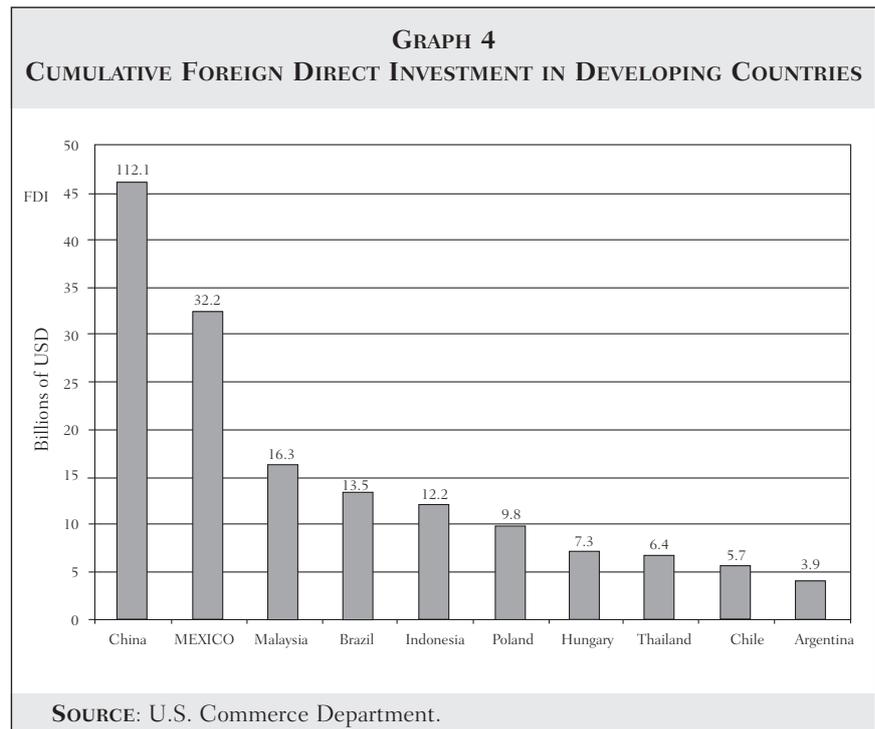


TABLE A
EDUCATIONAL LEVEL OF TEMPORARY MEXICAN MIGRANTS

	1993-1997 %	1998-2000 %
No schooling	8.5	5.8
Incomplete Primary School	28.2	22.6
Graduated Primary School	29.2	30.8
Junior High School or Higher	34.0	40.7

SOURCE: Alfonso de María y Campos, "The Mexican Communities Abroad", *El Mercado de Valores*, No. 4 (Mexico City: Nacional Financiera, July-August 2000), p. 16.

ments are difficult to quantify, but indicate the seriousness of the social problem generated by disorderly migration to the United States. One of these issues that merits immediate attention is the situation of children who cannot cross the border to follow their parents and who are left in the hands of U.S. immigration officials, who send

them back to their Mexican counterparts. Media reports from an official in Mexico's migration offices put the number of children detained and deported in 2000 at 2,552 boys and 897 girls. The same official declared that in 2001, the number of minors who did not make it across the border came to 2,652.⁸

One of the Mexican government's main programs related to migrants is that of Mexican communities abroad.⁹ Among its aims is to foster education among these Mexicans. The head of the program recognized that educational levels of Mexicans in the United States is insufficient if we take into account that the lower their educational level, the fewer opportunities for development, the worse the jobs they can get and the less able they will be to integrate and participate in society. This judgement is supported by 2001 U.S. census data, according to which only 51 percent of the population of Mexican origin has finished secondary school and only 6.9 percent has gone on to college.

The reasons the official gave are valid and the interest in developing educational programs among Mexican communities in the U.S. is plausible. Nevertheless, it is irrefutable from my point of view that the Mexican state has a responsibility to these citizens, who have not stopped being Mexican just because they have sought work outside their own country.

PROSPECTS

It is not easy to determine whether immigrants are a burden or a help. The debate is raging all over the world, and it depends on your point of view. It seems to be a dilemma for politics and the economy.

From the political perspective, in the case of receiving countries, it is a matter which captivates public interest.¹⁰ To the contrary, the economy would seem to invite an increase in migration, which strengthens it by invigorating the work force, creating an outlet for certain

heavy, badly paid jobs, often rejected by nationals, who have better employment and wages. Some economic studies have shown, however, that the people most seriously affected by new migration are those who arrived before. One study showed that a 10-percent increase in migration depressed this group's wages by four percent.¹¹

Prospects are dim if the United States persists in its refusal to attend to Mexico's legitimate request to discuss a migratory accord that was part of the agenda before the September 11 terrorist attacks. Some of the actions that are indispensable for dealing with this problem could be:

1. Increase the number of visas, as stipulated in NAFTA;
2. Regularize the migratory situation of more than three million undocumented Mexicans who live in the United States;
3. Establish a temporary worker program that would allow authorized access of the Mexican work force to specific regions and sectors of the U.S. labor market;
4. Increase the number of visas available for Mexicans to reduce the number of undocumented migrants;
5. Strengthen border security to prevent traffic in human beings and the dangers migrants face;
6. Lastly, foster regional development programs in the areas that send the most migrants and link them to an eventual temporary worker program between the two countries. **MM**

NOTES

¹ In addition, the Constitution stipulates that foreigners cannot participate in the country's political matters. That is, they cannot use the right to politically petition, and they have no right of association to deal with political

matters. There are other exceptions that restrict foreigners' ability to enjoy their individual rights in order to preserve national order and security, such as the ability to acquire land or water within 100 kilometers of the borders and 50 kilometers of the sea coast, or the right to own rural land used for agriculture, cattle raising or forestry.

² See "Happily Ever NAFTA? A Bad Idea that Failed," *Foreign Policy* (September-October 2002), p. 58.

³ <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/0,,pagePK:43912-piPK:36602,00.html>

⁴ Jaime Serra Puche and J. Enrique Espinosa, "The Proof Is in the Paycheck," *Foreign Policy* (September-October, 2000), pp. 60-61.

⁵ From 1815 to the beginning of the War of Succession, five million Europeans had already arrived in the United States, half from England, 40 percent from Ireland and the rest from continental Europe. Between the end of the war between the North and the South and 1890, another 10 million came from Northeastern Europe: England, Wales, Ireland, Germany and Scandinavia. Between 1890 and 1914, another 15 million arrived, the majority from Eastern and Southern Europe: Poles, Jews, Russians, Ukrainians, Slovaks, Croats, Slovenians, Hungarians, Greeks, Rumanians and Italians.

⁶ Ricardo Romo, *East Los Angeles. History of a Barrio* (Austin: University of Texas Press, 1983), pp. 36-37. (A UNAM edition in Spanish is currently at press.)

⁷ In 1996, the U.S. received 1.191 million persons, of whom 916,000 were legal migrants and 275,000, undocumented. If we consider that only half of the undocumented migrants were Mexican and that in that same year, there were 165,000 legal Mexican migrants, this brings the total migration up to 302,500. This figure surpasses total migration to Canada in 1996 (225,000) or migration to Australia (100,000), two countries characterized by a favorable policy for foreign immigration.

⁸ Hernán Rozemberg, "Niños migrantes a la deriva en la frontera," *Milenio Diario* (Mexico City), 3 January 2002, p. 30.

⁹ An interview with Cándido Morales, head of the Foreign Affairs Ministry's Institute of Mexicans Abroad, is also featured in this issue of *Voices of Mexico*. [Editor's Note.]

¹⁰ In England, for example, a recent survey indicates that voters considered migration the second most important issue, preceded only by health and before others like law and order or education. Source "Immigration. Who Gains from Immigration?" *The Economist*, 29 June 2002, p. 54.

¹¹ *Ibid.*