

Arizona's Law The Wrong Strategy

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Maricopa County Sheriff Joe Arpaio is one of SB 1070's most enthusiastic supporters.

Mexico, an underdeveloped country, is next door to what is still the world's most powerful economy and continues to be a magnet not only for the unemployed, but also for millions earning low wages with poor prospects. On the other hand, north of the border there is a real need for foreign workers in some sectors and regions, a need that becomes more obvious during economic growth, although more restrictions apply in times of recession. In short, two essential circumstances are linked to migration: a real transnational labor market and the attempt to move from poverty to abundance.

Migration between the United States and Mexico cannot be considered a problem, but rather a reality that both countries have no alternative but to accept, trying to encourage the creation of benefits and lessen the risks. Naturally, it has consequences and not all of them are positive. That is the challenge. But what oceans, deserts, fences, mountain ranges,

or wars have not been able to do is stop it. Neither will laws, or more fences, or intelligent robots.

Almost 300 million people enter the United States legally from Mexico every year. A million legal crossings take place every day, and probably another million people are deported a year when they try to enter illegally. Today, 11 million undocumented migrants are officially recognized in the United States, but the real number could be several million more. Many of these are Mexicans who melt into new communities; and this causes social tension, undoubtedly a serious problem for the United States.

The wage differential is astounding. In the United States, working in agriculture or housework, a person can earn in one hour what someone in Mexico earns in a whole day. In certain occupations, the differential has grown to a ratio of 12-to-1 according to 1990-1998 data.¹

It is true that the cost of living is lower in Mexico, so people can more or less get along day to day, prospects for improvement are limited. That is why millions risk their lives for a

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better future, not only for themselves, but also for their children. They think that in the United States, even as agricultural laborers with long working days, bad pay, and suffering abuse, they will very probably be able to give one of their children a college education and a profession. This is repeated generation after generation, so that the prospect of migrating becomes an existential driving force for many teenagers, who have the idea that if they do it, they will be able to go to school.² Unfortunately, many Mexicans actually experience terrible tragedy, some of them dying in the attempt. We are looking at the heart-breaking face of capitalism.

Today, more or less six million Mexicans live illegally in the United States. Mexico could argue that as long as there is a demand for workers, illegal migration will continue. The United States, for its part, can only talk about law-breaking, but as long as both countries do not take it on as a shared problem, the situation will be unmanageable. There is no simple solution, but at the very least, a different perspective from the two countries could help exercise some control over the matter. In line with Saskia Sassen's thinking, migration cannot be understood as an individual decision, but as a process involving complex economic, social, and ethnic networks, a phenomenon that is part and parcel of the great transnational geopolitical and economic dynamics.³

We could easily imagine a positive situation for the two countries. Given low U.S. population growth, we all know that the U.S. Congress is feeling a certain amount of pressure to change immigration policy as well as to not completely close the border because workers are needed for businesses to be successful. At the same time, the Mexican economy does not generate enough jobs to absorb its growing population.

Undoubtedly, Mexico benefits from the remittances sent home. However, these have dropped given the economic crisis: in April 2010, workers sent US\$1.78 billion home to their families, while in 2008 the figure was US\$1.95 billion.⁴ Despite this, remittances continue to be the third source of income for the Mexican economy, with the greatest amounts going to the states of Mexico, Jalisco, and Michoacán.⁵

As long as Mexican workers continue to be undocumented, they will earn very low wages and their human rights will continue unprotected. Mexico cannot, or should not, bet on the policy of "the whole enchilada" and send its workers abroad.⁶ In the long run, that would be very bad for the country since the economy that loses its young people will eventually suffer the consequences. In Mexico, population changes begin to be noticeable, with a marked increase in the num-

Migration is not an individual decision; it involves complex economic, social, and ethnic networks, and is part of the great transnational geopolitical and economic dynamic.

ber of senior citizens. Temporary workers with full rights can benefit both economies, but they would also have to pay a certain price. Agreements for temporary migration will have to be fostered, taking into account experiences like the Bracero Program and trying to surpass them, avoiding their pitfalls. Our two countries should stop blaming each other and assume responsibility for a phenomenon immersed in a globalization that is here to stay.

Sassen also argues that migration should be dealt with in a broader context. She says that it is one of the constituent processes of globalization even if this is not recognized as such by the main explanations of the global economy.⁷ In other words, it is illusory to think that illegal immigration can be ended by building a barrier that will put a brake on globalization itself. This author thinks that the idea of sovereignty implicitly includes the state's capacity to determine who its citizens are. However, she also insists that it is necessary to reconstruct the concept of citizen, formulating it from the economic point of view as a person who enjoys universal rights regardless of his or her nationality. Rather than calling migrants "illegals," they should be classified as workers in the informal economy.⁸

Unfortunately, the prospects seem bleak. Samuel Huntington tells an imaginary story that has had unfortunate results.⁹ This influential Harvard professor created a narrative that dominates the social imaginary of the United States even today. In his famous work *The Clash of Civilizations*, he already pointed to Mexican migration as the main threat to the United States.¹⁰ After the 9/11 terrorist attack, his analysis reinforced his hypothesis that the great threat was not from the Muslims, but the continued "invasion of Mexican immigrants."

According to Huntington, given that the country receives large numbers of immigrants from many countries, and given civil rights movements, U.S. identity is defined today in terms of culture and creed.¹¹ This creed includes the predominance of the English language, Christianity, the rule of law, individ-

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ual rights, Protestant values, and the work ethic. Down through history, different immigrant cultures have enriched the founding culture. In his opinion, today's multiculturalism has emphasized the group identity based on race, ethnicity, and gender, while national identity has suffered the consequences. He affirms that this is the result of globalization, which is endangering the national state. In this new stage, he affirms, the single most immediate threat to U.S. traditional identity comes from the immense, continual immigration from Latin America, especially Mexico, and the high birth rates of these immigrants compared to those of U.S.-born Blacks and Whites.¹² Hispanic immigration is different from prior waves of migrants since they have not been culturally assimilated. Huntington posits that if the flow of Mexican immigrants were to stop, wages for the lowest-paid U.S. workers would improve. If Mexican migration stopped, others would feel motivated to learn English and their education and training would improve. But the core of his position is that he thinks Mexican migration is a potential risk for the country's cultural and political integrity.¹³

When it is to his advantage, Huntington includes Mexicans in the Hispanic community, but sometimes he separates them out to underline the danger they represent for Americanness. This belief has become dominant and, as a result, many Americans feel threatened by Mexican-Americans. Unfortunately, the Harvard professor never mentions the benefits of this migration for his country's economy. Naturally, it is wrong to just talk about the "danger" of Mexican migration, particularly when the United States has an economy that until very recently had been in constant expansion, in large part due to the boom in certain areas where Mexican undocumented workers predominate and where previously Poles, Irish, or Asians were employed. Denying this reality is simply unserious.

There is no viable solution to the problem Huntington imagined; he limited himself to sparking anti-Mexican sentiments that have been just as damaging for all Americans as

for Mexican-Americans, since the latter are part of the United States whether Huntington likes it or not.

It is precisely this kind of thinking that prevents building bridges of understanding. Other countries that look at the relationship between the United States and Mexico can easily see the benefits to both nations, although the stakeholders themselves seem to not see the opportunities.

Arizona Governor Jan Brewer's justification for signing SB 1070, the law criminalizing undocumented immigration, was that the federal government had not fulfilled its function of protecting the borders and those decades of inaction and mistaken policies had led to a dangerous situation. According to Brewer, violence has increased along the border, and 500,000 undocumented migrants already live in Arizona.¹⁴ She says that the law only penalizes on a state level what is already classified as a crime in federal legislation. She adds that the federal 1940 Alien Registration Act already mandates legal immigrants to carry their green cards or some other immigration document with them.

The problem is that the new law allows police to demand seeing the identity papers of persons who in their judgment *look like* Mexicans or Latinos: an unequivocal act of discrimination. It is also a violation of the rights of Mexican-Americans, since, despite their being citizens, this law authorizes their detention simply because of their phenotypical characteristics when "reasonable doubt" exists about whether they are legal or not.

Even Arizona police are afraid of the repercussions of enforcing this law. They think that they are going to lose either way: if they enforce it and if they do not. The law states that any citizen can demand a police officer enforce it and make a complaint against him/her for not carrying out his/her duty; in addition, the Arizona government will earmark funds to defend officers accused of non-compliance.

The federal government, for its part, has argued that the Supremacy Clause giving it authority over and above state governments in these matters should not be violated. Obama presented the case in a local court, arguing the law was unconstitutional. Fortunately, the judge ruled that it was not acceptable to request documents from someone merely on the basis of his/her appearance.

The situation reveals the existing consensus about the breakdown of the immigration system. Despite the fact that 2008 was the year the Border Patrol made the fewest arrests, that the crime rate has dropped, and that, in addition, immigration also dropped due to better controls and the economic

recession, now is the time that this discriminatory bill emerged.¹⁵ This is due in part to the problem of unemployment, to the perception that Mexican immigration is the United States' main problem, and to the fact that this is an election year. Suffice it to point out that in the polls, the governor's ratings went up immediately. And the law itself has 70 percent approval.

It is clear that with a difficult economic situation, many blame the budget deficit on undocumented immigrants,¹⁶ and find the solution to the problem in denying them public services or reducing their number. Now, it is up to Mexico to understand that this is not just a matter of the political decisions of a governor, but that in many other states discontent about the issue of immigration is spreading. According to Gallup polls, 51 percent of those who had heard of the law supported it and 39 percent opposed it, plus, eight out of every 10 citizens are in favor of a restrictive immigration reform.¹⁷

In 2010, in 45 states 1,180 bills and proposed resolutions related to immigrants and refugees were placed before local Congresses. Of these, 107 bills and 87 resolutions were passed and went into effect; in addition 38 bills are waiting to be signed into law by their respective governors.¹⁸ Twelve states are considering passing laws similar to Arizona's, or even harsher ones. Many conservative groups have taken up the anti-immigrant banner, like the Tea Party against Amnesty and Illegal Immigration Team, Americans for Legal Immigration, the Federation for American Immigration (FAIR), the Law Enforcement Association, and the nativists. All of them have come out for stricter measures and against amnesty, that is, against legalizing the status of undocumented immigrants. We know that measures like the 2006 Secure Fence Act, which proposed building a fence between the United States and Mexico, or SB 1070 will not resolve the immigration problem. Rather, they will fan the flames of xenophobic feelings that often lead to deaths, attacks, and a very tense environment.

Fortunately, President Obama has recently changed his position to a much more realistic, conciliatory one. He accepts that the Arizona Law has the potential to violate the rights of innocent U.S. citizens who can be judged by how they look or speak.¹⁹ Each state will begin to establish rules when what is needed is a national standard. "Our task then is to make our national laws actually work, to shape a system that reflects our values as a nation of laws and a nation of immigrants."²⁰ Obama proposes going beyond the false debate. He is against amnesty because it would not be fair to those who have been waiting years for legal status, and it would promote illegal immigration. However, he does accept that while it is

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not possible to simply legalize the status of 11 million people, it is also not feasible to deport them since he realizes that many are intimately integrated into the social fiber of the nation since they have children born in the United States.

Undocumented migrants have been the workforce on farms. Therefore, "a program of mass deportations would disrupt our economy and communities in ways that most Americans would find intolerable."²¹ In any society, everyone must be accountable, including businessmen and women, since it cannot be ignored that a significant part of the economy is outside the law: illegal workers. A comprehensive immigration reform must take all this into account.

Undoubtedly, the fact that the president of the United States conceives of the migration issue in terms of its complexity is a step the right direction. But this position has yet to become the dominant one. Immediate actions must be taken for it to dominate the discourse and the U.S. social imaginary.

In November there will be congressional elections. If the voters punish the president's performance, as they often do at midterm elections, the bipartisan consensus necessary for immigration reform will be even more difficult to achieve. Not all Republicans are against the reform, nor do all Democrats support one. This is an issue that has divided communities. Karl Rove himself, the famous neo-conservative Republican, has said that the Arizona law forced a dilemma on Republicans who wanted to look tough on illegal immigration, given their conservative constituencies, but who did not want to alienate Latino voters.²²

The existence today of 11 million undocumented migrants allows us to understand Huntington's concern when he underlines a future problem. But what is more, we can understand that a country with that many undocumented migrants already has a big problem.²³ Unfortunately, the Harvard expert's words aim in the wrong direction because they have created fear and mistrust among the U.S. white population instead of promoting what we really need: being able to put ourselves in the place of the other to find common interests. We

can understand that the interests of Mexican-Americans and undocumented migrants are necessarily linked to the interests of the country as a whole. Like Huntington, we can concentrate on the “cons,” the differences, and the irremediable tensions associated with them, or we can look for a middle ground that includes some interests of all the parties involved.

Why see the border only as a conflict zone and not an area for cooperation? It is necessary to understand it as the space of a labor market where there is a supply of labor, but also a demand for it; and as long as both exist, migratory movements will be unstoppable. Demographics are what will fundamentally make this situation change. In two decades, the young population in Mexico will decline, and there will no longer be so many young people who want to emigrate. On the other hand, the population of the United States is aging rapidly and will need young people to pay taxes to sustain their Medicare and Medicaid systems, above all now that the recently passed health care reform stipulates that the entire U.S. population, including senior citizens, must have medical insurance.

The border area is one of the most dynamic in the world.²⁴ It contributes 24 percent of the total U.S. and Mexican economies together. From 1996 to 2006, the border economy grew 4.2 percent, while that of the United States grew 3.4 percent, and of Mexico only 3 percent. In 2008, 40 percent of direct investment in Mexico was made in the six border states, where the *maquiladora* plants are located.²⁵

More than a conflict zone, the border should be seen as a pole for development that can contribute to lowering the effects of the crisis on both economies. In 2009 alone, almost nine million Mexicans visited Arizona spending almost US\$250 million. Visitors from Arizona came to almost seven million, and they spend about US\$275 million.²⁶ If politicians do not understand the weight of this reality and its positive impact, it is because short-term interests are blinding them. It is undeniable that the governments of Arizona and Mexico must promote cooperation because, in fact, it already exists without them. For all these reasons, I have no doubt that SB 1070 is a wrong strategy. ■■

NOTES

¹ See Alejandro Diaz-Bautista, José Alberto Avilés, and Mario Alberto Rosas Chimal, “Desarrollo económico de la frontera norte de México,” *Observatorio de la Economía Latinoamericana*, <http://www.eumed.net/coursecon/ecolat/>. The authors analyze the impact of the crisis in the U.S. border area, underlining economic differences among states.

² Secretaría de Relaciones Exteriores, *Estudio binacional de migración* (Mexico City: Secretaría de Relaciones Exteriores, 1999).

³ Saskia Sassen, *Losing Control* (New York: Columbia University Press, 1996), p. 66.

⁴ *El Economista* (Mexico City), June 1, 2010.

⁵ “Ingresos por concepto de entidad federativa,” Banxico, <http://www.banxico.org.mx>.

⁶ Jorge Castañeda, briefly foreign relations minister during the Fox administration, wanted to implement a policy of free flow of workers. I think that no country should implement this kind of policy; to the contrary, we should desperately try to keep our workers at home and create well-paying jobs. An explicit policy to create migrant workers is a mistake. Opening the flow of workers would necessarily go against the interests of Mexico.

⁷ Saskia Sassen, *Globalization and Its Discontents* (New York: The New Press, 1998).

⁸ Sassen, *Losing Control*, op. cit., p. 97.

⁹ Samuel P. Huntington, *Who Are We? The Challenges of America's National Identity* (New York: Simon & Schuster, 2004).

¹⁰ Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996).

¹¹ *Ibid.*, p. 1.

¹² *Ibid.*, p. 2.

¹³ *Ibid.*

¹⁴ According to the FBI, the four cities with the fewest crimes are on the border: San Diego, Phoenix, El Paso, and Austin. Ken Dilanian and Nicholas Riccardi, “Border Security Trips Up Immigration Debate,” *Los Angeles Times*, June 15, 2010.

¹⁵ In Barack Obama's opinion, the southern border is safer today than it has been at any other time. See “Remarks on Comprehensive Immigration

Reform,” a speech at the American University School of International Service in Washington, D.C., published by the White House July 1, 2010, <http://www.whitehouse.gov/the-press-office/remarks-president-comprehensive-immigration-reform>.

¹⁶ Saskia Sassen quotes a study by an urban Washington, D.C. institute which argues that undocumented immigrants contributed US\$30 billion more in taxes than they utilized in services. *Globalization and Its Discontents*, op. cit., p. 72.

¹⁷ Rasmussen Reports showed that the support comes from the possible voters in Arizona, <http://www.rasmussenreports.com/content/search?Searchtext=arizona+immigration>.

¹⁸ Regardless of whether these laws are approved or not, it is symptomatic of the wave of initiatives related to migration. See “State by State Immigration Policy Changes Ahead,” National Public Radio, Sept. 9, 2010, <http://www.npr.org/templates/story/story.php?storyId=128193244>.

¹⁹ Barack Obama, op. cit.

²⁰ *Ibid.*

²¹ *Ibid.*

²² Stephanie Condon, “Karl Rove Speaks Out against Arizona Immigration Law,” CBS Political Hotsheet, April 28, 2010, http://www.cbsnews.com/8301-503544_162-20003631-503544.html, and www.freerepublic.com/tag/rove/index.

²³ Ruth Ellen Wasem, *Immigration Reform Issues in the 111 Congress*, Congressional Research Service, July 13, 2009, www.nationalaglawcenter.org/assets/crs/R40501.

²⁴ Alejandro Díaz-Bautista, José Alberto Avilés, and Mario Rosas Chimal, “Desarrollo económico de la frontera norte de México,” *Observatorio de la Economía Latinoamericana*, <http://www.eumed.net/coursecon/ecolat/>, p. 2.

²⁵ Economic Section, U.S. Embassy in Mexico, <http://mexico.usembassy.gov>.

²⁶ Centro de Información y Estadística para el Empresario Turístico, using information from El Colegio de la Frontera Norte, Tourism Section, Banco de México, and Mexico's Institute of Geography and Statistics (INEGI).