Reforming the Management of Migration Flows from Latin America to the United States

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INTRODUCTION

For the past 15 years, the United States has had a strategy of controlling unauthorized immigration from Mexico and other Latin American countries that overwhelmingly emphasized border enforcement, coupled with extremely weak worksite enforcement and no effort to reduce the unauthorized flow by increasing legal-entry opportunities, especially for low-skilled workers. Under the “prevention through deterrence” doctrine adopted by the U.S. Border Patrol in the early 1990s, illegal entries were to be prevented by a concentrated “show of force” on specific segments of the border, which, it was believed, would also discourage crossing attempts from being made in areas less heavily fortified but more remote and dangerous to migrants. Tens of billions of dollars have been invested in the border enforcement build-up since 1993. Spending on border enforcement has more than tripled during this period, in constant dollars, and by the end of FY 2009 the Border Patrol will be more than three times as large as it was in FY 1996 (see Figure 1).

Figure 1: Growth of the U.S. Border Patrol, FY 1996-2009

In this memorandum I will document the consequences – both intended and unintended – of the post-1993 U.S. strategy for controlling ostensibly “unwanted” migration from Mexico and other Latin American countries, evaluate various explanations for these outcomes, and suggest an alternative menu of policy choices. In doing so I will draw heavily upon the findings of the Mexican Migration Field Research Program (MMFRP) at the University of California-San Diego, which since 2005 has interviewed over 3,000 migrants and potential migrants in their hometowns in the Mexican states of Jalisco, Zacatecas, Oaxaca, and Yucatán as well as in the U.S. cities that are their primary destinations. The MMFRP data, gathered from the people whose behavior has been targeted by the U.S. strategy, is the most direct and up-to-date evidence of whether it is actually keeping

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undocumented migrants out of the United States (it is not). This research also shows how tougher border enforcement is enlarging the settled population of undocumented immigrants in the United States – one of the strategy’s most important unintended consequences.

DOES BORDER ENFORCEMENT DETER ILLEGAL ENTRY?

“The Border Patrol told me the first time, ‘If we apprehend you a second time, we are going to put you in jail for two weeks. If we apprehend you a third time, it is going to be a month; the fourth time, three months. You could be in jail for up to a year.’ But no matter what they say to you, you’re still going to try again. I told them, ‘Well, I just have to cross.’ They asked me if I was sure. ‘Maybe you should just go home,’ they said. ‘But I have to cross,’ I told them. No matter what, the majority of us Mexicans are going to keep trying.” -- Briseida, a 24-year-old undocumented migrant from Oaxaca, Mexico, interviewed in January 2008

The Border Patrol apprehended Briseida six times during the month before her most recent (successful) entry into the United States. To be effective, U.S. border enforcement must change the beliefs and perceptions of millions of would-be migrants like her throughout Mexico and other Latin American countries. Unauthorized migration will decrease only when the majority of potential migrants conclude that the costs and physical risks of clandestine entry are greater than the potential benefits awaiting them on the other side of the border. In our interviews with experienced and prospective first-time migrants, we have delved deeply into their knowledge and perceptions of the obstacles that they face upon arrival at the border.

Figure 2: Knowledge and Perceptions of Border Hazards as Predictors of the Intent to Migrate

![Figure 2: Knowledge and Perceptions of Border Hazards as Predictors of the Intent to Migrate](image)

Figure 2 reports the percentages of our Oaxacan interviewees (both those who have U.S. migration experience and potential first-time migrants) who believe that clandestine entry is “very dangerous,” who believe that evading the Border Patrol is “very difficult,” and who know someone who died attempting to cross the border. We compare the responses of those who reported that they
intended to migrate to the United States in 2008 with the responses of those who were not planning to migrate this year. The results show that border enforcement-related knowledge and perceptions do not predict who will migrate and who will stay at home. The only statistically significant difference between the two groups is that those planning to migrate are slightly more likely to know someone who died trying to cross the border. This may be because those who do not intend to go to the United States do not interact regularly with experienced migrants, whose knowledge of such fatalities is likely to be higher.

A multivariate regression analysis of these data reveals that perceptions of border-crossing difficulty and dangers have no statistically significant effect on the intent to migrate in 2008, when we control for the effects of age, sex, marriage, educational level, previous migration experience, and the number of family members currently living in the United States. We have performed the same analysis of responses to the same survey questions in three previous studies (done in different migrant-sending communities in the states of Jalisco and Yucatán), getting the same results. In sum, seeing the fortified border as a formidable and dangerous obstacle course does not deter would-be migrants.

Nor does the obstacle course prevent illegal entry. In four MMFRP studies, we found that fewer than half of migrants who come to the border are apprehended, even once, by the Border Patrol. As shown in Figure 3, the apprehension rate found in these studies varied from 24% to 47%. And of those who are caught, all but a tiny minority eventually get through – between 92 and 98 percent, depending on the community of origin. If migrants do not succeed on the first try, they almost certainly will succeed on the second or third try.

Figure 3: Apprehension and Eventual Success Rates Among Undocumented Migrants from Jalisco, Yucatán, and Oaxaca

[Diagram showing apprehension and eventual success rates among undocumented migrants from Jalisco, Yucatán, and Oaxaca.]

Among our Oaxacan interviewees, the eventual success rate is virtually the same for migrants whose most recent crossing occurred before 1995, when the border was largely unfortified, and those crossing in the most recent period. In other words, the border enforcement build-up seems to have made no appreciable difference in terms of migrants’ ability to enter the United States clandestinely.

Figure 4: Apprehension and Eventual Success Rates among Undocumented Oaxacans

For a broader perspective on how U.S. border enforcement policy has affected the flow of undocumented migrants, we created a time series from aggregate statistics on apprehensions made by the Border Patrol and micro-level survey data from our field research program. For this analysis we used data on 684 unauthorized migrants who were interviewed between January 2006 and January 2008. The data represent the number of times that an undocumented migrant was apprehended before he or she succeeded in entering. Previously published studies have assumed that any increase in border enforcement would increase the apprehensions-to-migrant ratio. However, Figure 5 demonstrates that the apprehension rate has not increased in tandem with the level of Border Patrol effort, measured by the number of hours that agents spend patrolling the border.

Figure 5: Border Enforcement Intensity and the Probability of Apprehension
Using the same data, we have estimated the flow of undocumented migrants into the U.S. and placed it into the context of what is happening in the U.S. labor market. Figure 6 shows the percentage of recently arrived undocumented migrants (defined as migrants who crossed the border in the previous three months) in the U.S. labor force, using a 12-month moving average to smooth seasonal fluctuations. The blue bars represent periods of economic contraction, defined as recessions by the National Bureau of Economic Research. We find that undocumented migration clearly responds to changing U.S. economic conditions, with steep increases in the flow toward the end of expansion phases of the business cycle and significant decreases during economic downturns. Moreover, the pattern of undocumented migrants responding to economic conditions rather than policy decisions has continued during the border enforcement build-up that began in 1993.

ADAPTING TO A FORTIFIED BORDER

The high success rates of undocumented migrants are achieved through a constantly evolving array of border-crossing strategies. The most common way in which such migrants have adapted to tighter border enforcement has been to rely upon the skills and experience of professional people-smugglers (generally known as "coyotes") to guide them across the border and transport them to their final destination. Hiring a coyote was an option chosen by many Mexican migrants even before concentrated border enforcement began in 1993. But coyotes are no longer optional; tougher border control has made them indispensable to a successful and relatively safe crossing.

As shown in Figure 7, there was a sharp increase in coyote use among our Oaxacan interviewees, between the late 1990s (when border controls were still being implemented in most areas) and the current decade (when concentration border enforcement operations were fully implemented in California and Arizona). Today, four out of five undocumented migrants are relying on
**Figure 7: Use of a Coyote on Most Recent Border Crossing, among Oaxacan Migrants**

<table>
<thead>
<tr>
<th>Year</th>
<th>Percent of Undocumented Migrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>before 1995</td>
<td>69%</td>
</tr>
<tr>
<td>1995-1999</td>
<td>69%</td>
</tr>
<tr>
<td>2000-2004</td>
<td>82%</td>
</tr>
<tr>
<td>2005-2007</td>
<td>80%</td>
</tr>
</tbody>
</table>

For most undocumented migrants, hiring a *coyote* virtually guarantees success. Among the Oaxacan migrants whom we interviewed, 100 percent of those who had used a *coyote* were able to enter the United States successfully on their most recent trip to the border. As the demand for *coyotes* has risen, the fees that they can command have increased in tandem. *Coyote* fees have doubled or tripled, border-wide, in the post-1993 period. Since 1995, among our Oaxacan interviewees, payments to coyotes have been rising, on average, by 5 percent per year, controlling for inflation. The average fee paid to a coyote in 1995 was $978; by 2005-07 it had risen to $2,124. This striking run-up in people-smugglers’ fees is a direct consequence of heightened border enforcement.² Most migrants borrow the money from relatives in the United States and/or use personal savings.

Logistical decisions about when, where, and how to cross the border are usually delegated to *coyotes*. As enforcement is tightened in areas between the legal ports of entry, more of the clandestine traffic is passing through the ports. We found that, among our Oaxacan undocumented interviewees, nearly one out of five had entered the United States most recently through a legal port of entry, either concealed in a compartment of a vehicle or as a passenger, using false or borrowed documents. As shown in Figure 8, this mode of entry has increased significantly in popularity since

² Border Patrol officials and Homeland Security Secretary Michael Chertoff have often cited rising coyote fees as an *intended* consequence of the border enforcement build-up and a key indicator of its effectiveness. But this would be an indicator of efficacy only if people-smugglers were being priced out of the market. All available evidence, including our own, suggests that this is not happening. Migrants and their U.S.-based relatives are digging deeper into their pockets to finance *coyote*-assisted crossings. Professionally assisted crossings are more likely to succeed, which is one reason why border apprehensions have been trending downward since 2006, together with slumping demand for labor in the U.S. construction industry and reduced circularity in Mexico-to-U.S. migration (see below).
1995. Despite higher cost (coyotes are charging upwards of $3,500 for crossing through a legal port of entry), this is a preferred mode of entry, especially for women and children, because it reduces physical risk to zero. It is also quite likely to be successful: Last year, over 224 million crossings were made through legal ports of entry on the U.S.-Mexico border, and current POE staffing levels make close scrutiny of this torrent of people and vehicles impossible. A recent GAO study using undercover investigators found that these investigators were successful 93 percent of the time in entering through legal ports of entry using false documents or oral assertions of U.S. citizenship.³

![Figure 8: Border Crossings Made through a Legal Port of Entry, among Unauthorized Oaxacan Migrants](image)

UNINTENDED CONSEQUENCES OF BORDER ENFORCEMENT

In addition to fueling a booming people-smuggling industry, border enforcement has had several other significant unintended consequences. Fatalities resulting from clandestine border crossings have risen to about 500 per year (more than 4,700 migrants have died since 1995), and these represent only the bodies that have been discovered. Most notably, in terms of its long-term consequences for both Mexico and the U.S., tougher border enforcement has helped to turned what used to be a two-way migration flow between Mexico and the United States into a largely one-way, south-to-north flow.

In the traditional pattern of Mexican migration to the U.S., most migrants were unaccompanied males who engaged in circular migration. Every 6-12 months they would rotate between working in the United States and returning to their hometown for extended stays. Today, while some circular

migration continues, more Mexican migrants are staying longer in the United States, bringing their families with them, and putting down roots in the United States. Figure 9 shows the sharp decrease in return migration from the U.S. to our research site in Oaxaca. Another key of declining circularity in migration is the incidence of houses in migrant-sending communities that have been abandoned by families, all of whose members now live in the United States. In our Oaxaca research community, 31 percent of the total housing stock was uninhabited last December.

What explains the change in Mexican migration patterns from cyclical sojourners to permanent settlers?

In our field research we found three factors to be most influential: the rising cost of coyote-assisted border crossings; the deepening of migrants’ social networks within the United States, as a result of family reunification on the U.S. side of the border; and greater availability of permanent, year-round job opportunities for Mexican migrants in the U.S. economy. All of these factors except the last one are directly related to border enforcement.

We found that among our undocumented Oaxacan interviewees, as coyote fees rise, unauthorized migrants are staying in the U.S. for longer periods, and their probability of returning to Mexico declines (see Figure 10). Understandably, after paying off a substantial debt for their most recent crossing, it is daunting to consider going back to the hometown for a visit and then having to pay a coyote thousands of dollars to return to one’s job in the United States. And our research shows that the more time a migrant spends in the United States, the greater the likelihood of him or her staying put. If the ongoing border enforcement build-up makes return trips to Mexico prohibitively expensive, undocumented migrants will continue to deepen their roots north of the border. Given our findings on the eventual success rate among undocumented migrants, it is entirely possible that stronger border enforcement has bottled up more of them within the U.S. than it has kept out.
Millions of undocumented immigrant children and their parents are now in the United States as an unintended consequence of tougher border enforcement, which has promoted family reunification on the U.S. side of the border. Our research illustrates the price being paid by both immigrant students and U.S. society at large for their continued undocumented status. We have found that undocumented immigrant students experience significant educational progress in the United States, when compared to their counterparts who remain in Mexico. However, these students are being held back by their lack of legal status. As shown in Figure 11, 77% of documented Oaxacan migrants who immigrate to San Diego County during their compulsory schooling years complete high school, but only 31% of their undocumented counterparts attain a high school diploma. We also found that only 34% of undocumented migrants arriving in the U.S. at school age completed any schooling in the United States (the corresponding figure for documented students is 90%).
A generous legalization program and the Dream Act are needed to bring these students and their parents out of the shadows and ensure that their human capital is fully developed. Our fieldwork in U.S. migrant-receiving cities suggests that efforts to penalize undocumented students for their immigration status, such as denying them tuition-free college education and financial aid, will not induce them to voluntarily “self-deport.” It will only impair their academic performance, raise their drop-out rate, and reduce their future contributions to tax revenues.

THE DYSFUNCTIONAL U.S. LEGAL IMMIGRATION SYSTEM: MANUFACTURING ILLEGALITY

Much of the illegality in current Latin America-to-U.S. migration flows is a direct consequence of a U.S. legal immigration system that does not afford sufficient opportunities to enter the United States with authorization, especially opportunities for low-skilled workers and nationals of high-emigration countries like Mexico. This applies to would-be temporary as well as permanent immigrants; to those seeking entry based on family ties to the United States as well as those seeking occupation-based visas.

For example, employment-based permanent resident visas (“green cards”) are currently capped at 140,000 per year, for nationals of all countries. Of these visas, up to 10,000 are available to low-skilled workers. In one recent year (FY 2003), Mexican nationals received 3,261 employment-based permanent resident visas. Thus, Mexicans who want to work in the United States but have no specialized skills have little chance of obtaining an occupation-based permanent resident visa, even if they can line up a U.S. employer to sponsor them. Nor is there a well-functioning guest worker program through which they might obtain a temporary visa. The existing H-2A program for seasonal agricultural workers is so bureaucratically cumbersome that it is shunned by the vast majority of U.S. farmers. The H-2B visa program for short-term workers in the U.S. hospitality and other service industries provided 130,000 visas in FY 2007, but the cap on this program nevertheless falls short of demand.

Mexicans and other Latin Americans seeking permanent legal entry into the United States based on their family connections often face such long waits that they are encouraged to come illegally and attempt to regularize their status later; the alternative is prolonged family separations that younger-generation Latino immigrants and their relatives are unwilling to endure. Figure 12 provides examples of such wait-times for Mexican nationals, based on current backlogs in the most commonly sought preference categories.

Figure 12: Average Wait Times for Mexican Applicants for U.S. Permanent Legal Resident Visas, by Preference Category

<table>
<thead>
<tr>
<th>PREFERENCE CATEGORY</th>
<th>Average wait time for Mexican nationals, with current backlogs (May 2008)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st (Unmarried, minor sons &amp; daughters of US citizens)</td>
<td>12 years</td>
</tr>
<tr>
<td>2A (Spouses &amp; children of Legal Permanent Residents)</td>
<td>6.5 years</td>
</tr>
<tr>
<td>2B (Unmarried, over-21 sons &amp; daughters of Legal Permanent Residents)</td>
<td>192 years</td>
</tr>
<tr>
<td>3rd (Married sons &amp; daughters of U.S. Citizens)</td>
<td>12 years</td>
</tr>
<tr>
<td>4th (Brothers &amp; sisters of Adult USCs)</td>
<td>13 years</td>
</tr>
</tbody>
</table>
Apart from processing delays resulting from lack of staff and computerization in the U.S. Citizenship and Immigration Services agency, the backlogs are so large because of a fundamental imbalance between the supply and demand for visas emanating from Mexican nationals, coupled with the per-country limit of 25,620 visas per year (7 percent of the overall quota for family- and employment-based visas), for all visa categories. For example, if there are 256,000 applications from Mexican nationals in any given category, their average wait will be 10 years; if there are 512,000 Mexican applicants, the wait will be 20 years. The purpose of the per-country limit is to ensure diversity in legal immigrant admissions, but the effect is to severely penalize applicants from high-demand countries like Mexico, while applications from many other countries never come close to the annual cap, either because their nationals do not wish to immigrate to the United States or because they have no family members or employers to sponsor them.

Another commonly experienced obstacle to legal immigration relates to the grounds for inadmissibility specified in U.S. immigration law. A bill enacted by Congress in 1996 greatly expanded these grounds, largely by redefining a wide variety of minor criminal offenses (misdemeanors) as felonies or even aggravated felonies that permanently bar legal immigration. There is a widespread scholarly consensus that Congress went too far, especially in regard to immigration-related violations, and that the expanded grounds for inadmissibility are deterring too many would-be applicants for legal entry. Mexican nationals obtaining permanent legal resident visas actually declined from 173,000 in 2006 to 148,640 in 2007, despite higher demand for such visas; immigration law experts suspect that many would-be applicants “disqualified” themselves because of prior immigration violations.

There is an overwhelming desire among would-be migrants to come to the United States legally, thereby avoiding both life-threatening border crossing hazards and thousands of dollars in coyote fees. We asked our interviewees in Oaxaca last December whether they would be interested in participating in a new temporary visa program for Mexican workers, if the U.S. Congress should approve one. Among those with U.S. migration experience, 76 percent responded affirmatively, and most of the remainder were persons unlikely to migrate because of age. There is little doubt that if a temporary-visa option were readily available to prospective Latino migrants, many would choose that option, in preference to either permanent legal immigration to the United States or illegal immigration.

POLICY RECOMMENDATIONS

1. **Fix the legal immigration system.** This is the key to managing future migration flows from Mexico and other Latin American countries. Absent a more realistic supply of permanent resident visas and a large-scale, well-functioning guestworker program, the U.S. immigration system will continue to manufacture illegality. The comprehensive immigration reforms bills defeated in Congress in 2006 and 2007 are excellent points of departure. (The bipartisan 2006 Senate bill was much superior to the 2007 version, which incorporated numerous restrictive amendments, such as reducing the number of visas in a new guestworker program from 400,000 per year to 200,000.) In addition to raising the overall caps on both temporary and permanent visas, serious consideration should be given to exempting Mexican nationals from the annual caps on certain types of visas, in recognition of our geographical proximity and high visa demand by Mexican nationals. Finally, Congress should eliminate unlawful presence in the U.S. as a ground of inadmissibility.

2. **Emphasize worksite enforcement over border enforcement.** A more stringent, more uniformly enforced regime of employer penalties to discourage hiring of unauthorized migrants would be more humane and certainly more effective than trying to stop them at the border. Most unauthorized migrants would not even embark on costly, life-threatening journeys to the United
States if they were not virtually certain that a job awaits them on the other side of our fortified border. Specific safeguards would be needed to protect authorized workers from employment discrimination based on ethnicity and race, as proposed in the 2006 Senate comprehensive immigration bill (Title III). Intensification of workplace enforcement would have to be balanced against the economic disruptions that it would inevitably create and the risk of enlarging the underground economy; but steps to discourage the hiring of unauthorized migrants would be necessary to encourage employer participation in a new guestworker program.

3. **Rethink the nexus between controlling immigration and preventing terrorist acts.** Rather than devoting resources primarily to chasing economic migrants around southwestern deserts, the U.S. should expand staffing at legal ports of entry (through which would-be terrorists are most likely to enter) and at U.S. consulates and embassies (to enable more rigorous screening of non-immigrant visa applicants). More resources should also be invested in investigative activities, data-base management, and improving data-base sharing among federal agencies, to ensure that potential terrorists are included in federal data bases and that these data bases are fully, directly accessible to CPB, ICE, and state and local law enforcement agencies. These types of investments would be security-enhancing; the current allocation of resources is not.

4. **Legalize most unauthorized migrants already in the United States.** A generous legalization program would accelerate immigrants’ integration into U.S. society, develop their human capital, and maximize their long-term income-earning potential and contributions to tax revenues. There is little evidence from around the world that, over the medium-to-long-term, legalization programs generate more unauthorized immigration than would otherwise have occurred due to wage differentials, family ties, and poor economic conditions in the sending countries. As was the case in the 2006 Senate comprehensive immigration reform bill (less so in the 2007 Senate bill), a legalization program should maximize the pool of eligible applicants and minimize fines and other forms of conditionality, which both discourage participation and promote fraud.

5. **Create alternatives to emigration in migrant-sending areas, through well-targeted development projects.** This “developmental approach” is potentially the most effective and durable way to manage international migration flows, as well as the approach that can engage both the United States and Latin American countries most fully to address shared concerns about migration. Indeed, implementing this recommendation would require a cooperative effort involving sending- and receiving country governments, public and corporate foundations (including the Inter-American Foundation), NGOs, the Inter-American Development Bank and the World Bank. Projects need to focus on improving the employment base in migrant-sending areas rather than “quality of life” improvements such as urban infrastructure and recreational facilities. (Mexico’s “3 for 1” program, which channels funds from migrant groups to their places of origin and matches them with contributions from the federal, state, and municipal governments, generally has not yielded investments that created significant numbers of attractive, permanent employment opportunities in the benefited localities and therefore has had little discernible impact on out-migration.)

**METHODOLOGICAL APPENDIX**

The survey and ethnographic data reported in this memorandum come from annual field studies conducted by the Mexican Migration Field Research and Training Program (MMFRP) at the University of California-San Diego. This program seeks to document and explain changes in migration and settlement behavior by restudying, in great depth, the same set of migrant-sending communities in rural Mexico and their U.S. satellite communities, at two- or three-year intervals. The substantive foci vary from year to year, but one constant is the impact of changes in U.S. immigration law and policy
on migration and U.S. settlement behavior. The fieldwork is conducted each year by a binational research team consisting of 31-32 U.S. and Mexican interviewers, all native-level Spanish-speakers who are trained at CCIS to conduct survey research, ethnographic observation, and unstructured interviewing.

The MMFRP’s research sites were selected purposively to enable us to test our research hypotheses in diverse socioeconomic and cultural contexts. The migrant-sending communities included in the program differ markedly in terms of levels of economic development (they are classified by the Mexico’s National Population Council as high, medium, and low-marginality municipios), ethnic composition (one is mestizo, two are indigenous – Maya and Mixteco), and density of U.S. migration experience (ranging from 37 percent of residents having migrated internationally to 70 percent). All are small towns, ranging in size from 1,264 to 2,645 inhabitants in 2005.

The universe for standardized survey interviews is every adult aged 15 to 65 residing in the migrant-sending community. Since the entire adult population is interviewed in each field study, there is no sampling and therefore no sampling error. We make no claim that the resulting samples are statistically representative of larger universes of Mexican migrants and potential migrants. However, the research sites selected for the MMFRP are broadly representative of high-emigration communities in west-central and southern Mexico, as documented in dozens of survey and ethnographic studies conducted in such communities since 1975.4

The total number of standardized survey interviews conducted by the MMFRP with migrants and potential migrants in the four studies conducted to date is 3,008, which includes 603 interviews in Jalisco (2005), 724 in Yucatán (2006), 860 in Jalisco (2007), and 821 in Oaxaca (2007-08). Where migrants were absent throughout our fieldwork period, we asked their closest family member for contact information to enable us to communicate with the migrant in his/her U.S. receiving city. A snowball sample of U.S.-based migrants from each sending community was interviewed in the two months immediately following our interviews with Mexico-based respondents. In the sending communities, information was gathered from neighbors on the former occupants of all uninhabited houses encountered in the town, to document cases of whole-family migration to the United States and enable us to include these families in our U.S.-based snowball samples.

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