

Mr. Bush Goes to Mexico: Recommendations for Immigration Discussion

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Despite reports in the mainstream press to the contrary, the optimism sparked by Vicente Fox's unprecedented electoral victory and the new political openness in Mexico, which he has inspired, are not likely to permanently reduce undocumented migration from Mexico to the United States. Rather, both the human rights situation on the border and the future stability of the U.S.-Mexico region necessitate a change in the way the U.S. and Mexico are handling crossborder migration.

Consensus regarding the need for some sort of reform to current policy extends to conservatives, progressives, migrant activists, and industry lobbies alike—although their reasons and the details of their proposals differ significantly. For their part, conservative political leaders and employer associations in the United States have suggested that Washington deal with the ever-deepening integration of the Mexico-U.S. labor market by creating new, bigger temporary worker programs to supplement the current H-2A and H-2B programs, and encompassing not just agriculture but also other “immigrant dependent” sectors of the U.S. economy. In early January 2001, for instance, Senator Phil Gramm (R-TX) and four other U.S. senators met with Mexican President Vicente Fox to discuss the relationship between Mexico and the United States. In this meeting, both sides expressed interest in, among other things, implementing a new temporary worker plan for Mexican citizens who wish to work in the United States.

The issue is sure to be one of the topics in talks between Presidents Bush and Fox tomorrow. It would be unfortunate, however, if either leader should insist on following Gramm's lead. While not all the details of his guestworker proposal are final, what is known about it is not promising.

As the experiences of both the United States and the European Union indicate, temporary guestworker programs offer neither quick-and-easy fixes nor long-term solutions. Nor are they known for adequately protecting the basic human and civil rights of project participants. It is essential that any considerations of a new temporary worker program not only pay serious attention to human- and labor-rights issues, but also that they occur within the framework of a broader, binational discussion of Mexico-U.S. migration, and take into account the overarching context of economic immigration.

U.S. Temporary Worker Programs, Past and Present

Temporary worker programs have existed in the United States since at least the 1830s. However, two important examples from the 20th century include the U.S.-Mexico bracero program that lasted from 1942-1964, and the H2 program, initiated in 1943, which is now separated into the H-2A and H-2B programs.

The Bracero program, initially created to fill wartime shortages, started in 1942 with an agreement between the Mexican and U.S. governments to bring Mexican workers to the United States to work temporarily, mostly in agriculture and on the railroads. From about 1942-64, approximately 5 million Mexicans



were brought into the United States under this program, which was plagued by problems of exploitation and employer abuse.

The H2 visa program was initiated in the early 1940s, when the U.S. Sugar Corporation (USSC) was in need of additional sources of low-wage labor to cut sugar cane. The corporation lobbied for permission to import cane-cutters from the Bahamas, and in 1943 Washington granted USSC permission to hire these workers on temporary visas. In the 1980s, the H 2 program was split up into the H-2A agricultural program and the H-2B non-agricultural program.

Currently, the H-2A program allows agricultural employers in the United States to hire foreign workers on a temporary basis—no longer than 11 months—to perform agricultural work when there are not enough domestic workers available. H-2A workers must work for one specific employer and are not eligible to remain in the United States beyond their specified period of employment.

Although on paper the rights of temporary workers seem to be on par with those of domestic workers, temporary workers are in a vulnerable position, making it hard to enforce their rights. H-2A workers are brought to the United States to work with a particular employer. Should that employer no longer need the workers' services for any reason, the worker is not able to look for work with another employer but instead must return immediately to Mexico. Additionally, in order to ensure that they are brought back the following year, temporary workers must ensure that they do not get marked as a problematic worker. For both these reasons, the workers are put in a position where they are unable to enforce

the rights they are granted. Additionally, guestworkers under H-2A are not entitled to disclosures of job terms during recruitment, transportation safety requirements, or access to federal courts.

Lobbying for a new temporary worker program began in the early 1980s. Although this attempt failed, the result of this push was that the Immigration Reform and Control Act (IRCA) passed in 1986 included a "special agricultural worker" program, which granted legal status to 1.1 million formerly undocumented farmworkers.

More recent attempts at passing a new temporary worker program culminated in a proposed deal during the last congressional term, worked out behind the scenes between the United Farmworkers (UFW) and agricultural employers. The deal would have linked temporary work visas to eventual legalization for migrants, although the political feasibility of gradual legalization was uncertain at best. The arrangement never made it through Congress, however, largely thanks to Senator Gramm's efforts to sink the deal. Gramm is rumored to have promised agricultural employers that he could produce a better agreement by helping to broker a direct deal between Mexico and the United States—hence his visit with Fox last month. For that reason, according to migrants' rights advocates in Washington, DC, he is under substantial pressure from agricultural employers to produce some sort of employment bill as soon as possible.

Early drafts of Sen. Gramm's latest temporary worker proposal indicate that it would allow Mexicans both in the United States and in Mexico to participate. Gramm has further clarified that his plan would put Mexicans

who are already living and working in the United States first in line for temporary guestworker status, and that it would also include Mexicans working here legally on farms and factories under more limited arrangements. The plan would be focused, but not exclusively, on the service and agricultural sectors. The number of workers who would be allowed to enroll annually would fluctuate in response to changes in U.S. economic conditions, specifically unemployment rates. Finally, the plan would increase and strictly enforce penalties for employment of undocumented immigrants.

Gramm's Proposal Has Serious Flaws

Migrant-rights advocates have serious concerns with Sen. Gramm's proposal. For one, it would institutionalize a "second class" status for its participants, with few—if any—labor rights. And according to the information available, workers would continue to be tied to a particular employer, making them dependent on that employer for their visa—and therefore vulnerable to labor abuses. Additionally, Gramm's proposal does not include provisions dealing with:

- * Providing housing, transportation, or adequate medical care to workers;
- * Mechanisms by which Mexican temporary workers could regularize their status;
- * Insuring adequate labor and human rights protections; or
- * Family unity concerns.

Moreover, the proposed program for Mexicans already in the United States seems more punitive than beneficial, and—as currently configured—would offer no real relief for the 5-6

million Mexicans who currently live in the United States in an undocumented status. In fact, the proposal would expose current undocumented residents to forced departure from the United States and disruption of their family's lives. Gramm's proposal would require that undocumented immigrants already be employed by an employer who wishes to participate in the program, and that participants return to Mexico at the end of a one-year employment period with no guarantee that they would be allowed to return the following year to work.

What Would Be Better

Immigration advocates would prefer that Sen. Gramm's proposal not frame Friday's Fox-Bush discussions. For this reason, the Chicago- and Mexico City-based Mexico-U.S. Advocates Network has been circulating a sign-on letter in both the United States and Mexico, outlining five principles that the Presidents should abide by when dealing with guestworker programs and immigration issues. The letter was sent Tuesday to both Presidents. Hopefully, the five principles will encourage a bilateral discussion in Mexico that fully takes into account both the contribution to the U.S. economy migrants make and adequately ensures protection of their rights.

The principles included in the letter come out of a January 26, 2001

discussion convened by the Mexico-U.S. Advocates Network for approximately 30 advocates and experts on the temporary worker issue. Many participants were already involved in discussions and campaigns promoting legalization, amnesty, and other mechanisms to improve the situation of undocumented immigrants in the United States. Although no definitive conclusions were reached, the following five principles were identified as an appropriate framework for Bush-Fox discussions on migration issues:

- * Mexico-U.S. migration policy should be bilateral.
- * Any bilateral migration agreement must address the legalization of undocumented Mexicans in the United States.
- * Temporary worker agreements must ensure full labor and human rights protections and preserve family unity.
- * Temporary worker programs must include adequate mechanisms for the acquisition of permanent legal status.
- * The United States and Mexico should develop a comprehensive regional migration policy in consultation with Central American governments and civil society that includes economic development and the concept of labor mobility.

Current U.S. immigration policy and practice toward Mexican immigrants fails to accommodate the reality of regional interdependence. While Mexico recognizes the U.S. govern-

ment's sovereign right to control its borders, unilateral U.S. decisionmaking on a binational issue affecting so many Mexican citizens undermines the "good neighbor" relationship between the two countries and inhibits long-term, productive, and sustainable solutions. Friday's discussion on how to remedy this situation should not be framed by Senator Gramm's proposal. Instead, the Presidents should agree on some fundamental principles to serve as a framework for negotiations on the status of undocumented Mexicans resident in the United States, the design of any new temporary worker program, and longer term binational migration policies.

During and after the recent presidential campaign, President Bush emphasized his intention to significantly improve and deepen the relationship between Mexico and the United States. With Vicente Fox nearly as popular in the United States as he is in Mexico, tomorrow's meeting provides an opportunity to fulfill this promise. Hopefully, Bush and Fox will step up and seize this historic moment, rather than simply using their meeting as just another PR photo op.

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