

Policies for High-Skilled vs. Low-Skilled Migration in North America

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High-skilled migration has always been given priority and even encouraged by international and national policy. At the same, international agreements for low-skilled migration tend to restrict it. Human capital is considered valuable according to educational levels and working abilities, which puts undocumented migrants in a difficult economic position. The NAFTA area is no exception: while the migration of professionals is given priority by mechanisms like the TN and H1 visas, there is still no agreement to relieve the situation of unskilled immigration across the border from Mexico to the US and Canada in search of a better life. At the same time, migration between Canada and the US is much freer, even though professionals are also given priority; after NAFTA, Canada has even experienced brain drain to the US. The main question is how to reduce unfair differences in policies that prioritize the mobility of certain individuals based on their qualifications. Method: This paper analyzes and compares NAFTA's impact on policies for high- vs. low-skilled migration. It also uses the author's ethnographic studies to express the view of migrants on how human capital should be managed internationally.

Keywords: Migration Policy; Brain Drain; NAFTA; International Migration

Introduction: Labor Market Liberalization with NAFTA

How should migration be used to stimulate development both for countries and individuals? Is it possible to design policies that do not prioritize different types of human capital (skilled) over another (medium or unskilled)? How can this "skills eugenics" be avoided?

NAFTA, which came into effect in 1994, establishes special visas for businessmen, investors, professionals, and experts in information technology and communication. While the US has designed the TN visas to facilitate the entry of Mexican and Canadian professionals, Canada has continued using the points system it had before NAFTA. Mexico simply took advantage of the new conditions for emigration. The Mexican president at that time, Carlos Salinas, declared that the agreement would allow the country to export goods, not people. Nevertheless, the evolution of migration ever since shows a significant increase in the migration of Mexican professionals to the US and Canada.

Solimano (2010) notes that a country may wish to "solve" its internal employment problems either by expecting foreign investment to generate jobs or by allowing people to migrate. The second option relieves the pressure on internal markets caused by surplus labor. He notices that neither of the two options occurred with the North American Free Trade Agreement (NAFTA), a treaty that was supposed to increase investment in Mexico by US and Canadian companies and reduce northward migration. However, the investment was not enough to stop emigration; furthermore, developmental gaps and wage differ-

entials between the United States and Canada maintained Mexican migration, both documented and undocumented. As Solimano appreciates (2010, Loc., 633-643), the dilemma of capital going to where cheap labor is available versus labor going to where the jobs, higher wages, and capital are available was tilted toward the second option.

This paper is structured in three main parts. The first is a reflection on immigration policies in major immigration countries such as the US, Canada, and Australia, based on an older but still valid study by Freeman (1995) in which he talks about "client immigration politics". The second is a comparison of selected migration in the three countries, including brief updates on changes due to the 2008 world recession and migration updates based on OECD data. The third part looks at public opinion regarding migration in the three NAFTA countries. The section on Mexico actually includes opinions of Mexican migrants to the US and Canada based on original interviews. The paper ends with a discussion of a possible social contract on migration as proposed by previous authors (Fitzgerald & Solimano, *inter alii*), which could solve inequalities among labor markets and favor both sending and receiving countries.

Client Immigration Politics

In an older study, Freeman (1995) notes that English-speaking settler societies such as the US, Canada, and Australia have been characterized by their histories of open immigration, planning, and regulation, as well as by densely organized webs of interest groups contesting immigration policies. Even though it has been 17 years since the publication of Freeman's article, his

work seems to have a prospective value, since most of his considerations are still valid in 2012, as we shall see below.

Freeman appreciates that the typical mode of immigration policies in these countries is client politics or liberal democratic immigration politics, formulated at a general level. Freeman (1995: 886) thinks this is a form of bilateral influence in which small, well-organized groups intensely interested in a policy develop close working relationships with the officials responsible for it. Their interactions take place largely out of the public view and with little outside interference. Client politics is strongly oriented toward expansive immigration politics.

These countries experience cycles of immigration: good times vs. bad times dynamics in which migration is tolerated and encouraged during expansionary phases, but becomes the focus of anxieties when unemployment rises and immigrants become scapegoats.

Australia, Canada, the US, and New Zealand are prototypical countries of immigration with generally positive folklore about immigration. There is general inter-party consensus about immigration with exceptions such as Canada's Reform Party.

On paper, Canada and Australia have a more sophisticated and carefully planned migration program than the US and are able to respond to short-term changes in economic conditions more rapidly, as we shall see later when analyzing responses to the 2008 crisis.

The three countries present certain barriers to procuring information about immigration, such as:

- Scarcity and ambiguity of official data (a tendency for migration flows to start small and build up over time as a result of chain migration and family reunion, which determines opposition to immigration growth over time ["expansionary bias"]);
- Lack of consultation of the public on immigration policies;
- Immigration produces concentrated benefits to employers in labor-intensive industries, those that depend on unskilled labor, and businesses that profit from population growth (real estate and construction). The immediate costs of immigration fall disproportionately on the shoulders of the minority of the population that is competing with immigrants for scarce jobs, housing, schools, and governmental services;
- The organized public representing beneficiaries is more vocal and has greater impact, so that in general public opinion is more in favor than against immigration.

Comparison of the Migration Policies in North America

US and Brain Attraction

The United States, the world's main immigration country, is currently a net importer of both capital and people, although in other periods of the 20th century it was a net exporter of capital. The US has an "alphabet soup of visas" (Lowell, 1999), a system criticized by the skeptics who say that US employers invent a scarcity of skilled citizen workers to justify importing cheaper, younger immigrants.

The majority of skilled workers get into the country with H-1B visas. In the 1990s, about 65,000 workers entered the country each year with this visa.¹ In 2004, the number of H-1B visas increased by 20,000 to include PhD. candidates (see **Box 1**).

Based on NAFTA, the US also offers the TN visas, which

Box 1.

US Migration Update (as of 2010).

Permanent immigration to the United States declined by 8 percent.

Most immigrants granted permanent residence based on employment were family members of principal workers, and 92 percent were already in the United States on a temporary visa.

Humanitarian migration comes mainly from Iraq, Burma, and Bhutan.

21,100 individuals were granted asylum status, of which one-third were Chinese (32 percent).

Visas issued under the uncapped temporary/seasonal agricultural worker program (H-2A) fell 8 percent, to 56,000, given that a stricter wage requirement and labor market test were imposed in March 2010.

The number of student visas (F-1) rose to 385,000, 54 000 more than the previous year and the highest level in ten years.

The official estimate of undocumented immigrants remained unchanged from the FY2009 level, at 10.8 million, 1 million fewer than pre-crisis 2007. A record of 400,000 undocumented foreigners were removed from the United States in 2011.

The Fairness for High-Skilled Immigrants Act of 2011, which would remove the cap on the share of EB visas available each year that may be granted to nationals of a given country, was passed by the House of Representatives in November 2011 and is being considered by the Senate.

Source: *International Migration Outlook*, OECD 2012.

are attractive for employers because they are easier to get: they require less documentation and are cheaper than the H-1B visas. Annual admission quotas are also bigger than for the H1. In 2005, 50,000 Canadians were admitted on TN visas, compared to only 2500 Mexicans. This difference is quite surprising taking into account that the same year, Mexico had a workforce of 43.4 million, compared to only 16.3 million in Canada (Orrenius & Streitfeld 2006).

The United States offers special visas for investors: the E-2 visa, for which investors must show a net worth of US\$1 million and intent to invest around US\$750, 000 in the country. The United States also offers the L-1 visa program, related to the productive sector and designed to facilitate the intra-company transfer of personnel. Finally, the US O - 1 visa program is for people with "extraordinary (outstanding) abilities" and proven achievements (national or international prizes, outstanding publications, and so forth) in science, education, sports, the arts, culture, cinematography, and TV production. This program is oriented toward "cultural talent" and "academic talent" (Solimano, 2010).

Effects of the 2008 Economic Recession on Elite Migration to the US

While many countries have responded to the economic crisis by lowering the number of work permits issued to low-skilled foreign workers, the US government focused on high-skilled temporary work permits, making it more difficult for certain financial companies to apply for H-1B visas to hire more high-skilled workers. As part of the financial-sector bailout legislation signed into law by President Obama in mid-February 2009, the government prevented banks and other financial institutions that receive taxpayer-funded bailout money from hiring H-1B workers unless the firms comply with certain requirements. One of these is a sworn statement that they had offered positions to equally or better-qualified US workers first. The law also prevents banks from hiring H-1B workers in occupations in which they had laid off US workers (Fix et al., 2009: 131).

Following the passage of the new restrictions, the Bank of America withdrew job offers made to foreign MBA students graduating from US business schools for the summer of 2009

(Fix et al., 2009: 134).

With the crisis, applications for H1B visas decreased from 65,000 in 2008 to 45,000 in 2009. While the demand for skilled workers in the US was stable, the demand for immigrant workers decreased. Nevertheless, there were no massive returns. Workers in some professions, such as in the fields of engineering and health, are still very much in demand.

Compared to the H1, TN visas for Mexicans increased slowly by 7.1 percent, even during the 2008 world economic recession (Cruz-Piñero & Ruiz-Ochoa, 2010). Nevertheless, the entry of Canadian professionals slowed down after 2007, due to the competition between the TN and the other visas.

However, the US fiscal stimulus package makes it more difficult for benefiting firms to hire highly skilled foreign workers, although this may make little practical difference given how over-subscribed quotas for such visas are (Green & Winters, 2010).

Irregular and Undocumented Immigration

Some of the current problems of the US immigration system are its costs, border controls, and the growing influence of Latinos, considered by certain sectors of the public a menace to national security.

Apart from skilled migrants, the US has to deal with an estimated 12 million unauthorized immigrants, a number smaller than those who enjoy permanent legal status but who are treated as second-class citizens (Moses, 2009). Their situation and public opinion against migration sharpened after 9/11 and the 2008 crisis.

The tightening of border controls began in 1994 with Operation Gatekeeper, which transformed Mexican migration from short-term cyclical flows to permanent settlement. This in turn paved the way for the Secure Fence Act of 2006, designed to prevent Mexican migrants from entering across the southwest border (Castles & Miller 2010).

At present, the US has an “e-Verify” electronic employment eligibility verification system, a temporary, voluntary program due to conclude at the end of September 2012. However, the program became permanent and works as a national electronic verification system.

After the 2008 recession, restrictive bills for local control of illegal immigration were adopted or discussed in several US states, some of which were challenged in federal court.

The most controversial bill was the Arizona law (passed in April 2010) that, to quote CNN, “orders immigrants to carry their alien registration documents at all times and requires police to question people if there’s reason to suspect they’re in the United States illegally. It also targets those who hire illegal immigrant laborers or knowingly transport them”. Supporters insist that the law targets law breaking, not a particular race, ethnicity, class, or appearance. As Governor Brewer put it, “We must enforce the law evenly, and without regard to skin color, accent or social status”. Opponents see the law as a thinly veiled—or even overt—attack on Latinos, immigrants, and perhaps all people of color. President Obama asserted that “the recent efforts in Arizona... threatened to undermine basic notions of fairness that we cherish as Americans”, and the Department of Justice will file a legal challenge to the law on the grounds that it illegally supersedes federal authority (Fraga, 2009, in Castles and Miller).

At least initially, US American public opinion sided with

Governor Brewer. A 2010 Gallup poll showed 51 percent support and 39 percent opposition to the Arizona law. Furthermore, legislators in about half of US states have promised a bill similar to Arizona’s, and Southern conservatives are “stampeding to express solidarity with the Arizona governor and legislature” (Hochschild, 2010). However, the opinions of Mexican migrants are quite different (see **Box 2**).

No wonder President Obama was criticized for his “comprehensive immigration reform” that includes amnesty for “illegal aliens”, loose enforcement, and higher levels of future legal immigration (Krikorian, 2012, Loc. 16-17). Krikorian, the leader of an anti-immigrant movement, also criticizes Obama for the e-Verify system. In his opinion, “a system that doesn’t detain regular illegal aliens along with irregular ones” is a system that cannot work (Loc. 81-84).

The good news is that in 2012, the Dream Act was voted in, that is, regularization for undocumented high school graduates who came to the United States as children and who have at least two years of either military service or college attendance.

Canada

According to the 2006 census, 19.8 percent of Canada’s population is foreign-born, a figure second only to that of Australia (22.2 percent) and much higher than that of the United States (12.5 percent) (Statistics Canada, 2007). Canada is a significant host society: with 6.1 million immigrants in 2005, it is among the top seven hosts for international migrants (Good, 2009, Loc. 279-282).

Before the 1960s, immigration to Canada was racially based (Abu-Laban & Gabriel, 2002: 43), Migration came mainly from Europe, the source of 90 percent of Canada’s immigrants. Only 3 percent of migrants to Canada came from Asia (Statistics Canada, 2003: 6). By the 1990s, the leading source of immigrants to Canada was China, followed by India, the Philippines, Hong Kong, Sri Lanka, Pakistan, and Taiwan (7). According to 2006 Census figures, 83.9 percent of immigrants to Canada between 2001 and 2006 were non-European (Statistics Canada, 2008a: 12). Because of these changes, Canada experi-

Box 2.

Opinions of the Mexican Diaspora on the “Arizona Law”.

“The Arizona Law is discriminatory; it is a law that responds to the fear of conservative Americans, who have started to lose the control they once had over their society, laws, and status. It is important not to lose sight of the growing strength Hispanics represent in the US. Sooner or later, and despite racist attitudes, they will have to accept that the US is turning into a much more plural society.” (Manager, Texas, 55 years old, 26 years in the US)

“I personally make my living from US commerce, but I generally consider them as a two-faced people. On the one hand, they exhibit their cultural diversity but on the other hand, we have the Arizona Law. This is almost a regression to the time of Nazi Germany, where they could ask for your ID at any time. This goes against what this country is supposed to represent.” (Lawyer, US)

“Fortunately, New York has a very liberal tradition, and that’s why we had a lot of opposition to this law. If they were to detain somebody for his or her skin color, they would have to arrest everyone.” (Artist, New York)

“You can understand the problems that certain communities have because they are close to the border. However, I feel that a legitimate cause has been transformed into an excuse for a racist act.” (Software engineer, Seattle, 29 years old, 5 years in the US)

“The truth is, nobody commented too much on this issue. To the few people I spoke to, the law seemed extreme, unnecessary, because undocumented people are taking jobs that nobody wants. Actually, if they don’t want Mexicans to be here illegally, they shouldn’t offer them jobs.” (Project manager, New Jersey, 37 years old, 11 years in the US)

enced a threefold increase in its visible-minority population between 1981 and 2001 (Statistics Canada, 2003: 10). In addition, there has been an upward trend in the proportion of immigrants who are visible minorities, with 52 percent, 68 percent, and 73 percent of immigrants to Canada in the 1970s, 1980s, and 1990s, respectively, identifying themselves as such (10). Three-quarters of the immigrants who arrived in Canada between 2001 and 2006 were visible minorities (Statistics Canada, 2008b: 2). Furthermore, Statistics Canada forecasts an intensification of the link between the “racial” diversification of Canada and immigration. In the 2006 census, 16.2 percent of the Canadian population reported belonging to a visible minority (Statistics Canada, 2008a: 5). StatsCan predicts that by 2017, if current immigration trends continue, between 19 and 23 percent of Canadian residents will belong to a visible-minority group. The report concludes that immigration is “unquestionably” the most important factor in the increase in Canada’s visible-minority population (Statistics Canada, 2005: 6). From a policy perspective, the viability of the multiculturalism model will be strongly tied to its ability to “manage” the ethno-cultural diversity arising from immigrant selection practices (Good, 2009, Loc. 350-368).

These changes are mainly due to the point system for skilled workers introduced in 1967 and further reformed in 1993 and 2002. Points are calculated according to educational level, language skills, work experience, age, a job offer in Canada, and adaptability. Individuals who get more than 67 points on a scale of 100 are eligible for permanent residency (see **Box 3**). Despite the fact that it responds to the market needs, the Canadian system attracts fewer skilled workers than the US (Doomernik, Koslowski, & Threnhardt, 2009).

Multiculturalism

The points system accompanied a policy of multiculturalism entrenched in the Canadian Constitution. Canada has a variety of anti-racism programs, employment equity initiatives, and immigrant settlement policies. Multiculturalism can be considered “a response to the pressures that Canada exerts on immigrants to integrate into common institutions” (Kymlicka, 1998: 40).

Kymlicka notes that since official multiculturalism was first adopted in 1971, Canada has seen an increase in rates of immigrant naturalization, intermarriage, political participation, and official-language proficiency. More recent comparative research on immigrant integration and political incorporation in Canada and the United States has concluded that Canada’s multicultural model is contributing to integration.

Kymlicka (2008) attributes the success of the Canadian multiculturalism model to timing and geography. Kymlicka finds it

Box 3.

Canada’s immigration programs.

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- 1) Skilled workers and professionals. For people who want to settle and work in Canada, except for Quebec
 - 2) Quebec. Selected skilled workers
 - 3) Canadian Experience Class. For people who have recent Canadian work experience or have graduated and recently worked in Canada
 - 4) Investors, entrepreneurs, and the self-employed. For people who want to start a business in Canada
 - 5) Provincial nominees. One of Canada’s provinces or territories can nominate individuals to settle and work there
 - 6) Sponsoring your family. For family reunion.
-

significant that the policy was adopted before the racial diversification of Canada and before people from non-Christian religions and potentially illiberal cultures dominated the country’s immigrant pool. When Canada’s national policy of official multiculturalism was first adopted, just over 50 percent of immigrants were visible minorities; this figure is now 75 percent.

In terms of geography, Kymlicka notes that Canadians have embraced multiculturalism because “we face no threat of large-scale influx of unwanted migrants from neighbouring poor countries, whether illegal immigrants or asylum seekers” (2008, 7). In other words, Canada’s geography reduces Canadians’ fear of being “swamped” by a single ethnic group.

Whereas immigrants constituted about 19.8 percent of Canada’s population in 2006, they accounted for 45.7 percent of Toronto’s population and 39.6 percent of Vancouver’s that year (Statistics Canada, 2007b). In fact, in 2002 close to 50 percent of Canada’s approximately 230,000 immigrants settled in the Toronto Census Metropolitan Area (CMA) alone (CIC 2002). StatsCan (2005) predicts that Canada’s visible minorities (most of whom are foreign-born) are likely to continue to locate in urban centers and that in 2017 close to three-quarters of Canada’s visible minorities will be living in Toronto, Vancouver, or Montreal. According to StatsCan projections, by that year the Toronto CMA will be home to 45 percent of Canada’s visible minorities and the Vancouver CMA to 18 percent (2005, 7). Visible minorities will be the “visible majority” in both CMAs (Good, 2009, Loc. 418-422).

The Crisis

The Canadian economy was affected less by the crisis than the US economy. Canada is one of the few countries where no restriction was put on migration after the 2008 crisis and it even introduced a Plan for Faster Immigration (see **Box 4**). Jason Kenney, Canada’s immigration minister, declared that his country would continue its migration policy for economic areas that needed it, despite the crisis. He also said that migrants with extraordinary abilities would help Canada get out of the crisis. Therefore, the flows of skilled workers, included Mexicans, did not decrease.

It comes as no surprise that on June 20, 2012, the same Minister Kenney announced a six-month moratorium on the Federal Skilled Worker Program and the Immigrant Investor Program. This interruption is meant to resolve existing backlogs and improve the visa system for both categories (high-skilled workers and investors) so that the admissions system can be faster in

Box 4.

The Canadian action plan for faster immigration (2008).

Canada launched a system to speed up processing of skilled-worker immigrant applications, with four steps:

- 1) Establishment of eligibility criteria for skilled workers to consider their applications using an occupation filter (November 2008)
 - 2) Setting caps (annual cap of 20,000 in total and 1,000 per priority occupation) on new applications to be considered under a new priority occupation scheme and introducing a language testing requirement for all permanent economic immigrants (June 2010)
 - 3) Reduction of the annual skilled worker cap to 10,000 in all and 500 per priority occupation; introducing an annual intake cap of 700 for immigrant investors; moratorium on immigrant entrepreneur applications (June 2011)
 - 4) Suspension of sponsorship applications for parents and grandparents for up to 24 months. Allowance of up to 1,000 foreign nationals per year currently studying at the doctoral level or recently graduated to apply as skilled workers (November 2011)
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the future (Graveland, 2012).

In early 2009, citing economic uncertainty and rising unemployment, the Canadian government briefly considered reducing its permanent immigration targets for the year. But the possibility was shelved after Immigration Minister Jason Kenney met with his provincial and territorial counterparts to study the demand for immigrants in regional labor markets. Permanent immigration levels for 2009 were not reduced, maintaining a target of approximately 250,000 new permanent residents. Permanent immigration to Canada dipped slightly, however: 50,800 new immigrants came to Canada in the first quarter of 2009, compared to 53,147 during the first quarter of 2008 (Fix et al., 2009: 136-137).

Canada also did not restrict flows of temporary workers. The stock of temporary workers increased by nearly 26 percent between 2007 and 2008, rising from 199,942 to 251,235. During the first quarter of 2009, the net number of non-permanent residents (foreign workers and international students) increased by nearly 23,800 (compared to a net increase of 15,600 in the same quarter of 2008). The fact that more temporary residents arrived than left Canada in early 2009 is consistent with the upward trend that began in 2007 (Fix et al., 2009: 63-64).

Temporary Workers Programs

Temporary foreign workers may stay in Canada for only a limited time, which encourages use of permanent residence pathways if applicable, and departure if not. Transitions from temporary to permanent resident status are facilitated through avenues including the Canadian Experience Class, the Federal Skilled Worker Program, and the Provincial Nominee Program.

In 2010, Canada changed its integration program funding to a “Modernized Approach”, uniting separate programs for settlement (see **Box 5**). Newcomer services are covered by a single funding agreement, simplifying the administrative process for

Box 5.

Canada migration update.

Canada admitted about 281,000 permanent migrants in 2010, an 11 percent increase over the previous year, and the largest number since 1957.

As in previous years, the top sending countries were the Philippines (13 percent), India (11 percent), and China (11 percent).

In 2010, most permanent migrants (61 percent) entered Canada for family-related reasons (this includes the spouses and dependents of principal economic applicants).

Labor migrants accounted for roughly one-quarter of long-term inflows, and one out of eight permanent migrants acquired a residence permit on humanitarian grounds.

Canada admitted 384,000 temporary residents in 2010, slightly more than in 2009.

The number of temporary foreign workers remained stable, representing 47 percent of all temporary migrants. Within the group, however, growth was recorded in managerial and professional occupations, while lower-skilled groups all declined. The main sending country for temporary workers remained the United States.

The number of international students rose almost 13 percent from 2009 levels and accounted for 25 percent of temporary flows.

Canada received almost 24,700 refugees in 2010, mainly from Iraq and Bhutan.

Asylum seekers came from Colombia, Haiti, and Sri Lanka. In 2010, asylum claims fell by about 30 percent from 2009, mainly due to a reinstated visa requirement for the Czech Republic and a new visa requirement for Mexicans.

The number of naturalizations has been declining continuously since 2006. India, China, and the Philippines were the top three source countries for new Canadian citizens in 2010.

Source: *International Migration Outlook* (OECD 2012).

immigrant-serving organizations, and allowing them to tailor their offerings to suit newcomers’ needs. Since their introduction, the use of settlement services by newcomers has increased by eight percent.

An evaluation of the Federal Skilled Worker Program (FSWP) 2002-2008 was published by the CIC in 2010. While identifying several critical issues involved in the current selection system (principally, fraudulent job offers), the evaluation showed that skilled workers with prior employment offers performed better, and that the 2002 changes led to selection of more highly educated workers, with better language proficiency, and more diversification of both origin countries and occupations.

Nakache and Kinoshita (2010) observe that Canada’s growing focus on short-term labor immigration is unfair to the vast majority of temporary foreign workers and will not help the country meet its long-term employment needs. They also see a discrepancy between policy and practice with regard to the exercise of temporary foreign workers’ rights. One significant factor is the restrictive nature of the work permit: temporary foreign workers are often tied to one job, one employer, and one location, which can have the practical effect of limiting their employment rights and protections. Other problems include illegal recruitment practices, misinformation about migration opportunities, and lack of enforcement mechanisms. Regarding employment, Canada seems indifferent to temporary foreign workers’ future position in society.

There are significant differences in the treatment of family reunion and access to permanent residency, depending on skill levels. Skilled workers are offered opportunities to access permanent residency that low-skilled workers do not have. The spouses of highly skilled workers are able to acquire open work permits, and highly skilled workers have the opportunity to get permanent residency from within. In contrast, the spouses of less skilled workers must apply for a restricted work permit, and less skilled workers, with few exceptions, have very limited opportunity to immigrate permanently. Yet they can renew their temporary status so long as they have employment. Nakache and Kinoshita argue that Canada encourages the integration of highly skilled workers and is indifferent to that of less skilled workers.

The authors conclude that the short-term focus of Canada’s temporary labor migration policy will not help the country meet its long-term labor market needs and is unfair to the vast majority of temporary foreign workers. They offer a number of recommendations, such as allowing these migrants greater mobility; using enforcement mechanisms to protect them from abusive practices; improving communication between different governmental players; adopting a policy to support the integration of temporary foreign workers; and encouraging public debate about the recent changes in Canada’s labor migration policy.

Mexico

Mexico is by far the leading sending country to the United States. In 2007, there were 11.7 million Mexican-born persons in the United States. More than half of these (55 percent) are unauthorized (Fix et al., 2009: 39).

Annual flows from Mexico to the United States declined from 1 million to 600,000 from 2006 to 2009 largely as a result of a drop in illegal immigration. Legal immigration levels have

remained largely unchanged. As a result, the overall number of Mexicans in the United States (constituting the country's largest immigrant group) has remained essentially unchanged in a period when it would have been expected to grow by 1 million (see **Box 6**).

However, virtually no change has occurred in return flows to Mexico despite the fact that unemployment rates for Mexican and Central American immigrants in the United States have more than doubled. These trends lend support to the proposition that people's decisions whether to return home or not are predicated on what is happening in the sending-country economies to an even greater degree than changes in the receiving-country's economy. (Fix et al., 2009: p. 7)

At the same time, evidence from US and Mexican population surveys showed a recent steep decline in the number of Mexicans going to the United States. US population survey data show that while the annual number of new arrivals from Mexico to the United States was 653,000 between March 2004 and March 2005, and 424,000 between March 2007 and 2008, the estimated annual inflow dropped to just 175,000 between March 2008 and March 2009, the lowest total in the 2000-2010 decade. This finding is reinforced by analyses of US Border Patrol detentions data showing that fluctuations in migrant apprehensions closely track changes in labor demand (Fix et al., 2009: 22).

Apart from the big "US" problem, Mexico was subject to the reintroduction of a visa regime for Canada in 2009 due to the abuse of the Canadian refugee system by Mexican visitors (see **Box 7**). Another issue that deserves special attention is Mexico as a transit country for irregular migrants from Central American countries traveling to the United States; that flow has also decreased steadily since 2005. In 2010, it was estimated at 140,000, 30 percent of the 2005 estimate. The same factors explain the decline of transit migration as Mexican emigration: lower labor demand in the United States; increased cost of

Box 6.

Mexico migration update.

The number of foreign-born residents in Mexico rose 13 percent from 2009 to 2010, from 860,000 to 961,000. The top countries of origin are the United States, Colombia, Cuba, Guatemala, and China, (about 2000 immigrants each). The number of seasonal workers entering Mexico in 2010 decreased by 10 percent annually, to 27,400, almost all from Guatemala. These movements are small compared to the population of Mexico and to emigration of Mexican nationals, mostly to the United States. The recession and stricter border controls have led, however, to a decline in the migration of Mexicans. According to estimates based on the Mexican labor force survey, annual outflows from Mexico have been declining since 2006. In 2010, they fell 44 percent; in 2009, 16 percent; and in 2008, 22 percent. The decline continued in 2011.

Attempts to cross the border with the United States continued to decline in 2010, as evidenced by the drop in detentions of Mexicans by the US authorities, which fell from 503,000 in 2009 to 404,000 in 2010. Removals or deportations of Mexicans, on the other hand, remained at the 2009 level, at 282,000. Forty-five percent of all Mexicans expelled from the United States in 2010 had a criminal record.

The rate of irregular migrants sent back to Mexico has been declining since September 2011, following a US policy change.

Remittance flows to Mexico picked up in 2010-2011 after a sharp decline in 2008 and 2009. From US\$22.1 billion in 2009 and US\$22.6 billion in 2010, the World Bank estimates US\$24 billion for 2011, below the peak level of 2007. While partly a consequence of the economic recovery in the United States, the increase is also probably related to the depreciation of the peso against the dollar in late 2011 and consequent greater purchasing power of remittances.

Source: *International Migration Outlook* (OECD 2012).

Box 7.

Opinions of the Mexican Diaspora on the introduction of visas for Mexicans who visit Canada.

"This is a terrible measure, especially as they pretend to give the same opportunity to everyone. There is no way to differentiate between those who really need refugee status and those who abuse it in Canada. This wasn't really a big problem; not many people were involved." (Economist, Toronto, 30 years old, 8 years in Canada)

"There were tourists who came and asked for refugee status in Canada. The formalities for the Canadian visa are 5 or 10 times more complicated than the US ones." (Housewife, former psychologist, Quebec, 29 years old, 3 years in Canada)

"As a Mexican, I feel offended. I'm not judging anyone, but there were people who came and cynically asked for refugee status. They had promises of jobs, social security, economic aid, and studying English or French for free. Some came to finish their BA, but when the authorities found out about it, some of them were deported. There are some really sad cases, but in general there was a lot of abuse of the refugee status. As a Canadian, I think it was a necessary measure because the situation would eventually get worse. As a Mexican, I didn't like it." (Software engineer, Toronto, 39 years old, 13 years in Canada)

"There was no other solution. The bad part was the way they implemented the visas for Mexicans overnight. There were people who had to sleep in front of the Canadian Embassy in Mexico City to get visas and not lose their plane tickets." (Engineer, Toronto, 33 years old, 6 years in Canada)

"I have conflicting feelings. Mexico was the only Latin American country that Canada didn't require a visa from to travel there. So, we had many people making up stories and abusing the refugee status. The measure was a consequence of lies, cheating, and abuse. But, it's true that now there's no difference between sincere people and the ones who aren't; everybody pays for it." (Actress, Toronto, 32 years old, 8 years in Canada)

cross-border smuggling; increasing risks and rising violence affecting migrants; and a relative increase in employment opportunities in Mexico. Kidnapping and violence against migrants has increased in recent years as drug cartels have moved into human trafficking. Legal and enforcement measures have been strengthened to deal with the issue. Mexico signed a regional plan with Central American countries to coordinate cooperation, exchange information, educate migrants, and dismantle cartels involved in human trafficking.

Mexico Migration Law

Given the aforementioned problems, 2011 can be considered an important year for migration legislation in Mexico, a country known for its "policy of no policy" on migration issues as well as for its difficulty in recognizing its Diasporas abroad. In January 2011, Mexico enacted the Law on Refugees and Complementary Protection. In May 2011, Mexico adopted its first Migration Law, replacing the 1994 General Law on Population. The new law establishes the conditions for the entry and residence of persons in the country and addresses the social, economic, and cultural integration of immigrants in Mexico. The number of categories of migrants is reduced, to limit the margins for discretion by immigration authorities.

The Migration Law defines regularization procedures for undocumented migrants and also doubles prison sentences for human trafficking and violence against migrants. Among the main changes introduced are the acceptance of asylum applications after entry, the creation of the status of complementary protection, and the recognition of gender violence and discrimination as valid grounds for asylum. The Mexican government is still preparing the regulations that will make it possible to fully implement the new law.

A constitutional reform implemented in July of the same year improves the legal regime for immigrants, so that Mexico now

recognizes the right to asylum and refugee status and grants foreign citizens subject to expulsion the right to a prior hearing, limiting the maximum detention period, and eliminating discretionary deportation without legal basis or a judicial sentence.

Public Opinion on Migration

At present, Freeman's study has been confirmed. With the 2008 recession, immigration to the US and Canada started to be seen more as a problem than an opportunity (Gustin & Ziebarth, 2010). While in 2008, Canadians generally favored immigration, in 2009, 25 percent were against it. In the US, public opinion against immigration also rose from 49 percent (2008) to 52 percent in 2009.

Transatlantic Trends on Immigration (TTI in Gustin & Ziebarth, 2010: 976), a study conducted in 2008-2009, asked respondents to assess the steps that their national governments had taken to manage immigration. Whereas Germans (71 percent), Canadians (63 percent), the Dutch (53 percent), and the French (50 percent) thought that their governments were doing either a good or a fair job at immigration management, the British (71 percent), the Spanish (64 percent), US Americans (63 percent), and Italians (53 percent) thought that their governments were doing either a poor or a very poor job.

According to the TTI study, in the US, the public thinks a reform should be undertaken to increase border security and enforcement efforts involving employers, to expand temporary labor programs at the expense of family reunification quotas, and to create some form of legalization for many of the estimated 11 million undocumented immigrants currently living in the United States.

In Canada, a certain amount of optimism about immigration was reported. Several of the largest cities can claim that half of the population was born abroad, and public opinion about immigration is largely positive. Unlike the United States, where the problem of illegal immigration has made the debate increasingly contentious, Canada's geographic isolation has prevented illegal immigration from becoming a substantial issue. Instead, Canada is able to select its immigrants based on labor markets and national priorities, such as family reunification and acceptance of refugees. Since the highly skilled generate economic growth and are also traditionally considered easier to integrate into the host society, some of Canadians' positive attitude may be explained by the perceived benefits of high-skilled immigration.

The Mexican Diaspora in the US and Canada: Love and Hate

In-depth interviews with 50 Mexican professionals based in the US and Canada, aged between 29 and 47, revealed characteristics of their situation in their adopted countries. The sample group shows two opposing tendencies: 1) demystifying their circumstances, complaining of difficult living conditions and discrimination, or 2) praising excellent living conditions and mentioning the bad image Mexicans have in the US/Canada. Bad image seems to hurt the possibilities of development of all Mexicans, included highly skilled ones.

Those critical of the situation of Mexicans in the destination country mention labor discrimination and poor access to education. These are frequent problems for migrants with little time abroad and with a more precarious situation in the destination

country. To the contrary, immigrants with a better labor and economic situation think that discrimination is relative: "Discrimination influences you if you let yourself be discriminated against", says one migrant¹. Some believe that discrimination is even stronger in Mexico, where racial prejudices are quite common².

Another frequent topic is the comparison between the US and Canada, above all for Mexican residents in Canada. Some appear to have chosen Canada as a society more open to migrants than the US. In Canada, they say, it is less probable that they will be discriminated against for being foreigners. This turns out to be a prejudice at times, when some of the individuals have never been to the US, but complain of that country being racist.

As a matter of fact, the profile of migrants to the US and Canada is different. There are almost no undocumented immigrants in Canada, besides fake refugees. Most interviewees are proud to say that Canada needs migrants, and that therefore their social and moral status is higher than that of immigrants in the US. To the contrary, some professionals in the US, above all in New York, would sacrifice anything to live in this cosmopolitan city. It is they who need the city, not the city that needs them.

The Crisis for Mexican Elite Workers

When asked about the effects of the 2008 crisis on their professional lives, migrants in the US and Canada mention budget cuts; higher cost of services due to fluctuations in the US dollar/Canadian dollar exchange rate; increasing competition with countries like France and Japan; longer working hours to raise output; irregular and uncertain payment for independent consultants; and staff lay-offs.

Only those in Canada talked about governmental aid with risk capital to diminish the impact of the crisis; the late impact of the crisis (in 2009); or the idea that the crisis was exaggerated by the media, sparking fear, but the results were not that serious.

Migrants in the US but not in Canada complained about the return of skilled workers to Mexico due to lack of jobs; their preference for more stable jobs as opposed to better paid jobs; companies going bankrupt; and higher living expenses.

In most cases, the crisis did not affect Mexican migrants in Canada. Canadian companies had signed long-term contracts that allowed them to avoid the crisis; and the government helped with risk capital. One person even noted, "There was a lot of capital investment in Canada and low taxes allowed many people to buy their own homes"³. Many Mexican families migrated to Canada, mainly Quebec, in 2008-2009 due to the insecurity Mexico is experiencing at present.

They Had a Dream

New destinations in the US and Canada help Mexican migrants fulfill their professional and private dreams. As one migrant put it, "We have dreams and this country helps us make them come true". At the same time, incentives for return are not enough in the current context of insecurity and scant professional opportunities in Mexico. This creates resentment and

¹Corporate chief of global strategy, 36 years old, 12 years in the US.

²Network engineer, 54 years old, 26 years in Canada.

³Engineer, 33 years old, 5 years in Montreal.

makes it difficult for migrants to cooperate with their native country.

Mexico has to compete with strong attraction factors in the US and Canadian labor markets, due to their stronger economies and to NAFTA migration conditions. Taking into account previous analyses that stated that Mexico has not taken sufficiently advantage of the TN visas, migration of professionals could even increase.

Discussion

Inequalities and disparities among the three economic systems and migration flows in the NAFTA countries have led certain authors to think about a social contract on migration.

Solimano (2010, Loc. 2165-2171) thinks of a social contract on migration as an international task, not only a national one. "This would be the only way to represent all stakeholders: the migrants, the governments, employers' associations, labor unions, and civil society organizations in both countries of origin and destination nations"⁴.

According to Solimano, the followings are some of the challenges for establishing a more humane, rational international migration regime for *both* sending and receiving nations:

For receiving countries:

- Rich countries face obvious limits in using immigration to permanently solve their labor scarcity, skill shortages, and the demographic challenges of aging societies.
- Advanced countries must unshackle their cumbersome immigration regimes and rely less on irregular migration and labor market differentiation.

For sending countries:

- Sending countries must adopt policies to promote home-based development and employment as a way to moderate current emigration pressures.
- Sending countries should assume basic responsibilities toward the emigrant community, giving them a voice and legal support.
- Source countries must create good governance, improve democracy, and support their Diasporas.
- A global social contract for international migration is required. A durable global social contract must be cemented around a consensus on migration and supported by rules and institutions that regulate and set standards for the international mobility of people and elites. Part of the responsibility for the absence of a multilateral framework on migration rests not only in rich countries that benefit from unregulated flows of foreign cheap labor and skilled professionals, but also on developing/source countries. Sending countries that engage in a global social contract need to have coherent and articulated views of what they expect from international migration. Is migration a weapon for negotiation in trade talks and foreign investment regimes with rich countries, which are always afraid of the risk of massive immigration? How effectively do developing countries genuinely care about and support rights, social protection, and the welfare of their citizens who reside and work abroad? Should immigrants be considered assets who send remittances? What about return migration and the transfer of ideas, technology, and knowledge of foreign markets valued by countries of origin? What is the scope

for collective action in the field of international migration that has also a South-South dimension?

Advancing toward a social contract on international migration would require destination countries to be willing to obey the rules of international migration established in negotiations and by consensus among source and receiving countries and to refrain from consistently benefiting from a shadow labor market of instantly available foreign labor (Solimano, 2010, Loc. 2244-2248 to 2314-2318).

Is this idea pure Utopia? Perhaps it could be used as a basis for negotiating such difficult and apparently irresolvable problems as Mexican migration to the US. I leave this topic open for discussion.

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⁴Fitzgerald (2008) also theorizes on a new social contract between immigrants and countries of origin, which he dubs "citizenship a la carte".

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