

# *From Limited to Active Engagement: Mexico's Emigration Policies from a Foreign Policy Perspective (2000–2006)*

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Mexico's emigration policies – including the state's engagement with the diaspora, the discourse in relation to emigrants, the responses to U.S. migration policies and legislation, and the priority given to the issue in the national and bilateral agendas – have undergone a process of transformation since the late 1980s and particularly after 2000. From a history of generally limited engagement in terms of responding to U.S. policies and a traditional interpretation of consular protection activities, Mexico has gradually developed more active policies in relation to the diaspora and began a process of redefining its position on emigration. In addition to the processes of political change in Mexico and the growing impact of migrants' transnational activities, changes in Mexico's emigration policies are also a result of transformations in foreign policy principles and strategies, mainly as a result of the evolution of U.S.-Mexico relations since the late 1980s and particularly since NAFTA. These findings demonstrate the significance of international factors – namely host state – sending state relations and foreign policy interests, discourse, and traditions – in the design and implementation of migration policies and the need to develop multi-level analyses to explain states' objectives, interests, and capacities in the management of migration.

The policies of migrant-sending states<sup>1</sup> aimed at regulating migration flows, addressing their causes or developing relationships with the diaspora

<sup>1</sup>Kim Barry (2006:13–14, n.5) argues that the terms “sending” state and “host” or “receiving” state are misleading “and reflect and reinforce policy positions in the North that developed *receiving* countries neither generate nor facilitate migrant flows.” She also claims that these terms imply that sending states are passive and host states are active. Other terms that can be used to avoid these implications are “home states,” “homelands,” “countries of origin,” or “emigration states.” Gamlen (2006:3) has also pointed out the need to debunk the myths of sending states as poor, disinterested, southern states: sending states are not necessarily “responding to inferior positions in the asymmetrical world system” and neither are receiving states solely developed countries. Without disregarding these nuances, in this paper I use the common terminology of “sending state” and “home state” as well as “host state” or “receiving state.”

have been the object of relatively few academic studies compared with the literature on host states. Existing studies have generally explained sending country emigration policies as a result of a structural dependence on migrant remittances or determined by the need of a safety valve to unemployment or political pressures. However, there is growing evidence about the capacity and interest that countries of emigration – both in the developed and in the developing world – have in controlling population movements, establishing closer ties with their diaspora, extending political and economic rights for emigrants, and exercising pressure in host countries for the benefit of the migrant population (Guarnizo, 1998; Shain, 1999/2000; Itzigsohn, 2000; Levitt and de la Dehesa, 2003; Østergaard-Nielsen, 2003; Smith, 2003; Levitt and Glick Schiller, 2004; Barry, 2006; Fitzgerald, 2006; Gamlen, 2006). Thus, there is a recognized need to reconsider the role of sending states in developing transnational relationships with their communities abroad and to examine the domestic, transnational and international causes and consequences of their emigration policies as well as the implications of these policies in bilateral relations and their linkage with other economic and political processes such as regional integration and democratization.

Mexico's emigration policies – including the state's engagement with the diaspora, the discourse in relation to emigrants, the responses to U.S. migration policies and legislation, and the priority given to the issue in the national and bilateral agendas – have undergone a process of transformation since the late 1980s and particularly after 2000. From a history of generally limited engagement in terms of responding to U.S. policies and a traditional interpretation of consular protection activities, Mexico has gradually developed more active policies toward the diaspora and began a process of redefining its position on emigration. These changes are tied to political and economic transformations taking place at the domestic, transnational, and international levels. Without disregarding the importance of domestic and transnational processes, such as democratization in Mexico and the increased economic and political activity of migrants in the home country, which have been more widely studied, in this analysis, I emphasize the influence of changes at the international level, particularly the dynamics of the U.S.-Mexico bilateral relationship and changes in Mexico's foreign policy, in the development of policies toward emigrants.

I argue that in addition to the processes of political change in Mexico and the growing impact of migrants' transnational activities, changes in Mexico's emigration policies are also a result of a gradual redefinition of

foreign policy principles and strategies, mainly as a result of transformations that took place in U.S.-Mexico relations since the late 1980s and particularly since the passage of NAFTA in 1994. The general stability in the relationship since the signing of NAFTA, the institutionalization of information exchanges and contacts between the governments at different levels, and the creation of bilateral working groups and studies as well as formal mechanisms for collaboration on specific issues related to migration set precedents that allowed Mexico to have a better understanding of U.S. actors involved in the debate and their positions on migration issues. More importantly, this allowed Mexico to move away from the idea that greater activism on its part could destabilize the relationship, have costs in other areas or imply a negative change in the status quo.

The modification in the use and interpretation of the foreign policy principle of non-intervention has allowed the Mexican government to engage more actively with the diaspora, and develop a more assertive position in terms of expressing opinions and criticizing U.S. policies and legislation or lobbying for specific immigration policies. The strategy of delinkage of issues in the bilateral agenda – particularly sensitive issues such as immigration – has also changed, as Mexico has placed migration as a high priority in the bilateral agenda, supported the establishment of bilateral cooperation mechanisms for the management of migration, and attempted a negotiation of a comprehensive agreement presenting it as a natural evolution of economic and regional integration. Although these changes are still in a process of development and are a matter of debate in Mexico, as well as generating negative reactions among some groups in the United States, they have evolved in a similar direction in the past two decades, which is evidence of a profound and continuous shift in the Mexican state's position on emigration.

Studies by Martínez-Saldaña (2003), Østergaard-Nielsen (2003), Levitt and de la Dehesa (2003), and Fitzgerald (2005, 2006) recognize that sending states' structural position in the international system and the asymmetry of power between sending and receiving countries is a key factor that defines the policy options of sending countries. As Østergaard-Nielsen (2003:220) explains, "sending countries are not unaware that too much overt pressure on their nationals in another country may not be welcome by the host country authorities.... In order not to strain bilateral relations or, indeed, put their nationals abroad in a vulnerable position, sending countries may hold back on their mobilizing efforts." However, none of these studies have systematically examined the relationship

between asymmetry of power and sending state policies, or the linkage between shifts in sending state policies and changes in bilateral relations, which could be due to conflict, to changes in the international context, to closer integration in other policy areas, or to growing transnational activity in the countries involved. This paper examines the historical influence of U.S.-Mexico relations in Mexico's position on emigration and explains changes in Mexico's emigration policies since the late 1980s, and particularly since 2000, highlighting the influence of closer economic integration between the countries, particularly in the NAFTA context, in Mexico's gradual engagement with the diaspora and increasing activism in response to U.S. policies. The examples of the most recent changes in Mexico's policies since 2000 discussed here show how these are tied with evolving definitions of foreign policy principles and strategies. This analysis highlights the importance of the international level of analysis in examining sending states' emigration policies. It also points to some of the challenges that Mexico faces in terms of managing migration as part of the bilateral agenda, the implications of closer relations between the sending state and the diaspora, and the possibilities and limits of the home country's diplomatic activity with regard to the receiving country's migration agenda in a context of power asymmetry.

The article is divided into four parts. The first section explains how the dynamics of the U.S.-Mexico bilateral relationship have historically influenced the development of Mexico's emigration policies. This account shows how the principle of "non-intervention" and the strategy of "delinkage" of issues in the bilateral agenda were traditionally interpreted with regard to migration issues, leading to the Mexican governments' generally passive position on bilateral discussions of migration and on relations with the migrant communities. The second section examines changes in Mexico's foreign policy since the mid-1980s, particularly in the context of economic liberalization and then NAFTA, and how these processes, together with the changes in migrants' characteristics in the context of the 1986 Immigration Reform and Control Act (IRCA) and their growing political and economic influence, led to a gradual change of the Mexican government's position on migration. A climactic point in this evolution was reached during Vicente Fox's government (2000–2006), which is the focus of the third section. Drawing a contrast with traditional interpretations of "non-intervention" and the delinkage of issues in the bilateral agenda, I examine two main areas of the migration agenda that exemplify the change of Mexico's position on migration

issues: 1) the 2001 proposal for a U.S.-Mexico migration agreement and the Mexican government's persistence on influencing the agenda on immigration reform after the bilateral proposal failed; 2) the institutionalization of diaspora engagement policies through creation of Institute of Mexicans Abroad, the promotion of acceptance of *matriculas consulares* and the first exercise of absentee voting in the presidential elections of 2006. The fourth section examines legacies of "non-intervention" exemplified by Mexico's cautious position on some aspects of the migration agenda, particularly regarding the development of a Mexican lobby group in the United States and the political mobilization of members of the IME's Advisory Board (CCIME) in relation to immigration reform, as was the case during the 2006 demonstrations against the Sensenbrenner Bill (H.R. 4437). I conclude with some remarks regarding the current challenges in the management of migration in the NAFTA context and the significance of the findings in this work for migration studies, specifically for the study of sending states' emigration policies from a multi-level perspective.

### *MEXICAN EMIGRATION POLICIES IN THE CONTEXT OF U.S.-MEXICO RELATIONS*

The 2,000-mile shared border between Mexico and the United States has determined the existence of an exceptional bilateral relationship between these nations. The two countries are linked through trade and investment, tourism, migration, common problems such as drug traffic or environmental concerns, and cultural, social, and family ties. In 2007, Mexico was the third most important trading partner for the United States after Canada and China, while the United States is Mexico's main market for exports and supplier of imports, with an estimated total turnover trade of \$347 billion dollars in 2007 (U.S. Census Bureau, 2007). In 2004, 12,338 trucks crossed the U.S.-Mexico border daily and 660,000 passengers crossed per day across its 35 points of entry (Migration Policy Institute, 2006).

The Mexican-origin population of 29.3 million (of which about 17 million are second- or third-generation immigrants) constitutes 64 percent of the growing Hispanic population of 45.5 million in the United States (CONAPO, 2007; U.S. Census Bureau, 2008), and 20 percent of Mexico's total population. Mexico is one of the largest sources of legal migrants to the United States – between five and six million – and by far

the largest source of undocumented migrants – an estimated 6.9 million by 2007 (this represents more than half of the total number of undocumented migrants in the country) (CONAPO, 2008; DHS, 2008). Part of what makes this a unique case compared to other migrations is the history of Mexican emigration to the United States dating back at least 150 years, the size of the migrant population, and the extent and dynamics of the shared border.

Although the levels of conflict and cooperation, dependence and interdependence between Mexico and the United States have varied across different periods, the asymmetry of power between the countries has been considered a determining factor in establishing the limits and possibilities for Mexican foreign policy. American and Mexican scholars disagree on “the extent to which the asymmetries between the countries translate into effective power by the U.S. over the Mexican government” and the way in which it has varied over time<sup>2</sup> (Vásquez and García y Griego, 1983:9). For example, Ronfeldt and Sereseres (1983:85) explain that “dependency is not entirely a myth, but in policy terms it is limited and negotiable” given that it is not in the United States’ interest to damage Mexico, as this would also mean harming itself. This idea is also expressed by Rico (1986:62) through the concept of the “precipice paradox,” which suggests that the United States will exercise pressure over Mexico to benefit its own interests but will never push Mexico “over the precipice” into a critical economic or political situation, as this would also affect the United States’ interests given the high level of interdependence and the great number of governmental and non-governmental links between the countries and societies. Thus, although there is consensus about the fact that the United States has considerable leverage over Mexico given the power structure, there can be variations in the way this asymmetry is expressed according to the bilateral and international context or to each particular issue.

Notwithstanding these caveats, Mexico’s dependence on U.S. foreign investment, trade, tourism, and technology has translated into certain foreign policy strategies through which the Mexican government has historically tried to protect its vulnerable position vis-à-vis the United States. Traditionally, this has included the advocacy of the foreign policy principle of non-intervention in dealing with the U.S. political system;

<sup>2</sup>Ronfeldt and Sereseres (1983:85) claim that Mexican dependency over the United States is exaggerated and there is a “myth of U.S. bargaining leverage,” which was used by the Mexican government as a scapegoat for domestic problems through a nationalistic discourse and as a way to avoid negotiations and preserve the status quo.

delinkage or compartmentalization of issues in the bilateral agenda; and negotiations with the executive rather than lobbying or working with U.S. Congress or the relevant departments.

Mexico has been highly dependent on the continuation of emigration – through formal or informal channels – as a “safety valve” for economic and political pressures and, more recently, as a key source of income for remittance recipients. As a result, Mexico is more vulnerable and sensitive to changes in the flows and to the impact of U.S. restrictive policies. Therefore, in general, Mexican governments have tried to maintain a relatively disadvantageous but stable *status quo* in order to guarantee the continuation of the flows and avoid entering into a bilateral agreement that Mexico could not adequately handle or which could increase its vulnerability in the long term (such as the Bracero Agreements), both in terms of resources and notions of national identity. Thus, despite continued abuses and discrimination against Mexican workers, violation of contracts, and the costs of emigration, particularly for some regions, the government generally maintained a “policy of no policy” that included limited reactions to U.S. migration policies and legislation (García y Griego, 1988) as well as limited control or deterrence of emigration.<sup>3</sup> For example, based on Article 11 of the 1917 Constitution, which recognizes Mexican citizens’ right to freely enter and exit the country, the government argued that it could not impose restrictions on emigration (Cardoso, 1979:21).

This dependence on emigration and the interest in maintaining a stable relationship with the United States was translated into the strategies

<sup>3</sup>Fitzgerald (2008) argues that in some periods the Mexican government did attempt to dissuade emigration or control the geographic origin of migrants through propaganda, issuance of travel documents, or establishing hiring centers during the Bracero Program. However, he argues that these initiatives failed because some local governments still saw emigration as an escape valve to alleviate economic and political crises and quietly avoided these federal directives. Yet, an underlying question that Fitzgerald does not address is the extent to which the federal government was really trying to control emigration given that it was also an escape valve to economic and political pressures faced by the state. Although during certain periods, particularly after the Revolution, there was a rhetoric of “bringing back los hijos de la patria,” the lack of bureaucratic organization and clear definition of these stated objectives at the federal level hindered the development of an official and efficient policy. Furthermore, given that these policies were not actively pursued based on arguments such as the constitutional right to freely enter and exit the country, it could be argued that the calls for dissuading emigration and promoting migrants’ return were mainly motivated by a nationalist rhetoric and the need to legitimize the regime but were not serious attempts to control emigration.



of delinkage and the use of the non-intervention discourse, which have varied according to different contexts but have generally tried to achieve the same objective of preserving the status quo and avoiding conflict with the United States while protecting migrants' rights. The delinkage strategy means that Mexico has generally preferred to deal with issues separately in the bilateral agenda, considering that linking them would affect (or "contaminate") other priority areas in the bilateral relationship, particularly regarding economic cooperation or political support; or that it would compromise Mexico's interests in other areas, such as a possible link with negotiations over oil (as was the case when Mexico rejected a possible negotiation for a guest worker program in 1974) or cooperation on priority issues (for example, when Mexico agreed to exclude migration from the NAFTA negotiations in order to facilitate passage of the agreement). Moreover, as a result of failed bilateral attempts to manage migration, such as the Bracero Agreements (1942–1964), Mexico considered that any negotiation would turn out to be disadvantageous to its position in the long term and would not necessarily guarantee better protection for migrant workers. As long as the flows continued uninterrupted, Mexico had few incentives to attempt a negotiation with the United States by linking it to other issues.

Another reason for Mexico's traditional lack of initiative on the management of migration at the bilateral level is related to the government's considerations regarding "the dangers associated with *intervening* in U.S. domestic politics" (Rico, 1992:268–269). The principle of non-intervention has been one of the main axes of Mexican foreign policy since the late 19th century. This policy was based on the idea that every country should respect the principle of self-determination and not interfere in the domestic affairs of others. In turn, this would presumably prevent foreign interventions in Mexican affairs. However, as Ojeda (1974:477) explains, this was not just a policy based on legalistic terms in order to defend the Mexican state or to support other countries "romantically and philanthropically," but a way in which Mexico achieved its own domestic interests in terms of legitimizing the regime.<sup>4</sup> Thus, the principle has been interpreted and implemented with flexibility, according

<sup>4</sup>An example of this was Mexico's "non-interventionist" position regarding the 1959 Cuban Revolution, which not only served the purpose of preserving Mexico's traditional foreign policy but also had a legitimizing purpose given the support of Mexican leftist groups to the Cuban Revolution and the comparison between the Cuban process and Mexico's unfulfilled revolutionary promises (Ojeda, 1974).



to the state's interests and to international and domestic contexts (Chabat, 1986; Heller, 2002; Covarrubias, 2006).

In terms of emigration policies, this principle was reflected in Mexico's relationship with the migrant communities in the United States and its consular protection activities, at least until the late 1980s. While Mexico fostered relations with migrant community organizations and supported their activities since the mid-19th century, consulates worked under the specific mandate of non-interference in U.S. domestic politics. Consuls were present and active in the United States from 1848 by providing aid in cases of discrimination, violation of property rights, labor disputes, and the development of migrant organizations. However, this activity varied according to each consul's preferences and objectives (Balderrama, 1982; Águila, 2004), and to the types of problems experienced by the community in each period, and were limited in their design and implementation by the foreign policy principle of non-intervention. Their activities focused mainly on the issuance of travel documents, notary and civic registry functions, carrying out orders by Mexican judges, informing the Mexican government about the political situation in the country or region assigned, promoting the image of Mexico, and defending the interests of nationals abroad (González Gutiérrez, 1997). Consular protection activities were "limited by the principle that the consulates should not question the legal norms – nor the local political authorities of a particular jurisdiction" and should "admonish *braceros* to avoid confrontations with the police, courts and local citizens" (Zazueta, 1983:449). Thus, consular activities were traditionally "done silently," as a "conscious attempt to avoid unnecessary publicity concerning protection services" (González Gutiérrez, 1993:227).

Non-intervention in migration issues was also interpreted in terms of "respecting the sovereign right of the United States to pass legislation on this question without attempting to influence the domestic policymaking process" (Rico, 1992:268–269). For example, during some of the most important debates regarding immigration reform, particularly in the 1970s and 1980s, including the IRCA of 1986, although Mexican authorities were presumably invited to participate and comment on the issues, they refused to become actively involved arguing that these were unilateral initiatives and Mexican opinions would not make a difference. They also considered that just as a "positive change in the status quo was not a possibility, a negative one was seen as not likely" (Rico, 1992:267). Moreover, as was the case in other areas of the bilateral relationship, Mexico

had little experience and expertise regarding lobbying on these issues and feared that a more active position on this issue could negatively affect other more important areas of the relationship such as trade and foreign investment (Rico, 1992:268–269).

Until the 1990s, Mexico held on to the principle of non-intervention as a justification to avoid lobbying with the United States and dealing only with the executive branch (mainly with the White House and the Department of State) in its bilateral negotiations, which resulted in a “closet diplomacy” based on “quiet, informal, loosely structured personal consultations focused on specific issues rather on the broader relationship or issue linkages” (Ronfeldt and Sereseres, 1983:79–80). This logic rested on the idea that by abstaining from using mechanisms to interfere in U.S. domestic affairs, the United States would have no justification to interfere in Mexico (Eisenstadt, 2000:73). However, this reasoning is considered naïve given that the United States would have interfered in Mexico’s domestic affairs if it considered it in its interest regardless of what Mexico did. Moreover, the U.S. system is organized in a way in which lobbying from other countries is not considered a violation of sovereignty (Ronfeldt and Sereseres, 1983; Eisenstadt, 2000). One of the consequences of this position was that, in general, Mexico was not well organized for understanding U.S. government processes and representing its interests within them.

### *CHANGES IN FOREIGN POLICY AND EMIGRATION POLICIES*

In the early 1980s, as Mexico’s protectionist economic model and closed political system showed signs of exhaustion, Mexican domestic and foreign policies began to change. When Mexico’s long-overdue economic problems reached crisis levels, particularly in 1982, the nationalist justification for a distant relationship with the United States was transformed, as direct and indirect support of the U.S. government became crucial to avoid a deepening crisis and the default on Mexico’s international obligations (Meyer, 2004:12). From the 1982 crisis, Mexico’s foreign policy regarding the bilateral relationship was “very different, almost opposed to the one that had prevailed for the past 100 years” as a new technocratic political elite – mostly educated in the United States – implemented measures to liberalize the economy and seek closer integration with the United States (Meyer, 2000:126–127, 137–138).

At the same time, the passage of the 1986 IRCA implied a fundamental change in the migration dynamic by regularizing the status of more than two million Mexicans, which was one of the factors that determined the break of the cycle of circularity in migration patterns, lengthened migrants' periods of stay in the country and increased migration to new areas in the United States. IRCA also marked the beginning of the implementation of a more restrictive policy for border crossings, which was strengthened in the mid-1990s. This created new demands from the Mexican population in terms of consular protection, and made the issue more salient in Mexico given the growing number of deaths at the border and reports of violations of migrants' rights. Public opinion in Mexico toward emigrants also began shifting from seeing them as traitors or *pochos* to considering them as heroes that made significant contributions to the country, particularly as the flow of remittances increased (González Gutiérrez, 1999).

These changes gradually led the Mexican government to shift "from its position of deliberate non-engagement on migration matters to a stance of increasing dialogue with its U.S. counterpart" (Domínguez and Fernández de Castro, 2001:33) and from a limited relationship with Mexican migrants and Mexican-Americans to an active pursuit of contacts with these groups and the development of programs and institutions involving this population. In contrast to its traditional position, by the mid-1990s, the Mexican government began communicating its views to the United States concerning local initiatives affecting migrants, such as Proposition 187,<sup>5</sup> and migration legislation then under discussion in the U.S. Congress (García y Griego and Vereá, 1998). Mexico also pursued a closer relationship with the growing Mexican and Mexican American communities in the United States through the Program of

<sup>5</sup>As opposed to Mexico's traditional position against expressing its opinion on U.S. legislative proposals, the Mexican government's open rejection of this citizen initiative that would limit migrants' access to public services and education represented a substantial change in the interpretation of the limits and possibilities for action in these issues (García y Griego and Vereá, 1998). On August 13, 1994, at an event in Los Angeles, the Under Secretary for North American Affairs, Andrés Rozental, expressed the Mexican government's strong opposition to this initiative, in a statement that has been widely quoted as a climactic point of the change in Mexico's "non-interventionist" attitude toward these issues. This statement was remarkable not only because it clearly expressed the Mexican government's disagreement on an issue concerning U.S. politics, but mainly because it was expressed publicly, in U.S. territory, and it included a commitment from the Mexican government to participate actively in the debate.

Rapprochement with Mexican Communities Abroad (*Programa de Acercamiento con las Comunidades Mexicanas en el Exterior* – PCME), established in 1990. In addition to cultural, education, health, business, and tourism initiatives, the Mexican government supported the creation of Hometown Associations and pursued lobbying activities that directly involved the Mexican American community in support of NAFTA.

The opening of Mexico's economic and political system facilitated Mexico-U.S. cooperation as Mexico adopted a "less ideologically oriented and more pragmatic foreign policy" and promoted the institutionalization of the bilateral mechanisms (González González, 2000:18). The turning point of this change was the signing of NAFTA in 1993, which represented a break with the nationalist doctrine and persistent anti-Americanism in the country. One of the consequences of this openness and the development of a closer relationship with the United States was Mexico's gradual change of some of its foreign policy strategies and interpretations of the constitutional principles on which they were based. This included intense lobbying campaigns in the United States – through Congress, business, political, and social leaders of the Mexican-American community, and think tanks (Eisenstadt, 2000; Velasco, 2000). Mexico also used public relations tools to promote its image in the United States – through cultural programs, the expansion of relations with the foreign press, strengthening the consular networks with new personnel and resources, and improving relations with local authorities and communities. Finally, Mexico's foreign policymaking process underwent a process of decentralization by giving a more prominent role to other ministries and departments rather than controlling it solely through the executive and the Ministry for Foreign Affairs (González González, 2000:16–20).

As a result of this closer relationship with the United States, a significant development was the creation of new mechanisms for consultation and cooperation between Mexico and the United States and the strengthening of the existing commissions, such as the annual cabinet-level Binational Commission meetings, the conferences for border governors and for attorney generals from border states, as well as the Working Group on Migration and Consular Affairs, created in 1987 as part of the U.S.-Mexico Binational Commission. In the 1990s, a number of Border Liaison Mechanisms were established as well as the Interior Consultation Mechanisms on INS Functions and Consular Protection, the Safe and Orderly Repatriation Agreements, and the joint training programs between the U.S. Border Patrol and the Mexican *Grupos Beta*. Numerous Memoranda

of Understanding were signed and a Binational Study on Migration was conducted between 1995 and 1997 (Fernández de Castro, 1997:63–64; Storrs, 2006).

The “intermestic” nature of some of the most important issues in the bilateral agenda not only triggered a debate about the country’s foreign policy principles but also about the notion of sovereignty (Rico in interview with Thelen, 1999:473). The needs of a growing and more politically and economically active migrant population put the Mexican government in a position where it was “caught between, on the one hand, wanting to preserve the principle of non-intervention and, on the other, protecting them [the migrant population]” (Rico, in interview with Thelen, 1999:474), a situation that led Mexican authorities to examine more thoroughly which type of activities were acceptable within the U.S. legal and political framework and develop a more flexible interpretation of the principle of non-intervention in relation to these issues.

Changes in Mexico’s emigration policies from a limited engagement to a more active relationship with emigrants and a proactive response to U.S. policies and legislation result from converging domestic, transnational, and international factors, including the processes of democratization and economic liberalization in Mexico, the Mexican and Mexican American community’s political and economic empowerment in both countries, the importance of remittances and other transnational activities linking them to Mexico, as well as changes in U.S.-Mexico relations in the NAFTA era (Shain, 1999/2000; Martínez-Saldaña, 2003; Smith, 2003). Although most studies recognize the importance of domestic, transnational, and international factors, the evidence analyzed generally has to do with economic and political developments at the domestic and transnational levels. However, as is explained here, the context of the U.S.-Mexico relationship is a crucial factor that has determined the Mexican government’s assessment of the possibilities and consequences of implementing certain emigration policies in different periods. Changes at the foreign policy level are certainly linked with transformations in domestic and transnational politics but the historical developments in the U.S.-Mexico bilateral relationship should also be examined as an independent factor that has influenced changes in Mexico’s emigration policies. The following examples of Mexico’s discourse and activities related to migration during the Fox administration demonstrate the influence of foreign policy traditions and sending state–host state relations in the

definition and execution of migration policies, as well as the possibilities and limits for changes in these policies in a context of asymmetry of power in the relationship.

### *FROM LIMITED TO ACTIVE ENGAGEMENT (2000–2006)*

The changes in Mexico's foreign policy discourse and activities since 2000 reflected a search for a new definition of its principles and objectives that could balance the country's interests in the face of a new international and domestic context (Covarrubias, 2006). The end of the Cold War and the advent of U.S. hegemony, the strengthening of regional blocs, and the increasing pressures of globalization, especially for developing countries, were part of Vicente Fox's government's (2000–2006) considerations in promoting a shift from a closed and "distant" foreign policy to a more active presence in multilateral forums and an explicit, closer relationship with the United States (Castañeda, 2001, 2002). At the national level, the process of democratization, particularly with the change of government in 2000, gave the Mexican political system a newfound legitimacy before the international community and a wider space for action regarding certain issues that had not been dealt with at the international level before, such as immigration.

Although Mexican foreign policy had begun a process of change in the 1980s, and particularly with NAFTA, in terms of pursuing a closer relationship with the United States, the main difference during the Fox administration was that the priority of the bilateral relationship was expressed "openly and vehemently" and the change was made explicit in Mexico's foreign policy discourse (Meyer, 2002). The traditional foreign policy principles still remained an important component of policymaking in this area and to a certain extent limited Fox's agenda, but the government considered it necessary to update its interpretation according to new realities. Mexico now had the will and the capacity to express its opinion and to be more proactive given that it was an open and democratic country that no longer feared international scrutiny.

In this context, at the suggestion of Foreign Minister Castañeda and other close advisors to President Fox, the Mexican government changed course in terms of the traditional role assigned to migration issues in the national and bilateral agendas. Moving away from a passive and reactive attitude to U.S. migration policies, Mexico decided to take the offensive,

proposing an agenda for bilateral cooperation on these issues, particularly through a migration agreement between Mexico and the United States. This represented a change in the strategy of delinkage of issues in the bilateral agenda, as the Mexican government described this proposal as part of the process of economic integration and a move toward a "NAFTA Plus." At the same time, this attitude signified a shift in Mexico's unchallenged acceptance of the limits imposed by the asymmetric relationship and its "resignation in advance" to promoting an agenda favorable to its interests under the assumption that Washington would ultimately impose its own (Fernández de Castro, 2002b).

Fox's government also took an important step by strengthening and institutionalizing the relationship with the Mexican-origin communities in the United States and making them a priority in the national agenda. This was done mainly by creating the Presidential Office for Mexicans Abroad (OPME, in Spanish) in December 2000, which was later integrated into the Institute of Mexicans Abroad (IME, in Spanish), established in April 2003. By promoting an agenda that implicitly and explicitly gave migrants access to channels for direct political participation in Mexico and tools for empowering and strengthening their organizations in the United States, the Mexican government also moved away from a traditional interpretation of its consular activities and the protection of migrants' rights, developing a more audacious and far-reaching definition of these activities (Durand, 2005:31).

It is important to note that these changes in Mexican foreign policy are still in a process of development. Although there is a general agreement on the importance of making migration a priority in the agenda, there is no consensus yet about how to define Mexico's position on the issue, at the national and bilateral levels. This is partly related to the "absence of a national consciousness" on migration and the fact that Mexican society has generally been indifferent to it and therefore has not imposed costs on the government for the lack of attention to these issues (Bustamante, 2002; Durand, 2004). It is also related to the prevalence of nationalism and traditional interpretations of Mexico's foreign policy principles. While some members of the government and intellectuals are convinced of the need to move beyond a definition of Mexican nationalism as anti-Americanism, which is contradictory with the reality of the concentration of commercial and social exchanges between the countries, this novel approach to the bilateral relationship is disputed by more conservative groups within the governing elite, political parties,



and public opinion (Krauze, 2005). This debate has called into question what Mexico's foreign policy should consist of in the current bilateral, regional, and global context, as well as the definition of its relationship with the United States and of its migration policies (Meyer, 2003, 2005).

The following subsections examine the two main areas of the migration agenda that exemplify the recent changes in Mexico's position. The first part analyzes the 2001 proposal for a U.S.–Mexico migration agreement and, more significantly, the Mexican government's persistence on influencing the agenda on immigration reform after the bilateral proposal failed, which represents a significant departure from the strategy of delinkage and the traditional interpretation of the principle of non-intervention. The second part describes the government's broadening of the definition of consular protection activities and the promotion of migrants' rights as well as the active engagement with the diaspora. The first example is the creation of the Institute of Mexicans Abroad and an Advisory Council integrated by migrant leaders, which institutionalized the relationship between the state and the diaspora and provided it with new channels of participation in Mexico, in addition to offering a broad range of services and promoting the development of migrant leadership. Another example of new activities regarding the protection of migrants' rights and the reinterpretation of the principle of non-intervention and the dangers of lobbying is the promotion of the acceptance of consular IDs. Finally, the passage of the legislation allowing migrants to vote in the 2006 presidential election is a significant example of the government's interest in extending rights to emigrants. However, it also shows the limitations of this type of initiative, both in terms of the government's concerns of its being perceived negatively in the United States, as well as the migrants' interest in participating in Mexico's political processes, which is evidence of the persistent challenges in the development of Mexico's position on the management of migration.

### *The Proposal for a Migration Agreement: A Move Away from Delinkage*

The Mexican government's proposal for making migration a priority issue in the bilateral agenda was based mainly on the report "Mexico-U.S. Migration: A Shared Responsibility," issued by the U.S.-Mexico

Migration Panel (2001).<sup>6</sup> The panel's report drew on the findings of the Binational Study Group (1995–1997), which provided the foundation for common definitions and categories that enabled influential actors on both sides to agree on the idea of a migration agreement (Alba, 2003). The Panel's proposal was based on the assumption that bilateral cooperation for the management of migration issues was a natural and necessary step given the extent of interdependence and integration between the countries, as well as the existing institutions for the management of migration developed during the 1990s. According to the report, the current NAFTA context and the high levels of interdependence between the countries made it necessary to expand cooperation to migration issues within the framework of integration.

The timing, the context, and the structural factors were deemed favorable for reaching a "grand bargain" based on the idea that migration from Mexico to the United States should be mutually beneficial; safe, legal, orderly, and predictable; and that in the long term the flows should naturally decrease and stabilize. This consisted of four main aspects, which later developed into the five points of Mexico's proposal for a migration agreement: 1) regularization of undocumented workers who were already in the United States; 2) increasing the number of visas for Mexican immigrants; 3) broadening the scope of temporary worker programs (TWP); 4) increasing border safety; and 5) targeting development initiatives to areas of high out-migration and strengthening the Mexican economy in order to reduce emigration pressures.

At the initiative of Foreign Minister Castañeda, the Mexican government adopted this agenda and presented it to its U.S. counterparts as one of the main issues to be addressed at the first presidential meeting between

<sup>6</sup>Some of President Fox's close advisors – including Jorge G. Castañeda, who a few months later became minister for foreign affairs, and Andrés Rozental, former undersecretary for North America – were part of the U.S.-Mexico Migration Panel convened by the Carnegie Endowment for International Peace and the Mexican University *Instituto Tecnológico Autónomo de México* (ITAM) in the spring of 2000 to analyze and make recommendations regarding migration and border issues in the United States and Mexico. On the U.S. side, the chair was Thomas "Mack" McLarty, a close advisor to George W. Bush (and former Chief of Staff under President Clinton). The study group included Mexican and U.S. academics, think tanks, and representatives of labor unions (SEIU; AFL-CIO), business representatives (the U.S. Chamber of Commerce), and NGOs (MALDEF; Sin Fronteras). See "How Mexico's Immigration Stance Shifted; Brothers' Vision Guides Fox's Approach to U.S.," by Kevin Sullivan and Mary Jordan, *Washington Post*, August 29, 2001, p. A01.

Bush and Fox on February 16, 2001. In their joint declaration resulting from this meeting, "Towards a Partnership for Prosperity: The Guanajuato Proposal," the presidents expressed their intention to strengthen the North American economic community and expand their collaboration to address issues related to border control, drug traffic, energy resources, and, most important, migration. They recognized the need to create an orderly framework for migration "that ensures human treatment, legal security, and dignifies labor conditions."<sup>7</sup> In order to achieve this, they announced the creation of a high-level group of negotiators chaired by the secretary of state and the attorney general of the United States, Colin Powell and John Ashcroft, and by the minister for foreign affairs and the minister of the interior of Mexico, Jorge G. Castañeda and Santiago Creel.

The fact that Mexico was willing and able to set the agenda on the issue was unprecedented. As Castañeda (2006) describes it, he "inserted" the agreement into the agenda, and "imposed it" on the United States against their will.<sup>8</sup> As a rare circumstance, Mexico's negotiating group appeared to be better prepared than the U.S. team, at least at the beginning of the discussions. Another intervening variable was the fact that at the time, Bush's foreign policy agenda was very weak and he was inexperienced in this area, but he felt comfortable dealing with issues related to Mexico and particularly with immigration, given his experience as governor of Texas (Leiken, 2002:7). However, at the time Bush did not consider the domestic costs that these negotiations would entail. Jeffrey Davidow, U.S. ambassador to Mexico at the time, asserts that, "the administration in Washington did little serious analysis of the issues before making the commitment. Little thought was given to the real possibility for success in an area that was so complex and politically volatile" (2004:216).<sup>9</sup>

On the Mexican side, the ability to promote this agenda at the bilateral level reflects the learning process that the Mexican government elite had experienced since the 1990s, and particularly since the NAFTA

<sup>7</sup>"Joint Statement by President George Bush and President Vicente Fox Towards a Partnership for Prosperity: The Guanajuato Proposal," Guanajuato, February 16, 2001.

<sup>8</sup>See also "Coincide Castañeda con libro de Davidow," *Reforma*, November 11, 2003.

<sup>9</sup>It has also been argued that Bush and his advisors saw the relationship with Fox as an opportunity to help increase the number of Latino votes for the Republican Party in the next election. However, there are divided opinions on the matter. While Alba (2003) claims that the Latino vote had very little importance in the U.S. position, Massey and Durand (2001) argue that the U.S. initiatives for cooperation with Mexico had more to do with "wooing Latino voters."

negotiations, regarding the U.S. political system, lobbying processes in the United States, and negotiating with different actors involved in the political process.<sup>10</sup> In the Mexican team's view, achieving a migration accord would be similar to the process that led to the passage of NAFTA, although in this case there was more support from the Democrats and the negotiations were more complex given the number of groups involved (churches, Latinos, labor unions, businesses, and employers) (Castañeda, personal interview, 2005).<sup>11</sup> As part of its strategy to build support and lobby for the agreement, the Mexican team met with Mexican-American leaders, business groups, the U.S. Chamber of Commerce, and labor unions, and President Fox gave a testimony in Congress and met privately with legislators during his visit to Washington, DC in September 2001.

The idea of a "NAFTA Plus" was one of the main components of Mexico's justification for the need to sign a bilateral agreement related to immigration.<sup>12</sup> However, this implied a move away from the idea of de-linkage, which had kept migration issues out of the agenda in the initial NAFTA negotiations. In Castañeda's view, "based on his conversations with his U.S. counterparts," it was no longer feasible to "compartmentalize" issues in the agenda and separate economic, political, judicial, and security

<sup>10</sup>One of the main criticisms at the national level was that the Mexican government had wrongly focused its efforts on negotiations at the executive level instead of broadening the strategy and including other actors, particularly the U.S. Congress. However, the fact that the strategy focused on the executive level during the first months of negotiations does not mean that the Mexican government did not recognize that any reform of immigration laws would necessarily go through Congress and require lobbying there. Castañeda and his team were well aware of it and understood the process but they considered that, as was the case in NAFTA, having the executive's support would offer a better opportunity for the passage of such a proposal (Mohar, personal interview, 2005; Fernández de Castro, 2002a:125; Castañeda, 2007).

<sup>11</sup>See also "Fox to intensify bid for immigration changes," *Dallas Morning News*, October 25, 2002.

<sup>12</sup>Even though it has been argued that the idea of "NAFTA Plus" was not well-received by the U.S. team who suggested that Fox should tone down the idea of a "North American Economic Community" (Rozental, personal interview, 2005), the Mexican government maintained the "NAFTA Plus" concept alive (even after the negotiations stagnated after 9/11). An example is the following statement by Sarukhan in October 2002: "NAFTA has taken North American integration to a new state, but the big leap forward [...] is providing depth to that association and that depth will be provided basically, in a first step, by a labor agreement, and then by a number of initiatives which will deal with the socioeconomic, slow convergence of the economies and societies of the three countries" ("Q & A with Arturo Sarukhan," *Dallas Morning News*, October 27, 2002).

agendas in order to prevent “contaminating” each other, as Mexico used to believe. He argued that it was necessary to “inject” the economic agenda with political issues and vice versa.<sup>13</sup>

Given the development of NAFTA and a number of bilateral cooperation mechanisms on migration issues, within sectors of the Mexican government there was a perception of stability in the relationship that would prevent changes in the status quo if Mexico introduced more sensitive issues into the agenda. Carlos González Gutiérrez, executive director of the Institute of Mexicans Abroad, confirms this view: “NAFTA had set a precedent and become a systemic part of the relationship; the institutionalization of the relationship opened new doors” (personal interview, 2004). As well, Frank Sharry, director of the National Immigration Forum, explained that “NAFTA forged relations between key actors who later participated in the process of negotiations on migration” (personal interview, 2005). On this basis, the Mexican government embarked on a “tactful but decisive” strategy (Meyer, 2003) to pressure the United States into negotiating a migration agreement.

*Breakdown of The Discussions, Yet Mexico Perseveres.* Conventional wisdom is that the 9/11 attacks were the main reason for the shift from a bilateral to a unilateral approach to migration management on the U.S. government’s part. But given the evidence of changes in the Bush administration’s position in the preceding weeks, it is likely that even if the events of 9/11 had not occurred, the President would have eventually taken a step back from the idea of a migration agreement given the political costs that it entailed and the lack of consensus within the administration and the Republican party.<sup>14</sup> Castañeda (2003) suggests that this tragic event may have just been an excuse to “freeze the negotiations indefinitely.”

<sup>13</sup>“La entrevista con Sarmiento,” *TV Azteca*, January 12, 2001.

<sup>14</sup>For example, former ambassador to Mexico Jeffrey Davidow (2004:217) has argued that even before the terrorist attacks domestic U.S. political concerns and intra-administration differences made a negotiation with Mexico almost impossible. Furthermore, he claims that real negotiations in the classic form of diplomatic bargaining never actually took place and the Mexican government overestimated the process. In his view, “the Mexicans insisted on calling the talks a negotiation, while the Americans preferred the more casual *conversations* or *discussions*.” Papademetriou explains that Davidow’s assessment is derived from the fact that the negotiations were held at a very high level, which meant that at the time very few people had information about the actual process. In his view, there was definitely a real commitment on both sides to move forward in these negotiations (personal interview, 2005).

The fact is that after September 11, 2001, the course of this bilateral dialogue was altered as the U.S. government's foreign and domestic policy priorities changed. Although migration issues were not dropped completely from the agenda, they were viewed through a security lens and cooperation with Mexico was limited to control of the borders and related security issues. U.S. officials declared that they were still interested in the proposal for a migration agreement,<sup>15</sup> but there was no progress in this regard at subsequent meetings between cabinet members or between the presidents.

Yet, instead of retreating at the sign of the U.S. disinterest, as would have been expected given Mexico's traditional position on the issue and its concern about creating tensions in the bilateral relationship, the Mexican government continued insisting on the idea of a migration agreement. President Fox went as far as declaring that there would be no "special relationship between Mexico and the United States if they did not address the immigration issue in a comprehensive manner"; he stated that achieving a migration agreement would be the ultimate test (*la prueba de fuego*) of their commitment to a new and closer relationship.<sup>16</sup> Castañeda announced that after the U.S. midterm elections, Mexico would launch a "great offensive" targeting the parties in the U.S. Congress to promote Mexico's position, "using the lobbying companies that we have had for some time" as well as the consulates and the embassy.<sup>17</sup> The Mexican government also announced the hiring of ZEMI Communications, a high-priced consulting agency in New York, to promote Mexico's interests in the United States.<sup>18</sup>

In January 2003, Castañeda presented his resignation as minister for foreign affairs, reportedly out of frustration with the lack of progress in the proposal for a migration agreement. Although the importance given to migration issues was mainly attributed to his interests and personality, this agenda remained a priority. Fox announced that Mexico would "continue with its proposal to achieve a migration agreement but would now diversify its strategy, working with local governments and with

<sup>15</sup> See, for example: "Immigration Liberalization: Delayed but not Abandoned," *CQ Weekly*, November 19, 2001.

<sup>16</sup> "Exige Fox a Estados Unidos avances reales en migración," *Reforma*, May 10, 2002.

<sup>17</sup> "Prepara Mexico ofensiva migratoria," *Reforma*, September 10, 2002.

<sup>18</sup> "Entrevista/ Alan Stoga/ Buscan revertir mala imagen," *Reforma*, December 26, 2002. See also "Fox to intensify bid for immigration changes," *Dallas Morning News*, October 25, 2002.

congressmen in order to create a broader consensus that would lead to an agreement at the federal level at a faster pace.”<sup>19</sup> Although the new foreign minister, Luis Ernesto Derbez, did not fully agree with the idea of a migration agreement, and neither did Gerónimo Gutierrez, the undersecretary for North American affairs (Castañeda, 2007:93), they maintained the issue as a priority in the agenda.<sup>20</sup>

Undersecretary Gerónimo Gutiérrez (2005) recognized that “the issue has occupied a space in the public agenda that is hardly reversible” and that “the notion that the administration of the migration phenomenon requires a shared approach has gained terrain.” The fact that despite the lack of progress in the bilateral agenda the government no longer considered it feasible to return to the previously existing status quo was not only a result of the Fox administration’s making it a priority in its agenda, but also reflected the development of a decade-long process of change in the government’s attitude toward these issues that provided a strong basis for this new approach.

Considering that the U.S. agenda was focused on security issues, the Mexican government adapted its proposal for a migration agreement, arguing that the shared management of migration flows through formal cooperation mechanisms and the regularization of undocumented immigrants in the United States would contribute to the country’s security by “bringing them out of the shadows.”<sup>21</sup> In June 2003, U.S. and Mexican officials announced the launch of “Operation Desert Safeguard” to save migrants’ lives by deploying more and better-equipped Border Patrol agents west of Nogales, Arizona, increasing the number warnings (in Spanish) of the dangers, and taking more forceful measures against smugglers (Storrs, 2005:7). However, these efforts to participate more actively

<sup>19</sup>“Anuncia Fox un cambio en estrategia migratoria” *Reforma*, January 27, 2003.

<sup>20</sup>Responding to strong criticisms in Mexico regarding the concentration of the agenda on the United States and the “bad management” of relationships with Latin America during Castañeda’s tenure, Derbez did change part of the focus, arguing Mexico would give priority to its “strategic partners,” one of which was the United States: “we privilege the relationship with Latin America and the Caribbean, the United States, Canada and Europe” (Derbez, 2003). The same idea of not focusing the whole foreign policy agenda on immigration or on the relationship with the United States was expressed by President Calderón’s incoming government in December 2006, but as Sarukhan, then appointed ambassador to the United States, explained, “this does not mean that we will stop lobbying for immigration reform” (“Ofrece Sarukhán cambiar la estrategia hacia EU,” *La Jornada*, February 16, 2007).

<sup>21</sup>See, for example, “Ofrece Creel seguridad por migración,” *Reforma*, July 11, 2003.



in border control operations and show Mexico's commitment to border security did not render any results in terms of reviving the bilateral discussions over a migration agreement.<sup>22</sup>

In January 2004, when President Bush presented a proposal for a TWP,<sup>23</sup> the Mexican strategy gradually refocused and moved toward the idea of promoting a comprehensive immigration reform, including the five points on which the proposal for the migration agreement was based, and lobbying in favor of the bills that coincided with Mexico's position. In their statements, President Fox, the foreign minister, the undersecretary for North American affairs, the ambassador to the United States, and various consuls strongly emphasized the government's support of certain bills such as the McCain-Kennedy initiative

<sup>22</sup>The only mention of a migration agreement was an unfortunate statement – which was mainly reported in Mexican media (Sarmiento, 2003) – by the House International Relations Committee in May 2003 proposing that the U.S. government should negotiate a migration accord with Mexico that would include opening the Mexican petroleum monopoly to reform and investment by U.S. oil companies and address other issues such as extradition and law enforcement issues (Storrs, 2005:6). Mexican officials and commentators were outraged by this suggestion; they considered it an intrusion in Mexico's domestic affairs and argued that oil was not subject to any negotiation, which reflects one of the strong elements of nationalism that remain in Mexico regarding any negotiation with the United States (Granados Chapa, 2003; Sarmiento, 2003). The president's office issued a statement on May 11, 2003, acknowledging that the negotiation of a migration agreement was a priority for the Fox administration, but pointing out that “negotiating such an agreement in exchange for opening up PEMEX to foreign investment would be wholly unacceptable” (Storrs, 2005:6). A similar situation occurred in the 1970s when the United States indicated its willingness to negotiate a new Bracero Program in exchange for oil.

<sup>23</sup>Bush's proposal was based on the need to make U.S. immigration laws “more rational and more humane,” without “jeopardizing the livelihoods of American citizens” and at the same time guaranteeing security, control of the borders, and meeting the country's economic needs. He called for a program that would “match willing foreign workers with willing American employers, when no Americans can be found to fill the jobs” (“President Bush Proposes New Temporary Worker Program,” White House press release, January 7, 2004). Although he did not introduce a formal bill, this proposal began a debate in Congress that led to the introduction of various legislative proposals for immigration reform, particularly throughout 2005. Some examples are: Jackson-Lee (HR 2092) – introduced on May 4, 2005; Kennedy-McCain (S.1033) – introduced on May 12, 2005; Tancredo (H.R. 3333) – introduced on July 19, 2005; Cornyn-Kyl (S.1438) – introduced on July 20, 2005; Hagel (S. 1916-1919) – introduced on October 25, 2005; Sensenbrenner (H.R. 4437) – introduced on December 6, 2005, passed in the House on December 15, 2005; Specter (S. 2611) – introduced April 7, 2006, passed in the Senate on May 25, 2006).

(S. 1033). This proposed legislation was closest to the Mexican position in terms of a flexible regularization process and a TWP with an opportunity for adjustment of status and included a section about the need for collaboration with Mexico. They also expressed their concern regarding other bills such as the Cornyn-Kyl (S. 1438) – particularly the fact that it required immigrants to return to their home country before applying for a new status and did not allow for an adjustment of status after participating in a TWP – and mainly regarding the Sensenbrenner Bill (H.R. 4437), as it focused mainly on border security measures (such as extending existing fences at the U.S.-Mexico border) and criminalized undocumented immigration, and those who provided aid to immigrants under such status.

President Fox described the Sensenbrenner Bill and the proposal to extend the fence along the Mexico-U.S. border as “a *shameful* setback in bilateral relations and as a troubling reflection of America’s willingness to tolerate *xenophobic groups that impose the law at will*.”<sup>24</sup> Minister Derbez condemned it as “stupid” and “underhanded.”<sup>25</sup> In response to these statements, Sensenbrenner accused Mexico of intervening in U.S. domestic affairs, to which Minister Derbez responded that the Mexican government would “do whatever is necessary to defend the human and labor rights of Mexicans who emigrate,” stressing that this did not represent an intervention in the United States’ domestic politics.<sup>26</sup> At a meeting in Mexico City in January 2006, a group of Latin American foreign ministers and other officials issued a joint declaration that included a statement against “partial measures that only focus on reinforcing security.”<sup>27</sup> Finally, Mexico declared that it would intensify its lobbying efforts, particularly with legislators in Congress, and also called on the immigrant leadership to organize and exercise pressure to promote a comprehensive immigration reform.<sup>28</sup>

<sup>24</sup>“Mexican Leader Condemns U.S. for Migrant Bill Passed by House,” *New York Times*, December 20, 2005.

<sup>25</sup>“Mexican Official Calls Fence Plan ‘Stupid,’” *Associated Press*, December 19, 2005.

<sup>26</sup>“Niega Derbez interferir en política interna de EU,” *Reforma*, December 28, 2005.

<sup>27</sup>“Declaración Conjunta de Países Mesoamericanos,” *Lazos*, Boletín Especial no. 381, January 10, 2006.

<sup>28</sup>“Fortalece SRE cabildeo migratorio,” *Reforma*, April 23, 2006; “Derbez pide cabildeo en EU para reforma migratoria,” *El Universal*, June 28, 2006.

Despite these efforts, President Bush signed Congress's Bill HR 6061 (Secure Fence Act) "to establish operational control over the international land and maritime borders of the United States," which included extending the fence along the U.S.-Mexico border and allocating more resources for Border Patrol operations. The Mexican government sent a diplomatic note to the United States expressing its opposition to this initiative. It also brought up the issue in multilateral forums.<sup>29</sup> In November 2006, at the Ibero-American Summit, the presidents and government representatives of these countries issued a statement (*Declaración de Montevideo*) at the initiative of the Mexican delegation. In this statement, among other commitments to managing immigration with respect to human rights, they rejected any initiative to build fences and walls between borders.

Although these reactions from the Mexican government can be compared to its strong statements and actions against Proposition 187 in California in 1994, in this case, the Mexican government's actions were not a response to one event, but a continuation of a consistent position throughout the Fox administration whereby the government openly expressed its opinion for or against federal and state law initiatives in the United States. Never before had the Mexican government been so vocal against U.S.-proposed federal legislation on immigration issues. This reaction was not limited to the Sensenbrenner Bill, which was the most extreme of the proposals, and also included responses to an increasing number of state and local initiatives that restricted migrants' access to services and housing. The Mexican government also met with key legislators and with groups that could support its position. Carlos Félix, minister for

<sup>29</sup>Another significant example of Mexico's use of multilateral instruments to defend emigrants' rights, even in cases of strong disagreement with the United States, was taking the case of 52 Mexican emigrants charged with the death penalty in the United States to the International Court of Justice (ICJ). Mexico alleged absence of due process and violation of the Vienna Convention on Consular Relations as none of the accused was allowed contact with their consular representatives and to obtain the corresponding legal assistance. In what is known as the "Avena Case," on March 31, 2004, the ICJ ruled in favor of the Mexican nationals, ordering the United States to revise each case and reconsider each verdict. Although this was considered a significant victory for Mexico and an important precedent in terms of recourse to international institutions, on March 25, 2008, the U.S. Supreme Court rejected the ICJ's ruling, arguing that the judgment is binding on the United States in international law but that state courts did not have the obligation to carry it out. Mexico and groups such as Amnesty International protested the Supreme Court's decision, but by May 2008 there was no sign of a change in the United States' position.

migration affairs at the Mexican Embassy in Washington, DC, considered that one of the main achievements of the Mexican strategy was that cooperation on the management of migration with Mexico and other sending countries was included in the McCain-Kennedy Bill and recognized as an important component of immigration reform by other legislators (personal interview, 2006).

*Toward an Explicit Position on Migration Issues.* Another aspect of the Mexican government's development of a proactive position on immigration was that for the first time it made its position on the issue explicit through the document "Mexico and the Migration Phenomenon" (published in English and Spanish). This document was the first serious attempt at reaching a consensus at the national level regarding Mexico's position on the management of migration and its response to an eventual immigration reform in the United States.<sup>30</sup> The position document was the result of a working group convened by the executive and the Senate, integrated by Mexican government officials, legislators, academics, and experts on migration issues as well as representatives of NGOs and civil organizations. The main points of the report were that the current migration situation required a new approach from the Mexican government, assuming its responsibility as a sending, receiving, and transit country. It maintained and emphasized the idea of "shared responsibility" that served as the basis for the U.S.-Mexico Migration Panel's report and that underlay the proposal for a migration agreement. The document made no mention of a migration agreement but rather stressed the need for general collaboration between the countries as the only way to manage migration effectively and make any new legislation in the United States workable.<sup>31</sup>

<sup>30</sup>Although it was generally considered a positive effort in terms of bringing together the different actors involved in migration issues, Mexican migrant leaders in the United States argued that this document was limited because they were not included in this consultation process (see, for example, Alberto Avilés Senés, "Corresponsabilidad en la relación México-EU," *Visión Hispana*, March 30, 2009).

<sup>31</sup>The document is available at <http://www.sre.gob.mx/eventos/fenomenomigratorio/docs/mexicofrentealfenommig.pdf>; last viewed May 31, 2007; see also Gerónimo Gutiérrez, 2005; Derbez, 2006).

“Mexico and the Migration Phenomenon” was made public in Mexico on October 24, 2005, and distributed through the newsletter service *Lazos*<sup>32</sup> administered by the Institute of Mexicans Abroad.<sup>33</sup> A great effort was made to disseminate it, particularly in the United States. As a result of these efforts, the House International Relations Committee sent out a “Dear Colleague” letter in order to bring other legislators’ attention to the document, arguing that it represented “the first public acknowledgment that Mexico must accept responsibility for solving the immigration problem” and that it made a “very important contribution to the debate in both countries.” They also considered that “these principles and the accompanying recommendations represent a sharp departure from past practices in Mexico.”<sup>34</sup>

On March 20, 2006, Mexico paid for full-page advertisements in three of the main U.S. newspapers – *the New York Times*, *the Washington Post*, and *the Los Angeles Times* – titled “A Message from Mexico about Migration which summarized the key aspects of the document and emphasized Mexico’s obligation to promote development in Mexico in order to reduce emigration pressures, as well as its commitment to securing the border and fighting criminal organizations and smugglers.”<sup>35</sup> The timing was probably not a coincidence; the advertisements were published just a few days before the 22nd U.S.-Mexico Binational Committee meeting in Washington, DC, a week before the U.S. Senate was due to reconvene and continue the debate on pending immigration legislation, and two weeks before a trilateral meeting between Presidents Vicente Fox and George W. Bush and Canadian Primer Minister Paul Martin in Cancún, México.

This represented a fundamental shift from the position maintained in 1986 during the process leading to the passage of IRCA where the Mexican government chose not to get involved in the debates over the content of the legislation and did not take an explicit position on the issue. It was also a much stronger position than the

<sup>32</sup>This newsletter service is aimed mainly at Mexican and Hispanic community leaders, businessmen, academics, students, and opinion leaders in the United States; in 2006, IME reported having 11,400 subscribers (IME, 2006).

<sup>33</sup>“Boletín Especial Lazos: “México frente al fenómeno migratorio,” IME, Boletín no. 354, October 25, 2005.

<sup>34</sup>“Mexican Congress Adopts Resolution to Address Illegal Immigration,” Congress of the United States, Washington, DC, March 8, 2006.

<sup>35</sup>“Mexico seeks migration deal,” *Houston Chronicle*, March 21, 2006.

one assumed in 1996 when the government simply expressed its concern with the IIRIRA (Illegal Immigration Reform and Immigrant Responsibility Act), AEDPA (Antiterrorism and Effective Death Penalty Act) and PRWORA (Personal Responsibility and Work Opportunity Act), once they were passed.

*Diaspora Engagement Policies: A Move Away from "Non-Intervention"*

As a parallel effort to the lobbying strategies, President Fox also put a great emphasis on the need to develop a closer and more interactive relationship with the Mexican and Mexican-American communities in the United States. In the first months of his government, he established the Presidential Office for Mexicans Abroad (*Oficina Presidencial para los Mexicanos en el Exterior* – OPME), headed by Mexican-American Juan Hernández. Eventually, this office and the previously existing Program of Rapprochement with the Mexican Communities Abroad (PCME) were integrated into the Institute of Mexicans Abroad (*Instituto de los Mexicanos en el Exterior* – IME), officially established in April 2003.

In addition to providing a broad range of education, health, information, and cultural services,<sup>36</sup> the IME also strives to develop a network between community leaders, local officials, businessmen and other prominent individuals in different sectors relevant to the Mexican-origin community in the United States, mainly through "Information Seminars" (*Jornadas Informativas*), which gather these leaders in Mexico.<sup>37</sup> As well, it disseminates information through the *Lazos* newsletter and other campaigns in order to publicize the Mexican government's agenda as well as its services for migrants and their families, both in Mexico and in the United States. However, the most innovative aspect of the IME is that it is the first Mexican government institution that includes an Advisory

<sup>36</sup>The details of the IME's programs are described in its two biannual reports (IME, 2004a, 2006). See also <http://www.ime.gob.mx> and González Gutiérrez (2006a).

<sup>37</sup>Since its establishment in March 2003 and until May 2008, the IME had organized 55 *Jornadas Informativas*, which every year bring approximately 400 community leaders (experts in health, education, media, politics, gastronomy, business, and other issues) from the United States and Canada to Mexico to meet their peers and learn about Mexico's services for migrants (IME, 2006; see also <http://www.ime.gob.mx/jornadas/jornadas.htm>; "Se celebra la primera Jornada Informativa del IME dirigida a Lideres Sindicales Mexicanos en Estados Unidos," *Lazos*, Boletín Informativo no. 671, May 16, 2008).

Council (*Consejo Consultivo del IME – CCIME*), consisting of 125 elected Mexican and Mexican-American community leaders living in the United States and Canada.<sup>38</sup> Through the CCIME, the Mexican government seeks to provide a formal and direct channel for communication between representatives of the immigrant community and the Mexican government.<sup>39</sup>

Carlos González Gutiérrez, executive director of IME until March 2009, argues that it represents “the ultimate example of the Mexican government’s will to extend the channels for participation to *the Mexico outside of Mexico (México de afuera)*”... and that in the government’s discourse, “disdain and indifference have made way for the explicit recognition of the multiple contributions that immigrants make to Mexico’s development” (2006a:200). In his various articles and statements describing the IME’s objectives and activities, González Gutiérrez (2003, 2006a) has emphasized the idea of the institute as a way of “facilitating the synergy” and “developing bridges of communication and understanding” between the government and Mexican immigrants’ initiatives, as well as consolidating a network of Mexican immigrant leadership in order to provide them with the necessary tools to effectively promote their interests, both in Mexico and in the United States. Yet, González Gutiérrez (2003) recognizes that this has to be done carefully in order to prevent misinterpretations (both from the United States and from the Mexican

<sup>38</sup>The first Advisory Council (2003–2005) consisted of 105 Mexican immigrants, Mexican-Americans, and Mexican-Canadians (elected by their communities or designated by the Consulate or by a few community leaders, depending on each case), 10 members of Latino organizations in the United States, and 10 specialized consultants. In addition, 32 representatives of each of the states in Mexico can participate in the Advisory Council, although they cannot vote. The second Advisory Council (2006–2008) consisted of 125 community leaders – 100 elected in the United States and Canada, 15 nominated in recognition of their career, and 10 consultants from Latino organizations. The distribution of the elected members of the Advisory Council per state/region is based on the population density of each consular district and the electoral process is based on a framework established by the IME and the CCIME offering a variety of methods for the election under specific guidelines, clearly establishing that the consulates cannot participate in the process (see González Gutiérrez, 2006a).

<sup>39</sup>The CCIME meets twice a year in Mexico and makes recommendations to the Mexican government on issues related to the immigrant community through various committees (e.g., politics, economics, education, health, legal affairs, border issues, and media and communications). In April 2008 it held its 11th meeting outside of Mexico, in Dallas, Texas. At these meetings, the IME reports on the status of the recommendations (<http://www.ime.gob.mx/ccime/ccime.htm>).



community) and allow the IME to build a relationship of trust with the Mexican communities.

This discourse represents a fundamental change in the Mexican government's position regarding the relationship with the immigrant community and traditional definitions of "consular protection" and situations of "interference" in another state's sovereignty. The IME is conceived as part of the Ministry for Foreign Affairs' responsibility to provide "support and protection to the Mexican population abroad" and its mandate includes facilitating meetings between members of the Mexican communities abroad, promoting communication with them as well as serving as a liaison.<sup>40</sup> However, as will be discussed in the next section, the Mexican government is cautious regarding the possible association of these efforts of rapprochement with the diaspora and leadership development with the idea that the government could be promoting an ethnic lobby that responds to its interests.

*Matrículas Consulares: Broadening the Definition of Consular Protection.* In addition to the "institutionalization of the relationship between Mexico and its communities abroad" through the IME (Derbez, 2003; González Gutiérrez, 2003), the Mexican government also developed a broader interpretation of its traditional view of consular protection through activities that in the past could have been considered "interventionist" – and in some cases still lead to such criticism by conservative groups in the United States.<sup>41</sup> Castañeda and Derbez both emphasized, as one of the government's main activities "to improve the livelihood" of Mexican immigrants, the issuance of consular IDs (*matrículas consulares*) with new security features and their acceptance as a valid form of ID by financial institutions, cities, counties, and police departments as a result of the government's lobbying activities (Castañeda, 2003; Derbez, 2003).

The *matrícula consular* is mainly intended for Mexicans living abroad who cannot obtain a Mexican passport or any form of official ID in the United States given their undocumented status, or simply need a more "portable" identification card that includes their address in the

<sup>40</sup>"DECRETO por el que se crea el Instituto de los Mexicanos en el Exterior, con el carácter de órgano administrativo desconcentrado de la Secretaría de Relaciones Exteriores," April 16, 2006 (<http://www.ime.gob.mx/ime/decreto.htm>).

<sup>41</sup>See, for example, D.A. King, "Mexican Matrícula Consular ID? Poses Danger to U.S.," *Marietta Daily Journal*, August 20, 2008.

United States (the *matrícula* does not provide any information on the person's migratory status).<sup>42</sup> Although Mexican consulates have offered this form of ID since 1871 – based on a practice recognized by the Vienna Convention on Consular Relations – after the terrorist attacks of September 11, 2001, and the increase in detentions, raids, and security measures that affected Mexican immigrants, the Mexican government considered it necessary to issue a new secure version and widely promote the acceptance of this form of ID in the United States.

The advantages of the document were widely publicized and the Mexican government encouraged migrants to obtain it. Against criticisms about whether foreign governments should be allowed to issue this type of ID in the United States, Mexico justified it as a document that can facilitate identification in case of an emergency as well as assist “law enforcement officials’ communication with migrant communities by ensuring that people are not afraid to come forward as witnesses and report crimes.”<sup>43</sup> As a result of the Mexican government’s lobbying efforts, by the end of 2007, more than 400 financial institutions, 435 cities, 265 counties, and 1,439 police departments considered that the document was safe and a valid form of identification for residents in their localities.<sup>44</sup> It is estimated that more than four million Mexicans currently have a Consular ID (González Gutiérrez, 2006a).

The promotion of consular IDs as one of the documents accepted in order to open a bank account became a key element in the Mexican government’s efforts to reduce the number of “unbanked” Mexican immigrants and eliminating informal or illegal channels for transactions.

<sup>42</sup>Contrary to Castañeda’s (2007:149) assertion that the *matrículas* were an instrument for “de facto legalization” or “backdoor amnesty,” these Consular IDs in no way affect the legal status of Mexicans in the United States; their main function is as a form of identification, which, partly as a result of Mexico’s lobbying efforts, is accepted by many police departments and financial institutions.

<sup>43</sup>“Most Frequently Asked Questions Regarding the Matrícula Consular (MCAS),” IME, July 20, 2004 (<http://portal.sre.gob.mx/ime/pdf/mcas.pdf>).

<sup>44</sup>Data obtained from IME, 2006 and “Informe de gobierno 2007” ([http://pnd.calderon.presidencia.gob.mx/pdf/PrimerInformeEjecucion/5\\_9.pdf](http://pnd.calderon.presidencia.gob.mx/pdf/PrimerInformeEjecucion/5_9.pdf)).

This also helped reduce the cost of sending remittances to Mexico.<sup>45</sup> An important aspect of the campaign to promote the *matrículas* was the fact that local officials in the United States were convinced of their importance and usefulness, which can be attributed to the Mexican government's comprehensive strategy to justify the issuance and acceptance of the document.<sup>46</sup> On the Mexican government's part, this reflects an enhanced use of the consular network and their contacts at the local level, which is also part of the process of development of a better understanding of U.S. politics and making a wider use of the channels available at various levels.

The Mexican government also reacted promptly to negative reactions from conservative groups regarding the *matrícula consular*. In response to a group of legislators' concerns, in July 2003 the Treasury Department opened a period of public comment on its bank rules regarding the acceptance of Consular IDs. The Mexican consular network, the IME, various Mexican-American, and Hispanic and pro-immigrant organizations widely publicized the survey and encouraged people to respond in favor of maintaining the current regulations. As reported by *the Wall Street Journal*, "...behind the scenes, the Mexican government itself did a lot of work to support the card, mobilizing the Mexican immigrant community in the United States to push for a favorable decision. Those efforts – and the payoff – show how Mexico has developed considerable lobbying muscle by teaming up with the Mexican-American community."<sup>47</sup> Out of more than 24,000 participants, 83 percent approved the acceptance of the *matrículas* by financial institutions and the Treasury decided to maintain its existing regulations.

<sup>45</sup>As part of this effort, the Mexican government encouraged the reduction of transfer fees for remittances between financial institutions in Mexico and the United States. In 2001, the Bank of Mexico and the U.S. Federal Reserve signed the "Directo a México" initiative in the context of the U.S.-Mexico Partnership for Prosperity. This initiative has helped reduced the transfer fees for remittances from an average of \$20 dollars to \$3 dollars (based on an average transfer of \$350 dollars). By 2008, more than 340 banks in 42 states in the United States were part of the initiative (Alberto Mendoza, presentation on Directo a México at the Annual Meeting of IME Personnel, Mexico City, March 10–12, 2008; see also <http://www.directoamexico.com>; see also "U.S. Banks Hope Money Transfers Attract Hispanics," *Washington Post*, October 6, 2005).

<sup>46</sup>See "Matrículas gain acceptance," *Arizona Republic*, October 31, 2002.

<sup>47</sup>"Mexico Adds Lobbying Muscle with Mexican-Americans' Help," *Wall Street Journal*, October 3, 2003.

The Mexican government considers this as one of its main achievements in terms of lobbying activities in favor of the Mexican community and “developing a common agenda with the communities abroad” (González Gutiérrez, 2006a). In response to criticisms that continue to date against the consulates’ promotion of the *matrícula*, considered by some as a document that “encourages illegal immigration,” “is not a secure form of ID,” and attempts “to ‘document’ the undocumented and make an end run around Congress,”<sup>48</sup> González Gutiérrez argues: “As long as we disseminate information in a frank and transparent manner we are acting like countless other players in the American political system ... We believe that nothing that we do is against the interests of the United States or against Mexico’s interests.”<sup>49</sup> This reflects the better understanding of U.S. system by the Mexican elite, which is part of the process of rapprochement between the countries begun since the mid-1980s. It also provides evidence of the change in the government’s interpretation of what is considered “interventionist” regarding the protection of migrants’ rights.

Yet, there are still cases when the government has retreated in efforts to reach out to immigrants, particularly regarding illegal border crossings, in response to negative reactions in the United States. An example is the situation that arose after the Mexican government published a “Migrants’ Guide” (*Guía del Migrante*) in December 2004. The “Guide” was a 32-page comic book that informed migrants about the risks of crossing the border through certain areas and of living in the United States without the necessary documents. At the signs of strong reactions from various legislators, anti-immigrant coalitions, and even some groups that would normally support the Mexican government’s position, it quietly retreated. A similar initiative proposed in January 2006 by Mexico’s National Human Rights Commission to

<sup>48</sup>See “Homeland Security accepts fake ID,” *Washington Times*, June 12, 2006; “Mexican ID controversy on the way here,” *Commercial Appeal* (Memphis, TN), March 9, 2007; “Mexico Adds to Consulates in the U.S.,” *New York Times*, May 23, 2007. A noteworthy example of continued opposition to the *matriculas* is the HB 2460/SB 1236 bill passed by the Congress in Arizona, which rejected the acceptance of Consular IDs in the state. Governor Janet Napolitano vetoed the bill on May 8, 2007, under the consideration that without Consular IDs, undocumented immigrants would probably resort to obtaining fraudulent documents.

<sup>49</sup>“Mexico Adds Lobbying Muscle with Mexican-Americans’ Help,” *Wall Street Journal*, October 3, 2003.

distribute maps of the Arizona desert at Mexican consulates in order to warn immigrants of the dangers of crossing through the area was dropped after the U.S. government expressed its opposition “in the strongest terms.”<sup>50</sup>

Regardless of the negative reactions in the United States, the initiative behind the publication was considered a positive sign by some groups in Mexico in terms of representing a new proactive attitude from the Mexican government regarding its responsibility toward Mexican immigrants and moving away from simply “masking its paralysis and disinterest with a verbosity that proclaimed its commitment to the *paisanos*” (Aguayo, 2005). Moreover, the fact that Mexico continued promoting the *matrículas consulares* – an initiative of much greater consequence than the *Guía del Migrante* – despite opposition from certain groups in the United States reveals that there is confidence in the possibilities for a wider room for action on the Mexican government’s part. This supports the view that the general stability in the U.S.-Mexico relationship, despite economic, diplomatic, or political crises (such as Mexico’s position in the Security Council against the Iraq war), has shown that “the costs of disagreeing with the U.S. are manageable and sharing a border with the U.S. is not an obstacle but rather provides an opportunity that can be used to Mexico’s advantage” (Aguayo, 2003).

*Absentee Voting Rights: Empowering Migrants at Home and Abroad.* Another sign of the Mexican government’s interest in strengthening the relationship between emigrants and the homeland, and extending them political rights, was the passage of the legislation on absentee voting rights after an almost 10-year delay. Although the constitutional reform had been passed since August 1996 (together with the reform on dual nationality), it contained a clause that required Congress to reform the Mexican Federal Elections secondary regulations (*Código Federal de Instituciones y Procedimientos Electorales* – *COFIPE*), which would determine the rules

<sup>50</sup>See “Chertoff: No Maps for Mexico Migrants,” Associated Press, January 25, 2006. Reflecting a change in strategy, in 2008, the commission published two comic books attempting to dissuade immigration by disseminating stories about the horrors that migrants may face in crossing the border. As noted by *USA Today* reporters, “the tone is very different from previous government publications that focused more on travel and safety tips,” which reflects Mexico’s consideration of previous reactions to its publications for immigrants (“Mexico draws dire picture for migrants,” by Chris Hawley and Sergio Solache, *USA Today*, April 21, 2008).

on how this right would be exercised.<sup>51</sup> It was not until June 2005 that Congress finally passed the legislation required for the implementation of the constitutional right for absentee voting.

By 2004, more than 15 initiatives regarding the regulation of absentee voting had been introduced in Congress. This included initiatives from political parties and, remarkably, from immigrant coalitions such as the Federation of Michoacán Hometown Associations in Illinois (*Federación de Clubes Michoacanos en Illinois* – FEDECEMI) and the Coalition for the Political Rights of Mexicans Abroad (*Coalición por los Derechos Políticos de los Mexicanos en el Extranjero* – CDPME). The IME's Advisory Council (CCIME) was also actively involved in this campaign and made public its position on the initiatives presented (IME, 2004b:5). The CCIME's members also participated in six consultation forums organized between January and February 2004 in the United States and Canada together with the IME and the Ministry of the Interior. This represented an important development in terms of immigrants' making wide use of channels available to participate in the discussion of policies in Mexico, and also of the government's willingness to provide these opportunities.

At the same time, the Mexican government had concerns about the foreign policy impact of this measure. The Ministry for Foreign Affairs warned against potential reactions in the United States to Mexicans' absentee voting rights. Among some of its arguments were that even though the issue was not yet salient among U.S. public opinion, in the medium or long term, the exercise of voting rights abroad could reinforce accusations of dual loyalty and conservative groups' arguments such as those put forward by Samuel Huntington (2004) about Hispanics' threat to American values and ideals given their "inability" to assimilate into mainstream U.S. culture by forming their own political and linguistic enclaves.<sup>52</sup>

<sup>51</sup>In 1998, the Mexican Federal Elections Institute (*Instituto Federal Electoral* – IFE) commissioned a group of experts to report on the possible models for absentee voting, their risks, and costs. The commission's report detailed certain technical difficulties (e.g., high costs, issuance of voting cards abroad, establishment of voting booths outside the country, limitations regarding regulations of the campaigns and funding abroad, irregularities in other experiences of electronic voting, etc.). However, the main obstacle for the passage of the reform was the lack of political consensus, which, to many observers, was the result of the political parties' concerns regarding the potential (and unpredictable) impact of immigrants' vote in the elections (IME, 2004b:3–4; González Gutiérrez, 2009).

<sup>52</sup>Similar arguments have been posed regarding dual nationality and absentee voting as an obstacle for migrants' integration in the United States (Fonte, 2005; Renshon, 2005; see also Buchanan, 2006).

Finally, on June 28, 2005, the Mexican Congress passed the reform defining the rules, requirements, and procedures by which the absentee voting would be implemented. The legislation passed was considered the most restrictive version of the initiatives presented: there would be no voting booths in the United States, no voting cards would be issued outside of Mexico, there would be no campaigns or financing from abroad, the vote would be sent by post, and it would be limited to the presidential election (the 2006 election included Congress and some state and local elections) (Silva-Herzog Márquez, 2006; González Gutiérrez, forthcoming). This was not necessarily a direct response to concerns about potential reactions in the United States but it was certainly a conservative approach aimed at preventing most of the risks signaled by the different groups involved in the debate, including the Ministry for Foreign Affairs.

Regardless of migrants' limited participation (only 32,621 absentee votes were cast)<sup>53</sup> and the restrictions of the law, it was considered a "historical milestone" by Mexican immigrant organizations and proof of the Mexican government's willingness to recognize their political rights (Ross Pineda, 2006). Moreover, the initiative translated into reforms of electoral regulations at the local level, as the states of Michoacán and Zacatecas<sup>54</sup> have passed legislation to allow immigrants to participate in local elections (in the case of Michoacán they have absentee voting rights and in the case of Zacatecas they can run for office). These are seen as positive examples of the government's interest in facilitating channels for immigrants to participate in political processes in Mexico. However, Michoacán's local elections also reported an unexpectedly low number of absentee voters, which leads to questioning the representativeness of migrant leaders who have led the

<sup>53</sup>The low number of absentee votes was a source of great disappointment in Mexico. For data on the number of absentee votes, see Instituto Federal Electoral (2006), *Informe final sobre el Voto de los Mexicanos en el Exterior y Numeralía Electoral*, Mexico City, IFE (<http://mxvote06.ife.org.mx>). For data and opinions on the reasons for the low number of votes, see Silva-Herzog Márquez, 2006; Suro and Escobar, 2006; "Many Reasons Mexicans Abroad Didn't Register to Vote," *San Diego Union-Tribune*, February 5, 2006; and "Four Mexican Migrants Seek Absentee Ballots," Associated Press, February 16, 2006.

<sup>54</sup>The law in Zacatecas was passed in 2003. Many Zacatecan organizations and groups in the United States, mainly the *Frente Cívico Zacatecano* in Southern California, led an intense campaign in favor of this law. The law in Michoacán was passed in February 2007 and was strongly supported by the *Frente Binacional Michoacano en Estados Unidos* (FREBIMICH).



initiatives as well as migrants' interest in maintaining political ties with Mexico.<sup>55</sup>

Notwithstanding the limited participation of migrants in Mexican politics, in González Gutiérrez (forthcoming) and Ayón's (2006a) view, the state's recent forms of engagement with the diaspora through the CCIME and the process leading to the passage of the regulations for absentee voting, as well as the strengthening of existing development projects such as the 3x1 matching funds program,<sup>56</sup> has contributed to the empowerment of the immigrant community, not only in terms of their political participation in Mexico, but also in the United States. This was reflected in the organization of the massive immigrant demonstrations against the Sensenbrenner Bill in the spring of 2006 – mainly organized by the Mexican immigrant leadership.<sup>57</sup> Through the CCIME, and the participation in other initiatives related to Mexico – be it development in their home communities or lobbying for voting rights – the immigrant leadership has developed stronger networks and taken advantage of channels through which they can promote their interests.

Still, within the Mexican government it is not altogether clear what the long-term “strategy and structure” for engaging with the immigrant communities is and the potential reactions to these activities, both from Mexican immigrants and from U.S. actors, cannot yet be measured. An important question raised by Smith (2008) that will be part of future discussions of the government's objectives and strategies regarding the engagement of the diaspora is whether the “institutionalization” of their

<sup>55</sup>On the issue of the IME's representativeness, see “Inmigrantes desconocen la labor del IME,” by Alejandro Martínez, *Al Día*, April 22, 2008.

<sup>56</sup>Originally established in 1992 between the Zacatecas State Federation in California and the government of that state (as the “2x1 Program”), the “3x1” is a scheme by which federal, state, and local authorities match funds sent by Hometown Associations and State Federations for development projects in their communities in Mexico. In 2005, the HTAs raised about \$20 million, matched by \$60 million from the Mexican government (IME, 2006). New initiatives for promoting emigrants' investments in Mexico have been developed through the IME, such as “Mi Casa en Mexico” (helping emigrants obtain mortgages and identify opportunities to buy a home in Mexico) and “Invierte en Mexico” (promoting various types of investment for emigrants and their families, such as small businesses) (details available at <http://www.ime.gob.mx/vivienda/vivienda.htm> and <http://www.nafin.com/portalfn/?action=content&sectionID=5&catID=349&subcatID=350>. Accessed on January 30, 2008).

<sup>57</sup>In the spring of 2006, between 3.6 and 5 million immigrants, primarily, though not exclusively, Mexicans, organized peaceful protests and demonstrations throughout the United States (see Bada, Fox, and Selee, 2006).

inclusion in Mexican politics is being done in ways that control and limit their influence, especially if their interests and objectives do not coincide with the government's.

### *THE LEGACIES OF "NON-INTERVENTION" AND "DELINKAGE"*

One of the most controversial issues in the discussion about the Mexican state's relationship with its diaspora is whether the Mexican immigrant community will create its own lobby group (whether or not in favor of Mexican policies) and whether this is (or should be) encouraged by the Mexican government. According to Ayón (2006b), "there can be little doubt [...] of the Mexican government's interest in going beyond this relatively limited dynamic – to have the Mexican network develop into a pro-Mexico constituency and political force within the United States, i.e., a *Mexico lobby*."

Mexico has been cautious in terms of handling the idea of a potential lobby given the fear of such activity being perceived as interference in U.S. domestic politics. However, a telling fact is that when the Mexican government passed a constitutional reform to grant dual nationality in 1996, President Ernesto Zedillo (1994–2000) declared that he hoped this would help Mexicans defend their rights and also create an ethnic lobby with political influence.<sup>58</sup> This was a rare kind of statement for the Mexican government and has not been repeated publicly in such terms, particularly by the executive. Nonetheless, this provides evidence to sustain the fact that there is ambiguity in the Mexican government's position as well as "stated and unstated objectives" (Castles, 2004), given the complexity of the issue and the reactions that could arise, domestically and bilaterally, if the interests behind its position at different times were publicly expressed.

Although the issue is not yet prominent in the general public debate over immigration in the United States, the fact that the IME or the CCIME may be perceived as promoting (open or implicitly) the formation of a lobbying group in favor of Mexico's interests can create negative reactions in the United States. There is already criticism to the IME's and consulates' activities, perceived as "interventionist" or stepping beyond

<sup>58</sup>Quoted in "Mexico Woos U.S. Mexicans, Proposing Dual Nationality," *New York Times*, December 10, 1995.

consular duties (FAIRUS, 2005; Fonte, 2005; Mac Donald, 2005a,b; Kent, 2006). The CCIME has also been accused of embodying “an attempt by Mexico to bypass U.S. sovereignty and set up a representative branch of the Mexican government on U.S. soil.”<sup>59</sup>

Beyond the expected reactions from conservative groups, scholars, members of immigration think tanks, and representatives of pro-immigrant groups have also expressed reservations regarding the Mexican government’s activities. Some of their arguments point out that Mexico will face great problems in the bilateral relationship if its activities imply a closer involvement – direct or indirect – in the organization of the Mexican and Mexican-American communities in the United States (personal interviews with Demetrios Papademetriou, director of the Migration Policy Institute, and Randy Johnson, vice-president for labor, immigration and employer benefits, US Chamber of Commerce, 2005). Just as well, some groups in Mexico have argued that the government’s activism on these issues can trigger reactions from the United States and imply more pressure in other issues in the bilateral agenda, as was considered to be the case in the context of Mexico’s opposition to the Iraq war in 2003.

Finally, there is no consensus from immigrant groups themselves about whether creating a lobby group, or even maintaining close ties with the Mexican government, is in their interest.<sup>60</sup> With the exception of education initiatives, it is argued that there is little consensus within the Mexican community about what issues could unite Mexican migrants and Mexican-Americans.<sup>61</sup> In the spring of 2006, there was an unprecedented effort from the Mexican community and other Hispanic groups to come together and express their views regarding immigration reform through public demonstrations. However, in the organization of these efforts, the divisions within the Mexican community, as well as the absence of clear leadership, were made evident.

<sup>59</sup>“Coming to America: Mexico Bypassing U.S. Sovereignty?,” *WorldNetDaily.com*, December 27, 2002.

<sup>60</sup>One of the reasons that explained the absence of a lobbying group up to now was the idea that Mexican migrants feared that this would trigger accusations of dual loyalty (González Gutiérrez, 2002). Another obstacle for the development of a Mexican network, as described by Ayón (2006b) is “the entrenched position of the U.S. Latino network, its hold upon Mexican Americans, its determined focus on domestic affairs, and its capacity to continually absorb talented and politically inclined immigrants – especially younger, U.S.-educated immigrants.”

<sup>61</sup>This was one of the main preliminary conclusions of the binational study “*Focus Mexico/Enfoque México*” conducted in November 2003 (Fernández de Castro, 2003).

A crucial question for the Mexican government is how far its responsibility goes in guiding these efforts, helping build and strengthen leaderships within the community, and trying to use their growing political power to its advantage. This could even turn out to be counterproductive if the communities' interests do not coincide with the government's (González Gutiérrez, 2006b). Moreover, as the Mexican immigrant community becomes a more active political force, the Mexican government recognizes that it has to be more cautious in how it promotes or relates to their activities considering potential reactions from the U.S. government or specific interest groups.

For example, during the immigrant demonstrations in the spring of 2006, the Mexican government issued various statements clarifying that the Mexican government was not involved in any way in the organization of the demonstrations and that it had instructed all the consulates "not to intervene," although it defended immigrants' democratic right to protest.<sup>62</sup> It also called on the Mexican-origin community to conduct these demonstrations with respect to U.S. laws, authorities, and national symbols (mainly the American flag, which was widely used at the demonstrations).<sup>63</sup>

The Ministry for Foreign Affairs was also wary of potential reactions against members of the CCIME that were actively involved in the demonstrations, particularly in Chicago, Dallas, and Phoenix. A few days before the planned boycott on May 1, 2006, the IME and the Ministry for Foreign Affairs flew more than 30 immigrant activists from the United States to Mexico City to discuss the recent immigrant mobilizations and advise them to avoid activities that could lead to negative reactions. The Mexican officials present at the meeting said they would neither support nor oppose the boycott and suggested the Mexican immigrant leadership should be cautious as this type of action could be counterproductive to their interests. This approach from the Mexican government was interpreted as an indication that "it is heeding warnings that going too far – such as backing a boycott that proved harmful – could hurt efforts to get Congress to pass reforms."<sup>64</sup>

<sup>62</sup>"Instruye Presidencia a consulados no intervenir en marchas," *El Universal*, April 17, 2006; "Toman consulados distancia por marchas," *Reforma*, April 14, 2006.

<sup>63</sup>"Inaceptables los actos de provocación contra símbolos patrios," *Boletín Especial Lazos*, IME, April 10, 2006.

<sup>64</sup>"Mexican government tries to remain neutral on boycott," *Chicago Tribune*, April 30, 2006.

This reaction, as well as the Mexican government's continuing use of non-intervention in most of its statements regarding migrants' actions and U.S. immigration policies, is evidence of the government's persistent concern with creating adverse consequences in migration flows or in the situation of Mexican migrants by taking a position that could affect U.S. interests or prompt negative reactions from certain groups. Nevertheless, the government's frame of action has significantly expanded since the 1990s, and particularly since 2000, in the context of changes in the bilateral relationship and Mexico's foreign policy strategies, as well as transformations in Mexico's political system and transnational relations with the diaspora. The scope and limits of these actions and the definition of the state's role regarding its population outside of its territorial borders are still in a process of development and will depend partly on reactions at the domestic, transnational, and international levels.

A telling fact regarding the development of broader definitions of Mexico's migration policies, including the relationship with the diaspora, is that up to 2006 the IME's activities had not been a key component of the Mexican government's general discourse on immigration. However, President Felipe Calderón's 2007–2012 National Development Plan makes an explicit reference to the IME as a "bridge of communication" with the Mexican communities abroad, "creating synergies" between the Mexican communities' initiatives and the government's objectives, and contributing to strengthening their own capacity to defend their rights.<sup>65</sup> This shows that there is a gradual development of a more explicit definition of the government's position on these issues, although there may still be a cautious approach as traditional conceptions of consular protection activities and fear of provoking accusations of "interventionism" continue to be present.

## CONCLUSIONS

The fact that the stability of the bilateral relationship has not been significantly affected by any of the Mexican government's new activities in terms of reacting against U.S. migration legislation and lobbying for a specific agenda on immigration issues, or by its new consular protection and diaspora engagement activities (through the IME and the CCIME,

<sup>65</sup>"Prioridad a los Migrantes Mexicanos en el Plan Nacional de Desarrollo 2007-2012," *Boletín Especial Lazos*, no. 571, June 4, 2007.

the promotion of consular IDs, or the active engagement of migrants in Mexican politics), has allowed Mexico to take advantage of opportunities within the U.S. political system to promote its interests without provoking U.S. interference in its own domestic affairs or creating tensions in the bilateral relationship, as was traditionally argued. On the one hand, since the NAFTA negotiations Mexico has developed a better understanding of the United States and identified groups that it can work with, which allows it to design new strategies to support the Mexican immigrant community moving away from traditional conceptions of non-intervention in consular protection activities. On the other hand, the level of integration and interdependence between the countries strengthens the idea that the United States will not exercise pressure in priority areas as a response to Mexico's activities given that it is concerned with economic and political stability in the country and that limiting commercial and labor flows also has high costs for the United States (Andreas, 2003:9–11).

This obviously does not mean that the structure of asymmetry of power between the countries has changed. There are evident limits to the success of Mexico's actions in terms of exerting pressure on the United States to change its unilateral policies or directly influencing policy reform. The push to establish formal institutions between the countries on issues of immigration and expand the framework of regional integration to include the management of flows of people between the NAFTA countries has also found obstacles. However, traditional perceptions or rhetoric about the limits imposed by the asymmetry in the relationship is no longer an obstacle for the Mexican government to promote its own interests regarding Mexican immigrants or actively engaging the diaspora. In this sense, the existence of NAFTA and other mechanisms for dialogue, collaboration, and information exchanges between governments, academic institutions, bilateral commissions, NGOs, businesses, and other actors developed since the late 1980s has contributed to a better understanding of each country's position on immigration (Alba, 1993, 2000) and, in the Mexican case, to a broader definition of the limits and possibilities of its policies in this issue area.

These policies are part of a fundamental change of Mexico's position on immigration and evidence of a shift in foreign policy discourse and strategies.<sup>66</sup> Still, the extent to which Mexico should promote its

<sup>66</sup>See Manuel Roig Franzia, "Mexico Rebukes U.S. Candidates on Migrant Issues," *Washington Post*, January 8, 2008.

immigration agenda in the United States is a matter of controversy and the issue of non-intervention is strongly present in discussions about what Mexico can or should do. It is not clear yet whether Mexico has more to gain by being loud on these issues and lobbying for immigration reform, even though being quiet has not produced any positive results either (Castañeda, 2007:160). Moreover, changes in the international context can affect the positioning of migration in national and bilateral or multilateral agendas, as was evident after 9/11. Some analysts warn that even if the U.S. law does not prohibit homeland–diaspora relations, in conditions of war or security concerns, the U.S. government could take a stronger position on these issues (Chander, 2006:88), which would certainly affect Mexico's objectives and strategies.

The significance of these findings for migration studies, particularly for the literature on sending states' emigration policies is, first, that they substantiate the argument on the importance of the international level of analysis and the influence of host state–sending state relations in migration policies (Østergaard-Nielsen, 2003). This analysis also demonstrates the need to further the study of migration as a foreign policy issue, particularly within the field of international relations, which has given limited attention to this topic. Evidence from the Mexican case shows that foreign policy interests, discourse, and traditions have an impact on migration policies. Beyond an obvious statement regarding the importance of the bilateral relationship for both countries' policy decisions on migration, the evidence examined here shows how changes in the relationship have influenced Mexico's position on emigration. Significant comparisons can be drawn from this in-depth analysis of the Mexican case, including Turkey and Hungary's interest in engaging their diasporas in the European Union based on economic and political considerations; the priority given by the Philippines to relations with Saudi Arabia over concerns regarding the protection of Filipino workers in the country; South Korea's fear of a possible reaction from China if it offered dual nationality to Koreans living in the country; or China's cautiousness regarding potential accusations of expansionist fifth-column policies given its relationship with ethnic Chinese living in Southeast Asia.

The most significant changes in Mexico's policies in recent years are closely tied with a process of economic integration between the countries as well as redefinitions of Mexico's foreign policy strategies and discourse. This supports Østergaard-Nielsen's (2003:209) argument that "sending countries are certainly not pawns at the weaker end of asymmetric

relationships with the host countries despite their usually peripheral position in the world economy." Although sending countries may continue to measure the potential costs of their policies vis-à-vis responses from host states, they can explore possibilities for action within this generally asymmetrical structure as the dynamic of the bilateral relationship evolves, particularly in a context of economic or regional integration.

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