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This issue of Insights addresses the following Curriculum Standards:

National Standards for Civics and Government:
■ IV-C. What is the relationship of the United States to other nations and to world affairs? How has the United States influenced other nations, and how have other nations influenced American politics and society?
  1. Political developments
  2. Economic, technological, and cultural developments
  3. Demographic and environmental developments
  4. U.S. and international organizations

National Standards for History:
■ Era 9; The 20th Century Since 1945: Promises and Paradoxes
  1. The search for community, stability, and peace in an interdependent world
  2. Major global trends since World War II

National Council for the Social Studies:
■ IX: Global Connections

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■ A lesson from Bill Bigelow following his interview in Notes from the Classroom,
■ Free resources from the Learning Gateways authors and the PBS series P.O.V.,
■ The “Current Issues” immigration guide from the Constitutional Rights Foundation, and
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Director’s Note

Mexico strives to become a robust democracy, a modern free-market economy, and a government committed to the rule of law. Its success is critical both for Mexico’s own people and for the well-being and security of the United States. Mexico’s recent march to electoral democracy has been successful. Three political parties routinely contest for legislative seats and the presidency, now held by Felipe Calderon who was elected in 2006. But problems persist in the economy, law enforcement, and the courts. As international scholars and newspapers report, too many of Mexico’s people are poor and subject to violence perpetrated by street criminals and drug cartels that operate with virtual impunity.

Insights explores the state of Mexico—its government, legal system, and economy, both nationally and with a special eye toward the border areas. Kathleen Bruhn provides an overview of political development in Mexico from the early twentieth century, tracing the rise of a multi-party democracy. David A. Shirk examines recent criminal justice reforms, designed to curb organized crime while protecting the rights of individuals. Carol Wise explores the impact of the North American Free Trade Agreement (NAFTA) in Mexico, highlighting the economic reforms still necessary to achieve a measure of national wealth. And Christian Zlolniski describes how undocumented Mexican immigrants adapt to life in northern California’s Silicon Valley, as they work at jobs in the formal and informal economy and participate in civic life.

Our focus moves to the U.S.-Mexico border in Perspectives, where Tony Payan addresses some of the failures of U.S. border policies that flow from misconceptions about the people living near the border. Doreen Mattingly complements this picture, as she explores the challenges and opportunities for women working and living on both sides of the border. In Learning Gateways, Anne del Castillo and Eliza Licht describe the wealth of classroom resources available from PBS’s Point of View (P.O.V.), in particular two recent documentary films about the U.S.-Mexico border. In Notes from the Classroom, Bill Bigelow shares his experiences and curriculum for teaching about the border.

Laws and judicial review are the particular focus of several departments. In Teaching with the News, Insights reprints a story about the review of abortion laws by Mexico’s Supreme Court. And in Law Review, David G. Savage analyzes the intersection of international law and national sovereignty in recent U. S. Supreme Court cases involving Mexican nationals in the United States.

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During most of the twentieth century, Mexico was governed by one of the longest-ruling authoritarian parties in the contemporary world. Even as most Latin American countries democratized in the 1980s, Mexico remained under the control of the Institutional Revolutionary Party, or PRI. It was not until the 2000 presidential election that a two-party system emerged, culminating in the victory of conservative National Action Party (PAN) candidate Vincente Fox, followed in 2006 by the election of President Felipe Calderón, also of the PAN.

Today, Mexico is a democracy. Yet many of the legacies of its authoritarian government remain, making Mexican democracy both less complete and less stable than established democracies. In this article, I examine the transformation of Mexican politics, the characteristics of the political system, and some challenges that democracy faces.

The PRI System

The PRI regime traces its roots to the Mexican Revolution (1910-1917). The revolution began when wealthy northerner Francisco Madero called for a popular uprising against President Porfirio Díaz, who had governed Mexico for over 30 years. Madero only meant to call for elections. However, during Díaz's tenure, Mexico's peasantry had lost their communal lands to Díaz's allies. When Madero called for an uprising, he got a social revolution, mobilizing peasants including Emiliano Zapata around demands for land.

During the next seven years, a vicious power struggle pitted members of the “revolutionary family” against each other. By 1929, most of the revolution's leaders had been executed or assassinated. In 1929, President Plutarco Elías Calles called for a different way to transfer power. His solution was a ruling party that would

“The Mexican Constitution is loosely modeled on the U.S. Constitution.”

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power among the revolutionary factions. This party would avoid destructive rivalries by dispensing with competitive elections.

The revolution also left behind a politically mobilized peasantry. President Lázaro Cárdenas (1934-1940) proposed to demobilize them by distributing land and bringing the peasants into the ruling party. In the system he devised, known as corporatism, affiliated organizations got state support, monopolies, benefits, and representation in congress. In return, they gave the PRI electoral support and accepted government-controlled selection of their leadership. In time, these leaders became more loyal to the president than to their own members.

Finally, the ruling party devised an electoral system that permitted other parties to compete but gave the PRI the power to determine the results. Allowing opposition parties—and beating them by 80 to 90 percent—gave the PRI a façade of democratic legitimacy without endangering its control. Opposition parties were given just enough representation to keep them playing the game.

For 60 years, this system operated effectively. The PRI never lost a governorship or a senate race and never won less than two-thirds of the Mexican Congress. Because he also controlled who could become PRI candidates, the president of Mexico had extraordinary power. A docile congress would pass whatever legislation he proposed. Governors resigned if he asked. His only limitation was that he could serve a single six-year term—no re-election. To ensure that the transition would not unleash dangerous competition, he had the power to name his own successor. This also protected his position after he left office.

Democratization
The PRI system always had critics, but until the 1980s, these challenges had limited effects. What changed? Three factors stand out.

The Economic Crisis of the 1980s.
From the 1930s to the 1980s, Mexico adopted a development policy that relied heavily on state intervention in the economy. Mexican businesses were still privately owned but worked in partnership with the state, receiving subsidies of key inputs like electricity and enjoying protection from foreign competition. Organized labor was happy because protected businesses could afford to pay higher wages. The state also provided benefits to workers, including health care. The economy grew rapidly, which satisfied most other sectors of the economy. As a result, the PRI enjoyed ample popular support.

There were, however, problems. As the number of protected industries and the size of the working class grew, so did the costs of subsidizing them. The industries remained inefficient, which constrained their ability to export products. When they reached the limits of domestic demand, the economy began to slow. Public and private debt began to expand dramatically.

The crash came in 1982, when a collapse in world oil prices triggered a major debt crisis for oil-exporting Mexico. The government declared imminent default on its debt and asked for emergency loans from the International Monetary Fund (IMF). Mexico had to accept drastic conditions, including budget cuts, higher interest rates, and caps on wages, which triggered a severe recession.

This crisis had two major effects on the PRI. First, it no longer had enough resources to pay off supporters. Without a steady stream of rewards, the political coalition behind the PRI began to unravel. Labor unions and peasant organizations did not challenge the PRI; indeed, these groups often cooperated with draconian policies to freeze wages because their leadership had long ago been captured by the PRI and maintained in power through undemocratic internal practices. Nevertheless, workers and peasants increasingly failed to obey labor leader demands that they continue their traditional electoral support for the PRI. Business also began to back opposition parties, particularly the PAN, after President José López Portillo’s nationalization of the banks in 1982 convinced them that they could not trust the PRI to protect their property. Finally, Mexico’s shift to a free-market model meant that state protection was no longer available, further reducing incentives to support the government.

Second, the PRI’s popularity deteriorated. A decade of high inflation and stagnant economic growth wiped out the gains of two decades of development. Poverty increased; middle-class professionals and workers lost their jobs, and everyone blamed the PRI.

Rising Levels of Education and Wealth.
By the 1980s, Mexican society had changed dramatically from 1929. A mostly poor, agricultural, illiterate society became an urban, industrial, and increasingly educated society. The first signs of this shift emerged in 1968, when a powerful student movement led by high school and university students demanded more political freedom. Although this movement was crushed by the Mexican military, it was instructive that pressure for democracy began among the most educated segment of society.

Democratic theory tells us that societies with wealthy, educated populations are more likely to support stable democracy. Democracy requires a people capable of reading and interpreting information about candidates and poli-
cies. Moreover, educated people commonly feel that they have the capacity and the right to make such choices. Finally, as incomes rise, people have more time and energy to devote to political activity.

The Growth of Civil Society. In fact, political activity did increase. By the 1990s, a growing number and variety of popular organizations operated independently of the PRI. Cities grew so rapidly during Mexico’s development that there were enormous backlogs in public services. Shantytowns created from salvaged materials sprang up on marginal land. They lacked electricity, plumbing, or clean running water—everything governments are supposed to provide. Neighborhoods organized to pressure the government for these services. Feminist organizations, environmental organizations, and human rights organizations were also created by middle-class residents.

In 1988, many of these organizations came together in support of the presidential candidacy of Cuauhtémoc Cárdenas, a PRI insider and only son of President Lázaro Cárdenas. He broke with the PRI over market reforms and the party’s refusal to allow him to compete for its presidential candidacy. His campaign relied heavily on networks of popular organizations. In the end, the PRI resorted to massive electoral fraud to deny him victory, leaving another major stain on its legitimacy.

The 1988 campaign also marked the foundation of Mexico’s main left party, the Party of the Democratic Revolution, or PRD. Over the next 12 years, the PRD worked tirelessly for electoral reform and democratic change. Although the PRD did not benefit directly (the conservative PAN won the 2000 presidential election that ended the PRI’s rule), its contributions to Mexico’s democratic transition are incalculable. The PRD was the first viable political threat to the PRI. More importantly, the fact that this threat came from the left gave the PAN leverage to make a series of deals. In exchange for PAN support of economic reforms, the PRI’s pro-market reformers accepted opposition electoral victories (of the PAN) and negotiated reforms that removed elections from direct PRI supervision. The experience of governing gave opposition politicians credibility and reassured voters that electing candidates from the opposition would not lead to disaster. The electoral reforms created a more level playing field and sealed the end of the PRI’s one-party regime. Ironically, the PRD challenged these same institutions after an excruciatingly narrow loss (less than 1 percent margin) in the 2006 presidential election. PRD candidate Andrés Manuel López Obrador charged the PAN with electoral fraud and led nearly six months of mass demonstrations attempting to prevent the inauguration of President Calderón. Although the PRD has since returned to normal behavior in the Mexican legislature, the fact that many of its followers remain less than fully committed to the current set of legal norms regarding elections is a troubling indication that Mexico’s democracy has not yet consolidated.

The Contemporary Political System

Though historic, the election of PAN president Vincente Fox in 2000 did not change the institutional framework of Mexican politics. The Mexican Constitution is loosely modeled on the U.S. Constitution. It is a presidential system, with a Senate and a Chamber of Deputies, and an independent judicial branch. Formally, it is a federal system, which means that state and national governments share power and are separately elected. It has 31 states and a Federal District (Mexico City). The Mexican president is only slightly more powerful vis-à-vis the legislature than the U.S. president, but the judicial branch is significantly less powerful than its American counterpart. Mexico’s Supreme Court only acquired the power of judicial review (the power to declare a law unconstitutional) in the 1990s. It does not have a tradition of acting independently of presidential wishes, and access to the court is more limited than in the United States. Any U.S. citizen can appeal to the U.S. Supreme Court, but only specific actors (such as legislators) can bring cases to the Mexican Supreme Court.

One of the most significant differences between the United States and Mexico is the electoral system. The United States uses a plurality system, in which the candidate with the most votes wins the seat. Mexico uses a mixed electoral system for its legislature. In the Chamber of Deputies, for example, there are 300 plurality district seats, but there are also 200 proportional representation seats. Parties end up with roughly the same percentage of seats as their percentage of the vote nationwide. As a result, instead of a legislature where one party nearly

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Mexico recently enacted a group of justice system reforms. In this article, political scientist David A. Shirk discusses these reforms, the conditions that gave rise to them, and Mexico’s continuing need to balance crime control and the rights of the accused.

When we look south of the border, images of violence, lawlessness, and official corruption often prevail among U.S. perceptions of Mexico. While these images are sometimes greatly exaggerated, Mexico indeed faces critical challenges in law enforcement and the administration of justice. These issues cannot be ignored and have important implications for the U.S.-Mexican relationship.

Major political and economic changes over the last few decades have presented significant challenges for the rule of law in Mexico. A series of economic crises beginning in the mid-1970s contributed to elevated levels of crime and violence, including higher rates of robbery, property crime, and assault. Over the same period, Mexico’s political transformation from a virtual one-party state for most of the twentieth century to a multiparty democracy after 2000 has been accompanied by significant changes in the structure and function of its public security and judicial systems.

By most accounts, the administration of justice in Mexico has proven thoroughly inadequate, contributing to low public confidence and extraordinarily high levels of criminal impunity. Some experts estimate that as few as 25 percent of crimes in Mexico are even reported to the police (compared with about 50 percent of crimes in the United States). Due in part to significant case backlogs, fewer than five percent of crimes are fully investigated. Cases brought to trial are hampered by lengthy, inefficient criminal proceedings and result in sentences for a meager one percent of all crimes. In many cases, slow trial proceedings allow defendants accused of crimes to languish in jail for years without a sentence (sometimes for relatively minor offenses), often mixed with the general prison population of convicted criminals. As Mexican crime expert Guillermo Zepeda argues in Crimen sin castigo (Crime Without Punishment), both victims and crime suspects have woefully little access to justice.

Another serious problem is the proliferation and empowerment of organized crime syndicates in multiple and frequently interrelated areas — drug trafficking,
arms smuggling, money laundering, kidnapping, and other forms of criminal activity. Since 2005, the number of drug related homicides has surpassed 13,000, with nearly half of these occurring in 2008 alone. Also disheartening are instances of high-level official corruption and assassinations of government personnel that suggest that almost no Mexican official is “untouchable” by the bribes or bullets of organized crime.

In short, the overall picture is one where the “un-rule of law” prevails. Thus, in terms of its political development, Mexico is at a critical juncture. Without a major systemic transformation of Mexico’s justice sector, democratic governability itself may hang in the balance.

Reforming the Administration of Justice
In the face of this grave situation, Mexico’s frustrated citizenry has voiced repeated demands that public authorities implement new solutions and increased efforts to promote public security and the rule of law. In March 2008, the Mexican Congress and the current administration of President Felipe Calderón approved a major package of constitutional and legal reforms that will dramatically transform the functioning of the Mexican judicial sector over the next decade. These reforms will implement a transition from Mexico’s long-standing inquisitorial system of criminal justice to a more rights-based accusatorial model. Advocates of judicial reform hope that these changes will ultimately make the Mexican criminal justice system more effective, efficient, and just.

There are five main elements of Mexico’s new justice sector reforms. First, the reforms clearly establish the basis for an accusatorial system, in which prosecutors and the accused present their cases in a public, oral trial before a neutral judge. The reforms specifically assert the presumption of innocence, the right to a quality defense provided by the government, and the physical presence of a judge during trial proceedings (many cases are now handled by clerks).

Second, the reforms seek to limit the use of preventive (pretrial) detention. Currently, because of case backlogs and inefficiencies, an estimated 40 percent of Mexico’s prison population has not been sentenced and is awaiting a final verdict. Many suspects are detained even when charged with relatively minor offenses, such as shoplifting or an automobile accident. Moreover, pretrial detainees are frequently mixed with the general prison population; in many instances, they do not receive a sentence for years. Under the new reforms, pretrial detention would apply only in cases of violent or serious crimes, require separate prison facilities, and be limited to a maximum of two years without a sentence.

Third, the new reforms introduce a number of important changes for Mexican police agencies. Specifically, the reforms strengthen the formal investigative capacity of police to gather evidence and investigate criminal activity, in collaboration with the public prosecutor, or ministerio público. This is significant because, until recently, as many as 75 percent of Mexico’s more than 400,000 police officers lacked investigative capacity and were deployed primarily for patrol and crime prevention. Under the reforms, police are also now subject to special labor provisions, which give administrators greater discretion to dismiss law enforcement personnel.

Fourth, the reforms introduce new provisions to help crime victims. Under the present system, rape cases frequently require the use of a carreo, a face-to-face confrontation between the victim and the accused. However, the new reforms include privacy protections to conceal the identity of the victim and allow for reparations for harms resulting from the crime. The reforms also establish a right for the victim to challenge actions or inaction by the judge or prosecutor in a criminal case.

Finally, the new reforms target organized crime, defined in accordance with the United Nations Convention Against Organized Crime, signed in Palermo, Italy, in 2000. In cases involving organized crime, the Mexican constitution has now been amended to allow for the holding of suspects under “arraigo” for up to 40 days without criminal charges (with a possible extension to 80 days). Under the reforms, prisoners may also be sequestered, held in solitary confinement, and placed under house arrest. Furthermore, in order to facilitate extradition, the reforms also allow for the suspension of judicial proceedings in criminal cases.

Mexican federal police patrol downtown streets of Nuevo Laredo, across the border from Laredo, Texas. Increasing violence from drug cartels and corrupt local police led the Mexican government to disband the local police force and send federal police to patrol the city.
In short, the scale of change that these reforms will bring is enormous. Courtrooms will need to be remodeled, lawyers retrained, and existing legal codes and norms radically overhauled. Mexico’s state governments have been given a period of up to eight years to fully implement the reforms. Several Mexican states—notably Chihuahua, Oaxaca, and Nuevo León—had already adopted elements of the reforms prior to 2008, providing important precedents to inform the federal level reforms. In a relatively short period, those states have experienced significant increases in judicial sector efficiency, which provide cause for optimism as the reforms are implemented across the country.

Reactions to the Reforms

Proponents of Mexico’s justice sector reforms point to successful transitions from inquisitorial to accusatory systems elsewhere in Latin America, notably Chile. The use of oral procedures reduces paperwork, increases efficiency, and helps to eliminate case backlogs. The emphasis on rights—for both the victim and the accused—strengthens the rule of law by promoting not only “law and order” but also governmental accountability and equal access to justice.

Yet Mexico’s reforms have also faced serious criticism, both from traditionalists and from advocates of more substantial reform. Adherents to Mexico’s traditional inquisitorial system have expressed concerns that the reforms constitute an ill-conceived, costly, and potentially dangerous attempt to copy the Anglo-Saxon model of justice, without consideration of the intricacies and nuances of the civil law tradition on which Mexico’s legal system is based. In other countries where similar reforms have been implemented, such as Honduras, inadequate professional capacity in supporting areas (such as police investigation) has undermined the effective administration of justice. Critics, therefore, worry that the reforms may be trying to do too much with too few resources and too little preparation.

Meanwhile, others worry that the reforms do not go far enough to protect the rights of the accused, having introduced measures—such as the holding of organized crime suspects without charge—which they feel may actually undermine fundamental rights and due process of law. To be sure, protecting the legal rights of crime suspects is often unsavory to the public, but it helps to ensure that the government is itself bound by the law, and that all citizens have access to justice. In Chile and elsewhere, concerns about pretrial release and the risk of flight by the accused have led to backsliding on reforms that provided important protections for the presumption of innocence. Hence, there is some concern that Mexican authorities may give in to practical and public pressures that will undermine the rights-based aspects of the reforms.

The Future

Whether the reforms are successful depends largely on how they are implemented, and by whom. Mexico now needs to invest in training and supporting the lawyers and practitioners who will operate this new legal framework, working to ensure that justice is swift, predictable, and fair.

Mexico is not alone in reform efforts in recent decades. In the United States, several key reforms to further professionalize the administration of justice and promote a rights-based criminal justice system took effect only in the post-World War II era. In the 1960s and 1970s, the United States Supreme Court established key provisions to ensure due process for criminal defendants (Miranda v. Arizona, 1966), access to a publicly funded legal defense (Gideon vs. Wainwright, 1963), and other standards and practices to promote professional policing. In effect, due process rights for the accused helped raise the bar for police and prosecutors, promoting the professionalization of the entire U.S. criminal justice system.

For Further Reading


For Discussion

What conditions led Mexico to approve major new reforms to the criminal justice system?

What are the key reforms? Why may it take up to ten years to fully implement them?

How do the reforms seek to balance efforts to control crime and protect the rights of victims and the accused?
NAFTA and Mexico: Sorting Out the Facts

NAFTA has helped the Mexican economy, but many challenges remain.

by Carol Wise

The North American Free Trade Agreement (NAFTA) has been a controversial part of U.S. trade policy and recent political discussions about jobs and the global economy. In this article, international relations scholar Carol Wise explores the myths and facts about NAFTA, its impact, and the reforms that Mexico needs to undertake to fully realize the benefits of free trade.

With the U.S. economy still reeling from the 2008-09 financial crisis, U.S. trade policy has taken a backseat to the urgency of stabilizing financial markets and addressing the problems that have provoked the current recession. When trade policy has surfaced, as in the debate over President Obama’s proposed stimulus package on Capitol Hill, the focus has been on “buy American” provisions and other forms of trade protectionism. It was a similarly protectionist mood during the mid-1980s in the United States that prompted first Canada, and then Mexico, to request the negotiation of a free trade agreement (FTA) with the United States. The result was the North American Free Trade Agreement (NAFTA), which was implemented on January 1, 1994. While Canada and Mexico are not completely immune from today’s “buy American” provisions, they are much better placed in the U.S. market than are other U.S. trade partners.

NAFTA promoted the free flow of goods, investment, and services within the North American bloc over a 15-year time line that ends in 2009. In contrast to the European Union, where all 15 members have signed on to a common trade tariff, NAFTA is a free trade area in which the three partners maintain their own separate trade policy toward the rest of the world. Tariffs and non-tariff barriers were eliminated on 65 percent of North American goods by the five-year point, and tariff reductions on automobiles occurred over a ten-year period. In the agricultural sector, sensitive products including corn, dry beans, powdered milk, sugar, peanuts, and orange juice concentrate were allotted a 15-year liberalization schedule. In short, NAFTA is the most daring political economy experiment ever to hit the Western Hemisphere.

Why has NAFTA remained so controversial in our political discussions? Why have the likes of CNN’s Lou Dobbs and any number of Democratic Party candidates who ran in the 2008 presidential primaries continued to rail against NAFTA?

“Too many sectors of the Mexican economy remain under … monopolistic control.”

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NAFTA? For example, in their respective campaigns Hillary Clinton and Barack Obama emphasized the need to renegotiate NAFTA, although in the end neither was able to elaborate on this proposal beyond the promise of protecting U.S. jobs.

In fact, although total NAFTA trade now accounts for some 30 percent of all U.S. trade, the number of jobs gained in the U.S. economy since NAFTA’s implementation in 1994 towers over those jobs lost. But as palpable as domestic fears over job losses in the U.S. currently are, NAFTA is the least of our worries. This is so because 99 percent of all tariffs on those goods and services covered by NAFTA have already been eliminated. A core problem is that politicians and policy makers in all three of the member countries have failed to update the agreement in ways that address alarming problems such as undocumented migration and border insecurity, including the explosion of drugs and arms trafficking on the U.S.-Mexico border. As a result, and even if NAFTA remains the symbolic scapegoat for all that’s wrong with the U.S. economy, new and more compelling global forces now shape our discussions of jobs, the economy, and competitiveness.

The most remarkable global force is China—in particular, how quickly China has gained a foothold in key U.S. sectors since its 2001 entry into the World Trade Organization (WTO), readily surpassing Mexico and Canada in numerous market niches. Canada and Mexico remain the most important trading partners of the United States overall, and together they represent the largest supply of U.S. energy imports. But when it comes to remedies for today’s economic pain, U.S.-China economic relations should be the focus of any serious debate over the current sources of job dislocation and associated economic stress in North America.

Although competition from China may be the more obvious cause of heightened job insecurity in both the U.S. and Mexico, NAFTA still dominates our public debates. NAFTA conjures up some bitter disappointments given the sizable gap between expectations and outcomes. But NAFTA has also achieved some impressive successes with regard to trade liberalization and regional integration in North America.

NAFTA: Substance and Symbol

Substance. The international economic climate that framed the 1991-1993 NAFTA negotiations was one of global recession and U.S. frustration over the stalemate that had beset the Uruguay Round of multilateral negotiations launched in 1986 at the General Agreement on Tariffs and Trade (GATT) (see sidebar box on page 26). With a growing number of developing countries joining the GATT, the Uruguay Round negotiations highlighted the ever-widening gulf that had emerged between the concerns of developing countries to achieve deeper concessions around “old” issues on the multilateral trade agenda (e.g., market access for agricultural and industrial goods) versus the push of the developed countries to advance on the “new” issues (e.g., the liberalization of services and investment, and the protection of intellectual property rights, or IPRs). Although the United States was always a staunch proponent of multilateral trade negotiations, NAFTA broke entirely new ground with the first-time willingness of the United States to step outside of the GATT framework and negotiate a bilateral free trade agreement (FTA)—not to mention one that included a developing country (Mexico).

A second unique feature of NAFTA was Mexico’s willingness to forgo any special treatment at the negotiating table related to its developing country status, for example, technical assistance to prepare vulnerable sectors for the competitive shock that NAFTA implied. This paved the way for a final agreement that went well beyond what had been accomplished to date within the GATT. NAFTA’s key innovations were the protection of IPRs, the liberalization of agriculture, investment and trade in services, and the inclusion of dispute settlement mechanisms. The third breakthrough was the negotiation and attachment of labor and environmental “side accords” to the NAFTA agreement designed to ensure that all three countries, but especially Mexico, adhere to international standards for labor rights and environmental protection. NAFTA will be fully implemented by the end of 2009 and will remain in force. Moving forward, the question for all three partners is how to further expand the agreement to address pressing issues like border infrastructure that can better promote regional trade and stronger

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Few topics seem to stir more passionate reaction nowadays than undocumented immigrants coming to the United States, especially those coming from Mexico. Often labeled “illegal aliens,” undocumented Mexican immigrants are blamed for using stolen or phony Social Security numbers to work and claim tax refunds; for drug dealing; for costing millions in taxpayer money for education, health, welfare, and other public services; for coming from south of the border to give birth to children in order to get government-funded health care and aid; and for posing a security threat. Activists who sympathize with the cause of undocumented immigrants are portrayed as radical, open-borders amnesty advocates who put the interests of illegal aliens ahead of the public interest. Meanwhile, others who defend immigrant rights portray undocumented Mexican workers as the victims of unscrupulous employers who exploit them because of their vulnerable status. Undocumented immigrants are said to keep a low political profile, afraid of confronting the policies that criminalize them.

How can undocumented Mexican immigrants generate such conflicting views? How do they manage to make a living in the United States despite their vulnerable status? Do they adapt to life in this country or live in their own world without integrating into mainstream society? I address these questions based on fieldwork research I conducted among undocumented Mexican workers and families in San Jose, California. Following the tradition of anthropological research, I spent almost two years in the field to learn about the everyday lives of these workers and families, their cultural values and norms, and their customs and practices. While what I report is based on the experiences of Mexican workers in Silicon Valley, my findings resonate with the accounts of recent studies by other scholars such as Robert Smith and Travis Du Bry about the lives of Mexican immigrant

“Labor demand, not welfare benefits, attracts undocumented Mexican workers.”

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families in different urban and rural settings.

**Going to Silicon Valley**

Shortly after arriving in San Jose, I met Luis, Anselmo, Guillermo, and Manuel. They worked as janitors during the night shift cleaning an office building owned by Sonix, one of the largest electronics companies in Silicon Valley. They were employed by Bay-Clean, one of the cleaning contractors for Sonix. Like many other high-tech corporations in Silicon Valley, Sonix used to have its own in-house custodial workers. In the late 1980s, however, to reduce costs, the company started replacing them with subcontracted janitors employed by independent contractors. Sonix’s incentive to use subcontracting was obvious: while in-house custodial workers earned an average of $10.00 per hour and received a generous benefits package that included insurance, subcontracted janitors at Bay-Clean were paid an average of $5.50 per hour and received no health insurance or any other benefits. By the early 1990s, Sonix had contracts with more than a dozen nonunionized cleaning firms, mostly small and middle-size companies that relied almost exclusively on undocumented Mexican workers like those employed by Bay-Clean.

The case of Sonix reflected a general trend in Silicon Valley, where restructuring of janitorial work led to a sharp decline of wages and labor benefits for workers employed in the private sector and to demographic changes in the whole industry. Outsourcing also allowed high-tech corporations to delegate the legal responsibility for determining the labor conditions and the immigration status of janitorial workers to its contractors. By the late 1980s, the building-cleaning industry in Silicon Valley that was once firmly in the hands of minority and well-established Mexican immigrants had been radically transformed into a labor niche for recent undocumented Mexican and Central American workers. Thus, in the early 1990s, more than 70 percent of janitors working for private contractors in Silicon Valley were Hispanic, and about 60 percent of them were foreign, non-U.S. citizens. Selective labor demand for Mexican and other Latino immigrant workers, not the search for welfare benefits, was the main magnet attracting undocumented Mexican workers and their families to Silicon Valley.

**Making Ends Meet**

Janitorial and other low-income Mexican workers often take up second and even third jobs, working different day and night shifts. Others work in the informal economy—those income-generating activities that escape the control of the state and local government authorities—to provide a supplemental income to their regular jobs. The proliferation of informal economic activities is a common feature in many urban neighborhoods where Mexican immigrants live. While in San Jose, I documented a large variety of such activities. Some were illicit, such as selling drugs in the neighborhood I was studying, but the vast majority consisted of small-scale, street vending of home made food and other products by area residents.

Pundits often contend that Mexican immigrants who work as day laborers, street vendors, and the like are people with little education and poor occupational skills who cannot find employment in the mainstream economy. The case of Arturo, a thin and talkative man who works peddling paletas (popsicles) in San Jose, serves to illustrate the erroneous assumptions of this view. Soon after arriving in the city, Arturo started working in several casual jobs, the most stable of which was given to him by a local cleaning firm that paid $5 per hour and offered no benefits. After several months he quit the job because, he said, “I could not get used to work on a night shift and because I had constant problems with my supervisor.” Resolved to find a better alternative, he became a frozen-fruit-pop vendor for Delicias de Jalisco, a fruit bar company that mostly uses Mexican immigrants as self-employed workers to market its products. With time he was able to generate an income similar to what he had earned while employed as a full-time janitor in a local nonunion cleaning company.

Nevertheless, he confronted numerous risks beyond his control. The single most important factor that determines sales of frozen fruit pops is the weather. During the warm season he worked more than ten hours each day, but in the winter he had to look for alternative sources of income in casual and short-term jobs in construction, landscaping, and cleaning. The risk of being caught by the police working without a license presented a more important danger. According to local regulations, all street peddlers have to be licensed by the city government. Most street vendors, however, are immigrants like Arturo who do not speak English, are unaware of the permit process or afraid of dealing with government officials. The risk of being caught by immigration officers is an even more frightening prospect. On one occasion, an immigration agent stopped and asked him for his authorization to work in the United States. Being an undocumented worker, he was deported the following night.

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The Border and U.S. Policies: Apologia pro Border
by Tony Payan

Away from the border and judging from the media’s reports, the U.S.-Mexico borderlands seem unruly, chaotic, and lawless. The sensationalistic coverage of the border — the execution-style murders, the illegal drug trafficking, the undocumented migration, the incessant pollution at the border crossings, the weapons and money smuggling, the vigilantism on the Arizona-Sonora border, the gendered violence in Ciudad Juárez, the slums often found on both sides of the border — all give a terrible impression of the 2,000-mile-long zone. Indeed, there is much bad on the border. But this view of the border distorts two fundamental facts about it and our perceptions of it: (1) the nature of U.S. policies toward the border contribute enormously to life on the borderlands, and (2) not all life on the border is like those negative images.

Misconceptions about the Border. Many politicians, bureaucrats, and policy makers view the borderlands as a place where people are always out to take advantage of the system, abuse each other and their environment, infringe the law, and profit illegally. In fact, these perceptions are largely a matter of interpretation. In spite of the violence reported in recent months, such perceptions are inaccurate. Of the nearly 15 million people who live on both sides of the U.S.-Mexico border, the vast majority are honest, hard-working people straddling a border that provides challenges and opportunities. Most borderlanders, like everyone else, simply aspire to peace, order, and good government to be able to work, study, or shop and come back home safely to provide for their families.

Our perception of the border is the product of our own forgotten history — those away from the boundary have forgotten that in every border there is frontier. This is ironic, given that we live in the United States — a country conceived on the idea that human beings are selfish and their selfishness must be harnessed for the good of the community. We have little understanding of how borderlanders view their environment and even less understanding of how they take advantage of opportunities in the face of disparities. In a sense, borderlanders are natural economists; they take advantage of cross-border differentials to hedge their survival and prosperity, crossing the border to work where more money can be made and purchasing goods and services where they cost less. And this we do not seem to understand. Worse yet, it is as if the government no longer knows how to harness peoples’ desire for access, mobility, prosperity, and order in ways that sharpen and guide the taking advantage of these opportunities as a matter of policy. The consequences are repression and authoritarianism, disguised as law enforcement, where freedom, trade, and democracy should reign. The solutions created and implemented by the government often worsen the situation by making criminals of opportunity seekers and by failing to provide legal frameworks for borderlanders to take advantage of the opportunities that border differentials naturally produce.

Antiquated Frameworks. Politicians, bureaucrats, and policy makers see borderlanders as people who have (and should have) no choice but to contribute to protect the sovereignty of the nation as it magically begins and ends at the borderline. Borderlanders are asked to give up their very right to autonomy and
Spanning from the Pacific Ocean to the Gulf of Mexico, the U.S.-Mexico border region is home to more than 12 million people. The overwhelming majority of people in the border region live in a series of twin cities located adjacent to one another on either side of the border. The largest twin cities, San Diego and Tijuana, are also the most diverse. The eastern third of the border is defined by the Rio Grande. On either side of the river lie El Paso and Ciudad Juárez, the second largest urban border region.

Over time, the border has become increasingly difficult to cross, which has affected the lives of women in the region. Prior to the 1990s, the border was relatively open in many places. People regularly crossed to work, shop, or visit family. U.S. policies in the 1990s designed to protect the southern U.S. border have made the border increasingly difficult to cross, changing the lives of all border residents. It has meant more time and frustration for those who continue to cross regularly. The tightening of the border is one cause of the increasing feminization of migration from Mexico to the United States, as wives have opted to follow husbands north to reduce the expense and possible danger of regular border crossings.

Immigrants not only cross the U.S.-Mexico border, they also settle in the border region. After crossing north, many Mexican migrants settle in the border region; in 2000, almost 20 percent of U.S. border residents were foreign born. Migration also shapes life just south of the border. Roughly one-third of border residents in Mexico have migrated from other states (compared to less than twenty percent for Mexico as a whole), contributing to the dynamism and diversity of the border region. Indigenous migrant women from southern Mexico can be found hard at work in the markets of Tijuana and in the farmlands of Baja California Norte.

Migration often separates people from their communities and extended families. These dislocations can have profound impacts on women’s roles in their families. On the one hand, it can mean more work. Without the support of relatives, immigrant women can find it harder to balance the complex demands of family and employment. On the other hand, migration can give women the opportunity to challenge conservative traditions and redefine their roles.

In a recent study of border life, two economists found that differences between people in Mexico and the United States were smaller at the border than between people in other parts of the two countries. For example, U.S. border residents are, on average, poorer, and Mexican border residents richer, than people in the two nations overall. The lives of women converge at the border in many ways. For example, the gap in women’s employment is smaller at the border than elsewhere. Typically, U.S. women are much more likely to hold jobs than their Mexican counterparts. In communities along the border, however, women on the Mexican side are more likely to work than women in the interior of Mexico, in part because of the factory jobs there. On the U.S. side, border women are less likely to be employed, due to the lack of jobs, the lower levels of education, and the larger families relative to the rest of the country. The same pattern emerges for fertility rates: overall, the fertility rate is higher in Mexico than in the United States, but the gap between women on either side of the border is smaller than the gap between the two countries as a whole. Mexican border women have fewer children, and U.S. border women have more children, than elsewhere in the two countries (Joan Anderson and James Gerber, Fifty Years of Change on the U.S.-Mexico Border. University of Texas Press, 2008).

Despite the demographic similarities, it is the differences between the two sides that define women’s lives in so
remain low, even by Vicki Funares (University of Arizona Press, 2006). Scholar, industry leaders, and activists have a range of opinions about the implications of maquiladora employment for women. The boom in factory employment has meant new job opportunities, providing some women with empowerment and autonomy. But as critics point out, the pay is low, the hours are long, and the conditions can be difficult. All workers risk exposure to unsafe chemicals and face challenges such as mandatory overtime. Female maquiladora workers face additional challenges. The “glass ceiling” is a powerful barrier, and few women are promoted to management jobs. Sexual harassment is widespread, and many women are subject to invasive forms of monitoring, such as pregnancy tests.

The boom in maquiladora employment also indicates that the population of Mexico’s border cities has outpaced the supply of housing and infrastructure, forcing many people to live in colonias populares, shantytowns without water, electricity, or sewage services. Lack of basic services, environmental degradation, and related health concerns are major problems for women and their families.

Since 1993, a series of violent murders of women and girls have shaken the border communities in Ciudad Juárez and Chihuahua, Mexico. Amnesty International estimates that the number murdered is almost 400; another 70 females remain missing. The “femicides,” as they are widely known, have led to international protest and outrage. Mothers of the murder victims have been tireless in their efforts to call attention to the murders and bring the killers to justice. Telephone poles and lampposts on the streets of Juárez are marked with black crosses on pink backgrounds, each one memorializing a victim. Documentaries such as Lourdes Portillo’s Señorita Extraviada (Missing Young Woman) and Lorena Mendez-Quiroga’s Border Echoes have also highlighted these issues. Nevertheless, the Mexican government has continued to downplay the violence. The vast majority of murders remain unsolved. Theories abound—some see links to drug smuggling and prostitution, while others attribute the murders to a male backlash against women’s new roles in the region.

The femicides are just one of the many issues that have inspired women in the border region to organize. Pioneering women’s groups are fighting to improve working conditions, stop environmental degradation, and deliver public services to colonias populares. The 2006 film Maquilapolis by Vicki Funares and Sergio de la Torre documents the lives of several Tijuana women and their successes in improving conditions in workplaces and neighborhoods. The political organization and involvement of women will continue to change the complex, volatile, and fascinating border region they call home.

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self-determination in order to enforce the goals of the state. In other words, rarely are the people of the border consulted about what kind of place they would like to live in. Many of the policies that federal agencies create and implement at the border would be rather controversial in places away from the border, but at the border they are imposed from above as an obligation. In effect, there is a “democratic deficit” on the border and a policy framework (e.g., building a wall) that runs contrary to the forces of globalization (e.g., increasing human mobility). The irony is that this antiquated framework is one where “fortress America” insists that it can isolate itself from the very forces of globalization that it has helped create and encourage through its own search for opportunity and its advocacy of capitalism, technology, and human progress. In this regard, the costs of reinforcing the border will only increase, exacting a heavy toll on the taxpayer and the American way of life.

Contradictions in U.S. Policy. To understand these contradictions, let us consider the North American Free Trade Agreement (NAFTA), which has increased trade between Mexico and the United States from $40 billion in 1994 to $375 billion today. The three great pillars of NAFTA are the free, orderly, and equitable flow of goods, services, and capital. But the free, orderly, and equitable flow of people is not one of those pillars. This is like having a table with only three legs (goods, services, and capital), where the fourth leg (people) is missing. In other words, we want the benefits of a free flow of everything but people. If we consider that many people, particularly in sectors affected by the promotion of free trade (e.g., agriculture in Mexico or certain manufaturing areas in the United States), are dislocated by current trade policies and that they must move to seek out economic opportunity elsewhere, U.S. policy restricting labor flows is hypocritical, a form of “Catch 22.”

It should not be surprising then that nearly 7 million Mexicans have made their way into the United States without documents, in addition to the 250,000 Mexicans who do so legally every year. The policy of closing the border to workers—many displaced by the very trade agreements negotiated by the two governments—who venture out to seek economic opportunity has forced people to pay higher premiums to their smugglers and risk their lives in deserted zones. This, in turn, has caused more than 4,000 deaths of migrant workers who have left their lives on the Arizona desert in exchange for a small opportunity to cook for Americans, take care of their kids, and mow their lawns.

All this does not necessarily suggest that the problems of the border are easy to solve. The recent drug-related violence on the border—which took 1,633 lives in one year in Ciudad Juárez and about 750 more in Tijuana—also points to very thorny questions. Should drugs be decriminalized? Should we decriminalize drug use and medicalize drug abuse as we do with alcohol? If we decriminalize drug use, which drugs—only “softer” drugs such as marijuana or all drugs? What bureaucracy should regulate the production, distribution, sale, and advertising of the legalized drugs? This discussion—one that must be undertaken in the United States—will not be the panacea for the crime wave that currently infects Mexican border states. Only Mexico can end its own violence and corruption, although the United States could go a long way toward helping with funding, technology, training, and other measures designed to buttress the Mexican state and provide opportunities for Mexicans at home. What is clear, however, is that the way we frame the problem of drugs has caused us to export a “war on drugs,” which we have imposed on others to fight alongside us. This has caused much pain not only inside the United States but also outside.

Solving the Border

The border is a puzzle that needs to be solved—indeed, it is a very exciting puzzle. But it does require that politicians, policy makers, and bureaucrats challenge their misconceptions of the border and borderlanders, rethink how they view the border, and resolve the policy contradictions that lie at the core of U.S. border policy overall. This will require a new vision, political will, and trust-building measures between the two countries, as well as the creation of agencies that will disaggregate the problems of the border and deal with each of them separately. Until we find the courage to do this, the border will continue to have a bad reputation and be the victim of bad policies, even though most people living on the border are fundamentally good.

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Learning Gateways

by Anne del Castillo and Eliza Licht

Using Films to Teach About U.S.-Mexico Relations

Media can make content areas come alive, get students excited about a subject, and force them to think critically. In this article, we will highlight two films about Mexico and the U.S.-Mexico border that have premiered on the PBS television series P.O.V. (Point of View) that can be used in the high school classroom. The first is The Ballad of Esequiel Hernández by Kieran Fitzgerald, a story about the unintended consequences of border patrols by U.S. Marines. The second is Al Otro Lado (To the Other Side) by Natalia Almada, a documentary about the uncertainties of journeys by Mexicans who cross the border illegally in search of better economic opportunity in the United States.

The Ballad of Esequiel Hernández

Kieran Fitzgerald’s The Ballad of Esequiel Hernández (90 minutes), narrated by Tommy Lee Jones, explores the tragic death of Esequiel Hernández, Jr., who was shot and killed by U.S. Marines patrolling the Texas-Mexico border as part of the War on Drugs in 1997. Mistaken for a drug runner, the 18-year-old was, in fact, a U.S. citizen tending his family’s goats with a .22 rifle. His parents and friends, the Marines on patrol, and investigators discuss the consequences of militarizing the border.

P.O.V. launched an extensive public awareness campaign to expand public dialogue around national security and reach key stakeholders, including individuals and community-based organizations working on the complex issues of illegal immigration, the border, and the War on Terror.

Through P.O.V.’s outreach partners, The Ballad of Esequiel Hernández has been made available to a diverse range of organizations to screen for their constituents, including Southeast Middle School in South Gate, California; the University of Minnesota-Duluth; and the Wolfsonian Museum at Florida International University in Miami Beach, as part of a four-part series of programs that addressed the theme “Thoughts on Freedom.”

To support these activities, we developed a lesson plan to aid educators in examining with students the pros and cons of using the military to support law enforcement activities at the U.S.-Mexico border, a discussion guide with background information to help contextualize the film, suggestions for questions to facilitate dialogue around issues of posse comitatus and militarizing the border, and a listing of additional resources. We also produced a companion Web site (www.pbs.org/pov/ballad), where visitors can access character updates, find out more about the U.S.-Mexico and U.S.-Canada borders, and access an online photo gallery of pictures collected by The Border Film Project, which handed out 600 disposable cameras to two groups on opposite sides of the U.S.-Mexico border—undocumented migrants crossing the desert and American Minutemen volunteers trying to stop them.

Ramón Rentería of the El Paso Times observes that “the killing of Esequiel Hernández Jr. is retold in candid detail … a timely analysis as the United States debates complex immigration issues, national security and terrorists, and recurring demands for putting troops on the border.”

Al Otro Lado (To the Other Side)

Natalia Almada’s Al Otro Lado (60 minutes) focuses on a different aspect of the border. This film tells the human story behind illegal immigration and drug trafficking between the United States and Mexico through the eyes of Magdiel, a 23-year-old fisherman and aspiring
composer who dreams of a better life. The film follows Magdiel from Sinaloa, the drug capital of Mexico, as he faces two difficult choices to better his life—to traffic drugs or risk his life crossing the border illegally into the United States. Performance footage by corrido superstars is interspersed with the day-to-day struggles of Magdiel as he embarks on an uncertain journey.

P.O.V. focused on reaching community organizers working on immigration reform, policy makers, civic leaders, service providers, and law enforcement officials to expand public discourse of U.S.-Mexico immigration policy. The film was made available to dozens of organizations, including Daniel C. Oakes High School in Castle Rock, Colorado; Dorsey High School in Santa Monica, California; Vinalhaven School in Vinalhaven, Maine; the University of Iowa; the University of Minnesota-St. Paul; and Washington and Lee University.

P.O.V. produced a set of companion materials to support the use of the film in community and educational settings. The lesson plan features accompanying video clips from the film; discussion prompts on the question of what forces influence human migration, particularly along the U.S.-Mexico border; and an activity for students to write a paper from the perspective of a young Mexican man, explaining what happened to him after crossing the U.S.-Mexico border. The discussion guide contains background information on the issue; suggestions for areas of dialogue/evocative questions on identity, immigration, poverty, and social justice; and a listing of additional resources. We also produced a companion website (www.pbs.org/pov/pov2006/alotrolado), which includes excerpts in both Spanish and English from Elijah Wald’s book Narcocorrido: A Journey into the Music of Drugs, Guns, and Guerrillas, and an update on Magdiel’s life after the filming of Al Otro Lado.

Ben Chappell, assistant professor of American studies at the University of Kansas, reported, “It was clear that the film contributed to students’ understanding of the human context of illegal immigration.”

Anne del Castillo is the director of development and business affairs at P.O.V. She is currently pursuing a J.D. from Brooklyn Law School. Eliza Licht is the director of community engagement and education at P.O.V. For more information about P.O.V.’s films and resources, email her at events(at)pov.org.

About P.O.V.

P.O.V., produced by American Documentary, Inc., and entering its 22nd season on PBS in 2009, is the longest-running independent documentary showcase on American television. Since 1988, P.O.V. has produced and presented over 275 of the most important and challenging independent documentary films of our time, engaging the public with intimate, nuanced, and artful perspectives that reflect the diversity of our society and put a human face on the complex issues of an increasingly global community.

More than a broadcaster, P.O.V. is at the forefront of using independent documentary films for public engagement and education. Through educational activities, community outreach, online partnerships, and national public awareness campaigns, P.O.V. aims to raise awareness about the issues presented in our films, engage public dialogue, and connect people to resources in their local communities.

To increase opportunities for engagement with social issue media, P.O.V. offers streamed full-length versions of selected P.O.V. films and video clips with associated lesson plans for teachers and discussion guides for general use. These materials are available for free online via the P.O.V. Classroom (www.pbs.org/pov/classroom.php). P.O.V. currently has more than 66 films from its archives available for community engagement and educational use.

When educators are ready to use P.O.V. films in the classroom, they can apply to borrow films through P.O.V.’s Community Network at www.amdoc.org/outreach/events/index.php. Signing up online as a screening partner will also keep members updated on P.O.V.’s broadcasts, local events, downloadable materials, and other partnership opportunities. For more information, go to pbs.org/pov/.
Teaching About the U.S.-Mexico Border

In this interview, author and social studies teacher Bill Bigelow shares some of his experiences in developing curricular materials on Mexico and the border, traveling extensively throughout Mexico, and working with teachers on immigration and border issues.

Q: What experiences led you to develop this resource book for the classroom?

Bigelow: The Line Between Us is based on my teaching with high school students in Portland, Oregon. The curriculum grew out of five trips to the Mexican border that I took with other teachers and activists between 2003 and 2005. To extend the work that Rethinking Schools had begun with our 2002 book, Rethinking Globalization: Teaching for Justice in an Unjust World, we partnered with the San Francisco-based human rights organization, Global Exchange, to take teachers on “reality tours” so they could see first hand what globalization meant in one corner of the world. I wanted to turn my observations into activities to use with my students. I wanted to tell the “story” of how these big concepts were playing out in real people’s lives.

Q: Can you share one or two of your most poignant experiences or lessons learned from your travels through Mexico?

Bigelow: On one of my first trips to Tijuana, I visited a maquiladora — an assembly plant — that had been relocated from southern California. The factory made sample books of fabric, Formica, tile, and the like. The fumes were pretty thick, as workers glued down sample pieces in the books. As we walked around the plant, I noticed that a few of the women workers wore thin little 29-cent dust masks. I asked one of the managers why some workers wore masks and not others. He said, “Those are the pregnant women,” as if these worthless masks provided protection from toxic fumes. Later, the U.S. manager of the factory told us that he did not even want pregnant women working for him — not because of health concerns, but because companies were liable for some of the health benefits of women who delivered. He told us that they tested all prospective employees to weed out pregnant women. He also said that a doctor regularly dispensed birth control to his women workers, whose wages averaged around 8 or 9 dollars per day.

On every trip to the border, we had dinner at Casa del Migrante, a center run by the Scalabrini Order of the Catholic Church to provide care for migrants. By 2003, when I first began visiting there, most of the migrants in the center had been deported from the United States. I remember one man who had lived in Los Angeles since he was a boy, spoke perfect English, and held every kind of possible job in a restaurant. He had been picked up for jaywalking and deported to Mexico, essentially exiled to a foreign country where he knew no one — all of his family lived in California. He said that he planned to cross back into the United States, a journey that the Border Patrol has made more treacherous with each passing year.

Both stories reflect different sides of the same policy: It is fine for U.S. owners to migrate with their capital to Mexico, where they can take advantage of cheap labor, lax enforcement of environmental regulations, and lack of unions. But it is not OK for someone from Mexico to cross that same border to be with his family and earn a living wage.

Q: Your book is titled The Line Between Us. What are some of the key lines or divisions between the lives of people on the two sides of the Mexico-U.S. border?

Bigelow: There are many lines between us. One of the activities in the book is a “tea party” role-play that looks at the origins of the border between the United States and Mexico. So many people—students, the general public, even some teachers—seem to have the idea that some border deity established this line between “us” and “them.” But, of course, the border is the product of a war initiated by the United States under President Polk—an invasion and occupation of Mexico, followed by a treaty agreed to while U.S. troops occupied Mexico City. Many Mexican Americans will tell you, “I didn’t cross the border, the border crossed me.” But there are also lines between Mexicans themselves, as some
in Mexico benefit from the country’s new openness to U.S. imports, investment, and ownership, while others have lost their livelihoods and some have lost their lives. There are gender lines, as all the changes in Mexico affect men and women unequally; and racial lines, as the areas hit the hardest by free trade in Mexico tend to be in the largely agricultural, indigenous south in places like Oaxaca and Chiapas. In fact, the Zapatista rebellion was launched on January 1, 1994, the day NAFTA took effect. There are similar lines in the United States between people hurt by these policies and people who benefit. And this history migrates north, with millions of people here being declared “illegals.” There are physical lines, but linguistic ones too.

Q: Can you briefly describe some of the materials and teaching strategies from your book?

Bigelow: I try to design classroom activities that bring to life social dynamics. I want students to experience issues from the inside, rather than just hearing me talk about them or reading a chapter in a book. For example, the aforementioned “tea party” activity on the U.S. war with Mexico puts students in the position of different characters: U.S. plantation owners who supported the war, abolitionists who saw it as a war to extend slavery, women in U.S.-occupied New Mexico who stood to lose their rights to own property, Apaches who fought both Mexican and U.S. control of their land; Irish soldiers in the U.S. army who defected and created a Saint Patrick’s Battalion in the Mexican army, etc. Students learn about the war by meeting each other and hearing different stories.

Another activity I created is a role-play on the impact of NAFTA. The activity puts students in the roles of poor farmers in Chiapas, U.S. corporate executives, maquiladora workers in Tijuana, U.S. jeans workers, cross-border environmentalists, U.S. food manufacturers, and prosperous farmers in northern Mexico. In character, they have to decide whether they support different provisions of NAFTA and try to build alliances with other social groups.

An improvisation activity in the book allows students to confront the choices faced by Mexicans living at the border. They deal with issues ranging from poisonous fumes in the workplace to police harassment to organizing the cleanup of a toxic waste site to deciding whether to stay in Mexico or leave for the United States. All of the materials in the book are aimed at high school students, but I have also used the activities successfully with college students, teachers, and teacher educators.

Q: You do some work with teachers. What have you learned from them? What advice do you offer them?

Bigelow: I have partnered with teachers to develop different pieces of this curriculum. Teachers are always adapting and editing lessons, so I can see this work through new eyes when I collaborate with other teachers. My colleagues Sandra Childs and Tim Swinehart totally reworked my role-play activity that asked students to develop a sensible immigration policy for the United States. My wife, Linda Christensen, co-led most of the teacher border trips with me. Linda developed a brilliant activity built around a photograph that teacher Danica Fierman had taken in a poor neighborhood in Tijuana, affected by pollution from nearby maquiladoras. Students generated questions about the photo and answered their own questions through a collection of readings.

I do workshops with teachers around immigration and border issues. The main advice I offer is to urge them to question the way this issue has been framed in terms of nation states. For example, we’ll hear, “Is Mexico a ‘winner’ or a ‘loser’ as a result of NAFTA?” But who exactly is “Mexico”? The question, as framed, makes no sense. Poor farmers in Chiapas are losers. Large landowners in Sonora who make deals with U.S. food processors are winners. And some of Mexico’s poor get jobs in maquiladoras, but these jobs are often unsafe and almost always poorly paid and insecure. Are these workers winners or losers? It makes much more sense to approach these issues from the standpoint of specific social groups on both sides of the border, which allows students to see the holowness of “us” and “them” categories.

Q: Your book is published by Rethinking Schools. Could you tell us about this organization?

Bigelow: Rethinking Schools is a non-profit publisher that produces a quarterly magazine focused on critical issues in education from a social justice standpoint. We also produce books that offer detailed examples of excellent teaching at different grade levels. Because a handful of corporations produce almost all of the text materials used in U.S. classrooms, Rethinking Schools tries to provide alternatives.

Bill Bigelow (bbpdx@aol.com) has taught high school social studies in Portland, Oregon, since 1978. He is the author or co-editor of numerous books including A People’s History for the Classroom, The Line Between Us, and Rethinking Our Classrooms: Teaching for Equity and Justice. He is the curriculum editor of Rethinking Schools magazine. For more information about these resources, visit www.rethinkingschools.org or call (800)669-4192.
Mexico City. In a strong reaffirmation of one of the hemisphere’s most lenient abortion laws, Mexico’s Supreme Court on Thursday upheld legal abortion in the nation’s capital.

“To affirm that there is an absolute constitutional protection of life in gestation would lead to the violation of the fundamental rights of women,” said Justice Sergio Valls.

The controversial case has been watched closely by the rest of the country, and both critics and supporters of the Supreme Court decision say they believe it will push other states to liberalize their own abortion laws.

“The case is very significant for the possibility of continuing this trend in other states in the republic,” says María Consuelo Mejía, the director of Mexico’s Catholics for the Right to Decide. “The arguments and the way in which they defended women’s rights is very important, very symbolic.”

The law to legalize abortion in the nation’s capital was passed by the left-leaning assembly of Mexico City last April. It allows doctors to terminate pregnancy in the first three months under any conditions, but physicians who are morally opposed to abortion are not required to perform the procedure. In the rest of Mexico, abortions in the first trimester are currently only permitted in certain cases, including rape or if the mother’s life is in danger.

Since taking effect, some 12,000 women have terminated their pregnancies in public hospitals in Mexico City, according to city statistics. Twenty percent of them are residents from outside the capital.

Conservative Mexican President Felipe Calderón is not directly involved in the case. But his government, via the nation’s attorney general’s office and the National Human Rights ombudsman, challenged the Mexico City decision — saying that health laws should not be the domain of the local assembly.

The justices voted 8 to 3 to uphold the April ruling. To do so, eight of 11 justices would have needed to vote in favor of its unconstitutionality.

Anti-Abortion Groups Outraged

The law has sparked outcry in the second-largest Catholic country in the world. “This is very grave for our country,” says Jorge Serrano Limón, the head of Provida, an anti-abortion group that has been protesting abortion outside public institutions this week. “We are creating a culture of death. We have failed as a society.”

Mexico City’s law is one of the most liberal laws in Latin America, putting it in line with Cuba and Guyana, the only countries in the region that currently allow abortion for all reasons in the first trimester, as the United States allows. Nicaragua voted in November 2006 to ban abortion in all cases. El Salvador and Chile also have some of the region’s most restrictive policies.

The Archbishop of Mexico City, Cardinal Norberto Rivera, said in a sermon last Sunday that the nation’s push to stem murder at the hands of kidnappers and drug cartels is a contradiction if it also supports abortion.

“To me it is a contradiction to sign an accord against violence with great fanfare while at the same time we are threatened with the violence against the most innocent, those in the wombs of their mothers, being declared constitutional,” he said, according to Catholic News Agency.

Since the law has been passed, at least two states have been looking to make abortion more restrictive, such as taking away that right in the case of rape, says Ms. Mejía.

Other States Could Follow Suit

But Mr. Serrano Limón says that other states will move to mirror Mexico City. “This is going to promote abortion in other states. Instead of 12,000 deaths in a year, we’ll see 25,000,” he says. And because a fifth of the women who have received abortions in Mexico City since the law passed have come from outside the capital, he says this is an imposition of the personal interests of judges and legislators.
Mejía says that the opponents’ argument that the judges and local assembly have imposed their will on the population is a political argument. Instead, she says, the law is intended to equalize Mexican society overall. “The reality is, women who have resources have the possibility to have abortions. Women who are poor don’t have that possibility. That was one of the major points the assembly made when discussing this,” she says. “It is a social justice issue.”

Editor’s Update: In March 2009, Mexico’s Supreme Court released a document of more than 1,000 pages providing the legal reasoning behind its August 2008 decision. According to pro-life lawyers, the decision is a limited one that does not grant a broad-based right to abortion throughout Mexico. (Indeed, several Mexican states have since enacted constitutional provisions to protect life from the moment of conception.) The eight justices who voted to uphold the abortion law in Mexico City could not agree on a single rationale, but most of them agreed that the unborn deserved some judicial protection.

A recent national study conducted by scholars at the Guttmacher Institute found that the number of abortions performed in Mexico increased by more than one-third from 1990 to 2006, despite the legal restrictions in place. Indeed, in 2006 the abortion rate in Mexico was nearly twice as high as in the United States. This led the researchers to conclude that “making abortion illegal does not significantly decrease its frequency, it just makes it unsafe and puts women’s lives at risk.”

In the Classroom …

Use these discussion questions, teaching activity, and resources to help students extend their understanding of the news article, promote classroom discussion, and offer opportunities for small research projects.

Discussion Questions

1. Similar to the United States, Mexico is a federal republic, in which there is shared power—among the branches of government (president, congress, courts), between the national government and local governments, and across different local governments. How does the subject of abortion illustrate this principle of shared power in Mexico?

2. The United States Supreme Court decision of Roe v. Wade (1973) established the right of women to gain access to abortions throughout the United States. How is Roe different or similar in scope to the recent decision of Mexico’s Supreme Court?

3. In your opinion, is the Mexico City law permitting abortions (in the first trimester) likely to spread to other states in Mexico? Why (not)?

Teaching Activity

As a homework assignment, ask one small group of your students to research the institutional development of the power of judicial review in Mexico. When, and under what authority, did Mexico’s Supreme Court gain the authority to review—and strike down as unconstitutional—laws passed by local or national assemblies? What factors led to this development? Was Mexico influenced by the legal culture of the United States and/or other countries? Ask another group of your students to research the individual justices of Mexico’s Supreme Court. Who are they currently? What are their backgrounds? Are the justices appointed or elected? Is their term of office a fixed term of years or life tenure? In practice, how do lawyers in Mexico typically “work their way up” to the Supreme Court—what contacts and experiences are typically required? Ask each group of students to make a short oral report summarizing their findings to the entire class. Then, ask the class as a whole to draw together the information from these two strands of research and discuss whether Mexico has an “independent judiciary.”

Resources

Constitution of Mexico: http://www.ilstu.edu/class/hist263/docs/1917const.html

See, especially, Title III, Chapter IV: The Judicial Branch.


In just his third term heading the U.S. Supreme Court, Chief Justice John G. Roberts Jr. has already put his stamp on international law and the interpretation of treaties. Perhaps he had no choice. Treaty disputes have been bubbling up. Some have concerned trade pacts: In Department of Transportation v. Public Citizen, 541 U.S. 752 (2004), the Court said Mexican trucks may travel freely across the U.S.-Mexico border even if they don’t meet California highway safety and anti-pollution standards. Others have involved labor laws or copyright piracy.

The first major treaty disputes to reach the Roberts Court have focused on crime and the death penalty. In both, Roberts spoke for the Court to limit the effect of international treaties on local jurisdictions. Writing for a 6-3 majority two years ago, Roberts said state judges and prosecutors need not throw out confessions because of a possible violation of the notification right under international treaty (Sanchez-Llamas v. Oregon, 548 U.S. 331).

Experts in international law have called Medellin a setback for America’s reputation abroad. “The U.S. has been an active user of the international court, and we usually win. This is a blow to our image for upholding the rule of law,” says Lori Fisler Damrosch, a professor of international law at Columbia University.

To the Hague
During Medellin’s appeal, the case was pulled onto the world’s stage. In 2004, Mexico sued the United States in the ICJ on behalf of Medellin and 50 other Mexican nationals incarcerated in state prisons and sentenced to death. Mexico’s lawyers argued the convictions and sentences should be overturned because officials in Texas, California, and elsewhere failed to notify them that these people had been arrested and faced murder charges. …

The ICJ agreed with Mexico, but its ruling was tentative. It said the United States had a duty to “provide, by means of its own choosing, review and reconsideration of the convictions and sentences” of the 51 Mexican nationals (Case Concerning Avena and Other Mexican Nationals, 2004 I.C.J. 12).
After the ruling was handed down in March 2004, the New Orleans-based 5th U.S. Circuit Court of Appeals denied Medellin’s application for a certificate of appealability. The Supreme Court granted cert. …

In February 2005, … Bush issued a presidential memorandum announcing that the United States “will discharge its international obligations” under the ICJ ruling “by having state courts give effect” to its ruling on behalf of the 51 Mexicans. With the memorandum in hand, Medellin went back to the Texas state courts, where the Court of Criminal Appeals of Texas dismissed the case. …

[Meanwhile], the U.S. Supreme Court took up the case of Moises Sanchez-Llamas, a Mexican national who was arrested in the shooting of a police officer. He was given Miranda warnings in Spanish and English and made an incriminating statement. His lawyers said the statement and conviction should be overturned because he was not given his Vienna Convention rights to seek the aid of the Mexican Consulate.

Roberts rejected the contention in Sanchez-Llamas. The ICJ’s interpretation of the treaty merits “respectful consideration,” but it is not binding law, the chief justice said. Justices Antonin Scalia, Anthony M. Kennedy, Clarence Thomas, and Samuel A. Alito Jr. agreed in full, and Justice Ruth Bader Ginsburg concurred.

**Presidential Powers in Question**

The stage was set then for Medellin. Not only was the treaty or the ICJ’s decision not binding law, Roberts wrote, but Bush could not make it so on his own—a rare rebuff of the president. The Constitution gives the president the power “to execute the laws, not make them,” Roberts wrote. The president, acting alone, cannot enforce an international treaty without the explicit backing of Congress, he said. …

Anticipating the claim that the Supreme Court was reserving for the United States a special exemption from its treaty obligations, Roberts kicked back. “Neither Medellin nor his amici have identified a single nation that treats ICJ judgments as binding in domestic courts,” he wrote.

But the Vienna Convention is an unusual treaty, says Duke University law professor Ernest Young, because its enforcement rests with police and prosecutors. “If you are talking about compliance with an arms-control treaty, you can point to a few people who are responsible. But this involves millions of foreigners and thousands of arresting officers,” he says. …

Northwestern University law professor Sandra Babcock, who represented Medellin, stresses that the Vienna Convention protects Americans abroad. “The United States should comply with the judgment of the ICJ, not only because it’s the right thing to do, but because noncompliance could affect the safety of foreign exchange students, Peace Corps volunteers, American servicemen, and all other Americans who rely on the protection of the U.S. Consulate when they travel abroad.” ■

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**NAFTA and Mexico**

*continued from page 11*

compliance with the labor and environmental stipulations set forth in the NAFTA side agreements.

**Symbol.** NAFTA was expected to benefit all three countries—but especially Mexico as the least developed member through the deepening of its trade and investment ties. Conversely, in the U.S., where NAFTA accounts for less than one percent of U.S. gross domestic product (GDP), the long-term effect was expected to be minimal. Yet it was in the United States where a bitter national debate about NAFTA exploded, especially with regard to the possible labor market and environmental infractions that NAFTA could inadvertently permit. One result in the United States was the emergence of a blue-green coalition of grassroots labor and environmental activists who managed to insert trade-related issues onto the trade policymaking agenda like never before. The tenacity of this blue-green coalition helped win vital labor and environmental protections as part of NAFTA. In Mexico, the authoritarian PRI party that governed was able to circumscribe any serious discussion of NAFTA through coercive control of the media and other sources of information, including feasibility studies that pointed to the harsh adjustment impacts that some sectors would inevitably bear under NAFTA.

**NAFTA’s Impact on Mexico**

NAFTA’s critics have perhaps done a better job of advertising its failures than its proponents have done in touting its gains. Overall, it would be difficult to paint NAFTA as anything but a success, especially when judged according to its own goals—the creation of a free trade and investment area in which all three North American partners have vigorously pursued the liberalization of goods, capital, and services. As the foreign policy expert Robert Pastor recently wrote in *Foreign Affairs* magazine, under NAFTA “goods and services with Canada and Mexico tripled—from U.S. $341 billion in 1993 to more than U.S. $1 trillion in 2007—
and inward foreign investment quintupled among the three countries and increased tenfold in Mexico between 1990 and 2005” (Pastor 2008, p. 85). In terms of GDP, the NAFTA zone has surpassed the European Union (EU) to become the largest free trade area in the world.

Nevertheless, the impacts of regional integration have been quite uneven. For Mexico, the assumption of mainstream economists was that the elimination of barriers at the border would promote scale economies related to greater specialization, increased technological capabilities, and more efficient deployment of those factors for which Mexico has a comparative advantage (natural resources and comparatively cheap labor). Pro-NAFTA policy makers and economic analysts also argued that the blending of Mexico’s abundant factors with the capital, technology, and know-how of the United States would lead to greater income equality between the two countries. According to this neoclassical economic narrative, Mexico would readily advance up the industrial and technological learning curve, substantially increase its per capita income, and better approximate the economic indicators of a developed country.

The data show that NAFTA has delivered rather erratically on these expectations for Mexico. At the macroeconomic level, Mexico has clearly converged toward the United States in terms of aggregate growth, interest rates, exchange rate stability, and the lowering of inflation to single digits. But the microeconomic data are bleak. Although Mexico rebounded from the disastrous 1994 peso crisis, the distribution of income has worsened and the growth of per capita GDP in Mexico, still 6.3 times lower than that of the United States, hit a virtual standstill in the 2000s. According to World Bank data (www.doingbusiness.org), Mexican firms are still not as competitive as those of Chile and Colombia.

In sum, Mexico is still in need of a more proactive East Asian-style competition policy that spurs productive investments, increases ties among R & D, universities, and private initiative, and promotes the adaptation of advanced technology. Nonetheless, domestic politics has yet to fully embrace these prescriptions. Fifteen years into NAFTA, numerous sectors (telecom, finance, petroleum) of the Mexican economy remain under some form of monopolistic control, be it the government-owned oil sector or the privately held telecom industry.

NAFTA did bring about the decline of single-party rule in Mexico and the country’s full-fledged democratization with the election of President Vicente Fox in 2000. Unfortunately, the multiple reform tasks inherited by the Fox administration (2000-2006) were stalled by tension between the country’s first democratically elected executive and the divided congress that he inherited. This, in turn, delayed the development of crucial competitiveness measures in the realms of energy sector modernization, fiscal restructuring, labor market mobility, and stronger support for those small and medium-sized firms that provide the bulk of Mexican employment.

Fox’s successor, President Felipe Calderón (2006-2012), has proven to
be more politically savvy, but the pace of reform remains far too incremental. For instance, the inability of the Calderón team to modernize Mexico’s state-held energy sector crippled the ability of this energy-rich nation to fully cash in on the latest oil price boom. Moreover, China—with its lower utility costs, more favorable corporate tax rates, and blitzkrieg educational investment in the higher-skilled professions—is now gaining a strong foothold in the more sophisticated sub-sectors of the U.S. electronics market (computer peripherals, sound and television equipment, telecom), areas that Mexico once claimed as its own.

NAFTA’s critics have been quick to lay blame on the agreement itself, but Mexico’s own weak reform record suggests that these shortcomings lie just as much in the frailties of domestic politics and policymaking. Mexico placed almost blind faith in neoclassical economics and geographical proximity to the U.S. market to trigger higher growth and lift its population out of poverty. But the Mexican government’s inability to buckle down and implement key reforms has made these goals hard to achieve.

The Legacy of NAFTA

Mexico used its NAFTA membership to attract investment and promote a diversified mix of higher value-added exports over the past two decades. As estimated by researchers at the World Bank, “Mexico’s global exports would have been about 50 percent lower and foreign direct investment (FDI) would have been about 40 percent less without NAFTA … NAFTA made Mexico richer by about four percent of its gross domestic product (GDP) per capita” (Lederman, Mahoney, and Servén 2005, p. 2). However, comparisons of Mexico with the economic performance of other Latin American markets that did not join NAFTA also confirms Mexico’s pattern of underperformance.

NAFTA has delivered its punch in terms of the role it can play in further catalyzing Mexico’s development. Any true revival of NAFTA as a development project would require that regional leaders agree on a continental strategy that taps labor markets across the three borders, tackles the huge asymmetries that continue to divide Mexico from its wealthier partners to the north, and invests more vigorously in infrastructure and technology transfer. At this juncture, such a strategy does not appear to be likely.

Indeed, the most visible U.S. commitment to Mexico under President George W. Bush was the Secure Fence Act of 2006, which mandated $7 billion for the construction of a double-layered wall along the 1,933-mile U.S.-Mexico border to halt the northward flow of undocumented workers. In 2008, the U.S. Congress also authorized $1.4 billion in security aid for Mexico to pay for aircraft, training, and high-tech scanners to bolster the Calderón government’s battle against drug trafficking in Mexico’s border states.

Otherwise, the United States has basically turned its back on Mexico in the 2000s, signaling that is it incumbent upon Mexican politicians and policy makers to sort out their own economic development problems. Looking ahead, President Obama met with President Calderón and sought to assure the Mexican leader that he seeks to revitalize U.S.-Mexico relations and upgrade, rather than eradicate, NAFTA. The good news for both countries: the current state of U.S.-Mexico relations has nowhere to go but up.

For Further Reading


For Discussion

What is NAFTA? Why did Mexico, the United States, and Canada enter into this agreement in 1994? Why has it remained controversial in each of these countries?

How have the United States, Mexico, and Canada been affected by NAFTA, for better or worse? What data support this view?

As the global economy grows, what types of regulations should be in place, if any, to ensure that nations and consumers are protected but still have freedom to buy and sell in the marketplace?
Making a Living and a Life: Stories of Undocumented Immigrants
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for sure if he would be able to cross the border again.

Arturo’s case is an example of the many immigrants I met in San Jose who preferred to work in the informal sector rather than in low-paid and exploitative jobs in the formal economy. From this perspective, street vending is a response to the low-paid jobs in the formal sector. Informal economic activities cannot be reduced to either illicit activities or survival occupations by undocumented immigrant workers without access to employment opportunities in the formal sector. More often, Mexican immigrants use income generated by work in the informal economy to supplement wages from low-paid jobs in the formal sector, as there is a symbiotic relationship between the two. Saskia Sassen, a leading expert in the informal economy, contends that policy makers should stop approaching the informal economy as an anomaly and instead view it as an outgrowth of advanced capitalism. Rather than treating it as a deviation from the law, they should develop policies that recognize the contributions of this type of informal economic activities and its workforce.

Fighting for Rights

Contrary to conventional wisdom, undocumented Mexican and other Latino immigrants are not just passive victims of capitalist economic forces that exploit them. Despite their vulnerable economic and legal status, they have forged a culture of resistance as they struggle to defend their labor and civil rights. With time and as they settle down, Mexican immigrants, men and women alike, engage in different forms of civic and political participation in their local communities. A case in point is Luis and his coworkers at Bay-Clean. After years of enduring harsh working conditions, stagnant wages, no fringe benefits, and ethnic discrimination, they decided to fight back. Most aggravating to them were the insults and threats from their supervisors because of their undocumented status. Together, they contacted Local 1877, the union that represented janitorial workers in the region, to confront their employer. In the midst of a public campaign to organize Latino immigrants cleaning the buildings of large high-tech companies in Silicon Valley, Local 1877 eagerly decided to support the Bay-Clean workers’ struggle. For several months the janitors who cleaned Sonix buildings organized public rallies with the support of community leaders, local priests, college students, and others sympathizers to unionize. As I learned from watching them, Bay-Clean workers embarked in the union struggle not only to improve their wages and working conditions, but also to fight for dignity and respect in the workplace. They were part of what has been called “social movement unionism,” through which immigrants and other low-paid workers articulate their labor demands as part of a wider mobilization for social justice, ethnic equality, and basic human rights.

Outside the workplace, undocumented Mexican immigrants also engage in other forms of civic and political participation. For example, Mexican parents, especially women, often get together to be represented on school boards to improve the education of their children in public schools. In San Jose, I witnessed how Mexican parents mounted a public campaign to elect one of them as president of the school council to negotiate with the school’s principal for more bilingual teachers. As in the case of union participation, legal status is not a prerequisite for political activism at schools. Thus, community politics provides political venues for first-generation immigrants, legal and undocumented alike—who as non U.S. citizens are excluded from electoral politics—to struggle for civil and labor rights.

Public policies that criminalize undocumented immigrants also spur strong responses by Mexican and other Latino immigrants. The prohibition to obtain driver's licenses for undocumented immigrants illustrates this point. In San Jose this prohibition affects many workers employed as janitors in night shift jobs for whom public transportation is not available. Rather than restricting illegal immigration, the prohibition has pushed undocumented immigrants further underground, diminishing rather than enhancing public safety. In response, a group of immigrants along with grassroots organizations, labor unions, and proimmigrant rights groups mobilized to gather public support to change the current law. While the mobilization did not produce the desired results, for the undocumented immigrants I interviewed, this was an issue of social justice—they believed that their contributions to society through their work and taxes should entitle the right to have a driver’s license.

Should undocumented immigrants be entitled to any legal rights? As I have tried to show here, undocumented Mexican immigrants do not fit the stereotype of the illegal aliens who come to take advantage of government-funded programs and engage in criminal activities. Rather, most are industrious people whose lives revolve around work, who care deeply about their children and families, and who are engaged in labor, community,
or other civic activities, the very values that define good U.S. citizenship. As such, they are not much different from previous generations of immigrants from other countries, legal and undocumented alike, who came to the United States in search of better economic opportunities and making the American Dream possible for their children and subsequent generations. Well aware that their hard work and taxes contribute to the wealth of the U.S. economy, undocumented immigrants who mobilize for their labor, civil, and political rights are only voicing a quintessential principle of democracy—no taxation without representation. A comprehensive immigration reform that brings millions of Mexican and other undocumented immigrants out of the shadows will be the first step to live up to that principle.

For Further Reading


For Discussion

What attracts Mexicans to migrate to the United States? Are these incentives similar or different from earlier waves of immigrants from other countries?

What are the key differences between the “formal” and “informal” economies? How do Mexican immigrants participate in both?

Why and how do immigrants participate in local civic activities? What risks might they be taking? What challenges might they face?

As debates about “immigration reform” continue, what exactly should “immigration reform” include?

Justice Reform in Mexico

Moreover, it took at least a generation and major, targeted investments to truly professionalize the U.S. law enforcement and judicial sectors. The Safe Streets Act of 1968 mandated the creation of the Law Enforcement Assistance Administration (LEAA), which helped fund criminal justice education and research programs. In order to be successful, Mexico will likely need to make similar investments alongside the reforms it already has planned over the next decade.

Efforts to promote greater professionalism among lawyers, who will be primarily responsible for “quality control” in the Mexican criminal justice system, will be of special importance. Although Mexico has recently adopted a new code of legal ethics, Mexican lawyers are not now required to receive postgraduate studies, take a bar exam, maintain good standing in a professional bar association, or seek continuing education in order to practice law. All of these are elements of legal professionalism that developed gradually over time in the United States, mostly in the post-World War II era.

Mexico is working to make major progress in a relatively short period, attempting to overhaul 300 years of independent legal tradition (and 300 years of Spanish colonial legal tradition) in less than a decade. To help ensure Mexico’s success, U.S. government agencies and nongovernmental professional associations (e.g., the American Bar Association, the Due Process of Law Foundation, the National Center for State Courts) have offered various forms of assistance, including financial aid and legal training. Mexico can also look to, and learn from, both the positive and negative experiences of other Latin American countries that have adopted legal reforms in recent years (e.g., Chile, Colombia, Costa Rica, El Salvador, Honduras, and Venezuela). In the end, the success of these efforts will rest on the shoulders of a new generation of legal practitioners and citizens, who will be both the stewards and beneficiaries of Mexico’s new judicial reforms.

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always controls a majority, as in the United States, Mexico’s legislature since 1997 has never had a one-party majority. This can make it hard to pass legislation. Putting together a majority requires negotiation between at least two parties.

On the other hand, the existence of plurality districts tends to reward larger parties. Thus, the Mexican party system is less fragmented than those of countries with pure proportional representation. There are three major parties that together win over 90 percent of the seats. The parties are relatively stable, disciplined, and ideologically distinct from one another—the PRD on the left, the PAN on the right, and the PRI in the center. Despite its recent setbacks, the PRI continues to operate in all Mexican states and in fact governs more states than any other party. It often acts as a partner to the PAN in passing legislation but sometimes takes the side of the PRD to oppose a presidential initiative. The current PAN president, Felipe Calderón, has proven particularly adept at negotiating deals with the parties in congress. He has been able to pass several important reforms, including to the tax and the criminal justice codes. His success, however, has depended heavily on his personal skills.

**Consolidation of Democracy?**

In addition to legislative gridlock, Mexico still faces a number of challenges to democratic consolidation. The first and most critical challenge is the rule of law. Due to the legacy of authoritarian rule, Mexico never developed an independent and efficient court system. This has two major consequences: (1) investors cannot count on speedy and impartial enforcement of contracts and property rights, which reduces investment and economic growth; and (2) criminal prosecution is ineffective. As a result, citizens suffer growing problems of public security or take the law into their own hands. Chief among the security threats is an increasingly violent confrontation between the government and powerful Mexican drug cartels.

The second problem is a long-standing one—poverty and inequality—which worsened as Mexico turned toward free markets. Inequality can cause political unrest, and it has also slowed economic growth. Too few Mexicans have the education, health care, and skills necessary to make them productive citizens in a democracy. Likewise, too few have enough access to capital to start their own businesses.

These two problems contribute to the third problem—an economy that grows more slowly than countries with similar profiles and too slowly to provide jobs for its young population. When Mexican economic growth slows, immigration to the United States increases. Poor economic performance also creates dissatisfaction and may undermine democratic legitimacy.

Mexico will probably muddle through in the near term as a less-than-perfect democracy. But these challenges must be confronted if Mexico’s democracy is to endure and meet citizens’ needs in the long term. U.S. nongovernmental organizations (like the ABA) as well as the U.S. government may have a role to play in helping Mexico to meet these challenges. One example might involve U.S. acceptance of a slowdown or even reversal of some NAFTA requirements in order to allow the Mexican economy to adjust and become more competitive. Although the primary responsibility rests with Mexicans themselves, it is in the interest of the United States to encourage and support these developments, as a consolidated democracy on our southern border is certainly better than an unstable or anarchic system.

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**For Discussion**

What are the key elements of a democracy? How does Mexico serve as a democratic model? What challenges do Mexicans continue to face?

What factors led to the demise of one-party political rule in Mexico?

Can you identify some of the similarities and differences in the political systems of Mexico and the United States?

How does Mexico’s success or failure as a democracy impact the nation’s neighbors, such as the United States and Latin America?
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Coming in the next issue of *Insights* —Fall 2009

**The American Banking System**

As the current economic crises mount, read some of the backstories. Learn about the development of the U.S. banking system from colonial times to the present day. Analyze the forces that led to the creation of the Federal Reserve and its ever-growing influence today. Find lessons, activities, and classroom resources for your students.