

LOOKING BACK: THE HISTORY OF U.S. (IM)MIGRATION

“It is not always the same thing to be a good man and a good citizen.”

Aristotle (384-322 BC)

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Sasabe is a small town on the Mexico/U.S. border located 70 miles southwest of Tucson, AZ and 50 miles north of Altar, Sonora. Separated by a small border patrol station, some minor fencing, and an imaginary political line, Sasabe would not seem like a typical destination point. Only one major road leads out of the town on both its northern and southern sides, and the wide expanses surrounding Sasabe are filled with vast stretches of dry desert as far as the eye can see. In recent years, however, residents of Sasabe have watched as hundreds of thousands of individuals from places as far away as South America have passed through the town’s dusty streets.

Sasabe’s recent popularity is due to its location 50 miles north of Altar, Sonora – currently the largest staging area for illegal immigration along the entire MX/US border. Once a small, quiet community itself, Altar has now been transformed into a bustling ‘sending town’ whose infrastructure has developed at a frenetic pace to keep up with the busloads of potential migrants passing through before heading north toward the U.S. border. Altar is the last major stop for migrants from as far away as southern Mexico, Central America and South America. From there, they are bused to Sasabe and then dropped off and led by coyotes (human smugglers) through the desert into the United States. Robin Hoover, founder of the humanitarian group Humane Borders that places water stations in the desert along the border, estimates that

during high season approximately 4000 migrants pass through this Sasabe-Buenos Aires corridor each day (Rotstein, 2006).

The explosion of migration through Sasabe and other desert regions in southern Arizona is a recent phenomenon. Prior to the mid-1990s, few migrants chose these routes because of the danger and difficulty of crossing through the desert. However, changes in immigration policy over the past decade have led to subsequent changes in immigration patterns. Militarization of the border along traditional crossing routes (mostly urban areas) has channeled potential illegal crossers through less populated, more hazardous desert regions. There, physical borders are few, but natural geographical barriers and the threat of dehydration in this vast desert corridor have cost many migrants their lives.

The shift from urban to desert crossing points is yet one more chapter in a long history of changing relationships and continually modified policies between the United States and Mexico regarding the immigration phenomenon. Throughout the past century, political and popular responses to immigration on the northern side of the border have shaped policy approaches that, in turn, have evoked distinct reactions from our southern neighbors. These policies and programs, from the late 1800s through the present day, have created a foundation upon which current responses to immigration have been built.

However, current U.S. immigration policy for Mexico or any other country is not an autonomous phenomenon independent of historical forces and public sentiment. On the contrary, the rules for entrance established by the U.S. government have arisen from decades – even centuries – of policies based on this country’s desire to choose those it felt were best suited to become part of the new American populace. The eloquent words of Emma Lazarus inscribed

on the Statue of Liberty are often cited as an example of this country's hospitality in its willingness to welcome "the tired...the poor" the "huddled masses yearning to breathe free" and even "the wretched refuse of your teeming shore." Though moving, this sentiment is hardly an accurate reflection of the reception many foreigners received upon arriving in the United States. In reality, there has always been a divide that has prohibited or discouraged "unwanted" people from becoming part of this nation. Further examination of early U.S. immigration history and its development lends greater insight to the formation of present day policies. This historical background is particularly helpful in identifying the roots of current immigration conflict and the nature of public discussion that accompanies it.

EARLY U.S. IMMIGRATION HISTORY

For roughly a century after the establishment of the United States of America, immigration to this country remained open and virtually free of restrictions. It was not until the late 19th century that selectivity and exclusivity began limiting those who were admitted legally to the country. Even as late as the first part of the twentieth century, however, few were denied access – especially if they came from Europe. With the exception of socially undesirable citizens, such as "those likely to become public charges," polygamists, and the diseased (Immigration Act of 1891) and the exception of Chinese laborers and other Asians (excluded through numerous acts and laws from 1882 through the early 20th century), nearly all those who reached the shores of the United States were admitted as citizens. Between 1880 and 1914, only one percent of the 25 million European immigrants who arrived in the U.S. were denied entrance (Ngai, 2004).

Once more formal policies were established in the early part of the twentieth century, however, the free nature of immigration changed drastically. Although early immigration to the United States is often popularized as having been a welcoming of foreigners to settle in the ‘land of opportunity’, in reality official U.S. immigration law and policy has always largely been based on idealistic practices of inclusion. Formal immigration policy in the United States has repeatedly incorporated elements of purposeful selection and denial in order to produce a nation whose composition reflected the most desirable citizens. Early categorizations of socially unacceptable immigrants was soon extended to include epileptics, the insane, professional beggars, and anarchists (Immigration Act of 1903), unaccompanied minors, “induced” immigrants and the disabled (Immigration Act of 1907), and illiterates (Immigration Act of 1917) (Timmer & Williamson, 1998; Rodriguez-Scott, 2002; Cornelius, 1978).

It is important to note that exceptions were made to the aforementioned Immigration Acts and subsequent laws in order to ease restrictions on neighboring countries. Many of these exceptions, therefore, affected Mexico. For example, the \$4 per head tax required in 1907 was waived for arrivals from Mexico, Canada, Newfoundland and Cuba. Additionally, in 1909 Canada and Mexico were exempted from having to produce manifests of their alien arrivals (Timmer & Williamson, 1998), and Mexicans were exempted from the ban on illiterates passed as part of the Immigration Act of 1917 (Calavita, 1984; Ngai, 2004, p. 64).

Despite such exceptions, nativist attitudes remained and were fueled through passage of such laws as the Johnson-Reed Immigration Act of 1924 -- the first comprehensive restriction law in the United States. With the passage of this act came numerical limits on the numbers of immigrants admitted, as well as global racial and national categorizations that favored

immigrants from certain countries over others (Ngai, 2004). Northern and Western Europeans were seen as the most desirable immigrants, while Mexicans and other non-Europeans were largely regarded with contempt. Vocal proponents of eugenics or biological determinism “viewed the Mexican people as living fossils in the garden of evolutionary development” (Cardoso, 1980, p.132).

Under the 1924 Immigration Act, land borders that had previously been regarded as open passages for flows of people back and forth between nations (particularly the U.S.-Mexico border) were now placed under state surveillance and treated as definitive, exclusive boundaries. In the words of Professor Maldwyn Allen Jones, “After three centuries of free immigration America all but completely shut her door on newcomers. The Statue of Liberty would still stand in New York harbor, but the verses on its base would henceforth be but a tribute to a vanished ideal” (Jones, 1992, p.238).

Ngai attributes the passage of the Johnson-Reed Immigration Act of 1924 with two important consequences. First, it forced a redefinition of nation in terms of ethno-racial connotations. Secondly, it was this law that made illegal immigration the central problem of immigration law (2004, p.17). With this law, laborers who did not meet entrance standards or whose homelands had already filled their immigration quotas were forced to either give up on their dream of coming to the United States or pursue the dream by entering illegally. What had once been largely an unrestrictive immigration system was now governed by legal barriers that strictly defined the demographic composition of foreigners to be admitted – and those to be excluded. By 1930, “the doors to the New World were effectively closed” (Timmer & Williamson, 1998).

MEXICO-U.S. IMMIGRATION: A LONG HISTORY OF PUSHES AND PULLS

“The demand for migratory workers is thus essentially twofold: To be ready to go to work when needed; to be gone when not needed.” -- President’s Commission on Migratory Labor, 1951

Mexico/U.S. migration is not a new phenomenon. On the contrary, individuals have been crossing the border that separates the two countries for over a century. What has changed, however, are the nature of those migratory flows. What was once a relatively stable and predictable pattern of migrant workers entering the United States has become, largely due to shifts in U.S. immigration policy, an uncontrolled surge of unauthorized border crossers. A look at the history of the border region and the development of migration policy helps to explain why.

The official boundary that separates Mexico from the United States was established as the result of two major political milestones: the 1848 Treaty of Guadalupe Hidalgo that ended the war between the two countries, and the signing of the Gadsden Purchase in 1854. Since that time, relations between the United States and Mexico have been characterized by a dominant U.S. position in questions of power and policy. The view of the U.S. toward its southern neighbor has often been molded by imperialist attitudes and notions of cultural, political and economic supremacy. Rarely has Mexico been regarded as an equal, particularly where labor and immigration issues are concerned. And while Mexican labor has played a critical part in the success of the U.S. economy throughout the past century (traditionally in the Southwestern U.S. but now across the nation), official U.S. policy has more often focused on the need to limit or

restrict Mexican migrant labor rights rather than acknowledge its seminal contribution to U.S. economic success.

The Mexico/U.S. border has served as a venue where both the character and the positions of the two countries in relation to one another have largely been defined. The history of U.S.-Mexico border control and interactions between the administrations of both nations demonstrates a push-pull pattern that has encouraged the migration of Mexican labor into the U.S. during periods of economic need. This is particularly true of eras during which gaps in the U.S. workforce necessitated foreign labor.

In its early years, immigration policy on the MX/U.S. border was much like that of U.S. immigration policy in general – very open and unrestrictive. From the mid 1800s until the mid-1920s, workers flowed back and forth from Mexico to the United States (and vice versa) without need for visas or other documentation. The relationship between the two countries around the turn of the century was symbiotic; U.S. railroad companies, mines and ranches needed labor, and Mexicans needed jobs – particularly those who had been forced off their ejidos by the Porfirio Diaz regime (Ganster, 1995). Although not an official policy, this is considered by some researchers as the first *bracero*, or guest worker program for Mexicans. Unemployed Mexican workers found jobs in border regions, and American companies found workers that could be hired at lower than normal wages (Rodriguez-Scott, 2002).

Subsequent guest worker programs (official and unofficial) were to follow. During World War I, Mexican laborers were recruited through mass media and word of mouth to fill jobs left vacant by active servicemen. Their labor helped to contribute to a growing, robust domestic economy, as U.S. businesses profited from the lower wages paid to Mexican workers.

During this time the American economy was expanding and foreign workers were welcomed on ranches, in mines, and in cities where they worked on transportation infrastructure (Ganster, 1995, p.144).

Treatment of the Mexican immigrant in the United States during the 1920s, however, was very much dependent on the economic status and health of its northern neighbor. Shortly after the end of WWI, a sharp recession in the U.S. economy prompted an effort to force Mexican laborers back across southern borders. During this period, Mexican workers -- as well as some U.S. citizens of Mexican descent -- were expelled (Ganster, 1995, p.144)

Soon thereafter, as the economy recovered in the early 1920s, Mexican labor was again welcomed by business and industry. However, by this time, Congress had begun to pass immigration laws intended to clamp down on those entering the U.S. without proper documentation. Such laws created the category of “illegal” to describe those without proper documentation – even if they had lived and worked in the United States for many years prior.

The Johnson-Reed Act of 1924 (also called the Immigration Act of 1924) in particular created new visa requirements and border-control policies that changed the landscape of what had previously been a fluid southern U.S. border. Mexicans were not assigned numerical quotas like European migrants, but the new restrictions and paperwork requirements prevented many from obtaining legal status to cross the country’s northern border. Nevertheless, need for Mexican labor in the U.S. continued to pull laborers northward. By the late 1920s, Mexicans had become the largest group of illegal aliens in the United States (Ngai, 2004, p.7).

With this new categorization of illegal aliens under the Immigration Act of 1924 also came a change in the status and response of migrants. For the first time, persons without proper

documentation faced deportation if they were caught by Congress's newly created Border Patrol. This was a significant shift away from the policies in place prior to 1920, under which few people had been deported. Approximately one million immigrants a year had entered the United States between 1904-1914, but only an average of 2,000-3,000 a year were expelled – mostly from asylums, hospitals and jails (Ngai, 2004, p.59).

In 1929, Congress cracked down further on illegal immigration by passing a law that made unlawful entry a misdemeanor punishable by one year in prison or a \$1000 fine. A person caught a second time trying to enter illegally was charged with a felony, punishable by two years in prison, a \$2000 fine, or both (Cornelius, 1978; Ngai, 2004). With such a criminal conviction, a person was permanently banned from re-entry into the United States.

Slowly, Mexican identity became synonymous with the status of 'illegal,' leading to an ongoing exclusion of Mexicans from the national community and polity (Ngai, 2004, p.58). This "othering" through racial categorization was furthered through the language of official U.S. documents and policy. For example, in the 1920s, the U.S. census began using the term "Mexican" as a racial category for data-gathering purposes.

The status of the Mexican as a person who didn't belong – who could never quite assimilate despite his or her legal status – was being formed.

STATUS OF THE MEXICAN

As the aforementioned examples illustrate, as long as Mexican migrants could fill economic needs in the U.S., they were welcomed as contributors to national growth. When there

was no benefit to employers on the U.S. side of the border, they were pushed back into Mexico so as not to cause a drain on education, health care, or other social programs in the U.S. A quote from the Dillingham Immigration Commission as far back as 1911 sums up national feeling toward Mexicans in the first part of the twentieth century: “In the case of the Mexican, he is less desirable as a citizen than as a laborer” (U.S. Congress, 1911).

Furthermore, the acceptance of Mexicans in the United States was repeatedly jeopardized by shifting attitudes from U.S. government officials and citizens alike. During periods of economic stagnation or decline, the Mexican migrants were viewed as “an economic threat, an intolerable burden on the U.S. taxpayer” or “a cultural-racial contaminant” (Cornelius, 1978). Time and time again, recruitment efforts were initiated when labor needs were great, and followed by deportation campaigns as soon as the U.S. economy showed signs of a downturn.

One of the more prominent examples of such push/pull patterns was the deportation of Mexican immigrants during the Great Depression. By the 1930s, United States citizens began to attribute their increasing economic woes, at least in part, to the foreign labor pool. The economic recession and anti-immigrant sentiment that accompanied it led to a ‘push’ of Mexican workers back to their home country. Large-scale forced repatriations eased tensions among the American public (Hoffman, 1974), but simultaneously eroded the goodwill of Mexicans (and some Mexican-Americans) whose lives and work were constantly threatened by the deteriorating national sentiment toward foreigners (Ganster, 1995). Their frustration was valid; although Mexicans made up only one percent of the immigrant population during the 1930s, they made up half of the population of formal deportees (Ngai, 1999).

In the late 1930s and early 1940s, agriculturalists throughout the Southwestern U.S. citing labor shortages repeatedly submitted immigration law exemption requests to the Department of Labor. They wanted legal permission to hire Mexican laborers to work the fields. While labor shortages did exist at that time due to the enlistment of servicemen and women, the Immigration and Naturalization Service (INS) insisted that no emergency labor situation existed in Southwestern agriculture (Ngai, 2004). Thus, the position of Mexican migrants remained in a liminal state: they stood on the threshold of a nation that desired their labor when needs necessitated it, but refused to offer them an opportunity to become American citizens or participate fully in U.S. cultural, political or economic systems. Such a schizophrenic approach would continue for decades.

BRACERO ERA

Finally, in 1942, wartime labor shortages, growth in the industrial sector and demands for foreign labor led to the next major immigration policy shift in the United States -- the passage of the first *official* Bracero (guest worker) program¹. This move recognized the value of Mexican labor to the U.S. economic system, and provided a legal means by which Mexican labor could be imported for brief periods of time. Intended as a temporary emergency labor policy, the initial, official Bracero Program lasted five years. However, extensions of the original plan supported by the INS and other governmental agencies were continued for a total of 17 more years, making the Bracero Program one of the longest running U.S. immigration policies until its demise in

¹ Actually, Bracero Program was not officially endorsed until April 29, 1943, when Congress passed Public Law #45. By this time, however, the program had already been operating for seven months and few people paid attention to the formal passage of the law. In the words of researcher Kitty Calavita, "The Bracero Program was born virtually overnight and with remarkably little fanfare" (1992).

1964. It was also the largest foreign worker program in U.S. history, supplying contracted Mexican workers to employers in 26 different states (Ngai, 2004, p.139; Calavita, 1992, p.1).

The Bracero Program was both popular and successful among U.S. employers because it provided a cheap, predictable supply of laborers whose major social costs (education, homes, health care) were borne by Mexico. Indeed, one of the greatest benefits of Mexican labor to U.S. employers was the fact that Mexico's close proximity allowed freedom of movement.

Agricultural and industry owners could hire Mexican workers seasonally and then send them back to their home country once the work was finished. Employers would benefit from labor contributions but the state would not have to be responsible for the welfare of the workers' families or for their ongoing needs. For this reason, U.S. policymakers saw the Bracero Program as a workable solution to the need for foreign labor in the U.S. Southwest. Eventually, guest worker visas were extended to other parts of the country for other types of labor.

Under the initial terms of the program agreed upon on April 4, 1942 (before Congress had formally endorsed the program under PL 45) the Mexican government was granted certain rights in its representation of Mexican workers. Under this "collective bargaining situation," 1) braceros were to be paid the same as domestic workers and must make a minimum of thirty cents an hour, 2) rates were to be calculated to allow braceros to earn at least a minimum wage, and 3) employers from Texas were deemed ineligible because of a history of abuse and discrimination against Mexican workers there. While these terms granted some important rights to migrants, they did not change the fact that the system was essentially one of indentured labor. Under Bracero contracts, the Mexican workers were placed outside the free market, bound to their agricultural employers, and prevented from changing jobs (Calavita, 1992).

The passage of Public Law 45 on April 29, 1943 was problematic in that it authorized the Immigration Commissioner to admit Mexican workers on his own terms. This took the bilateralism out of the original bracero agreement, as the growers no longer had to go through the Mexican government to recruit workers. Instead, they recruited directly at the border. Even the protective measures that remained in place with PL 45 were often ignored by employers if they didn't like the provisions. This was a further erosion of the rights of the braceros themselves, who already were at a disadvantage. Many came from the poorest and least developed regions of Mexico and were illiterate. Even when the terms of the contracts were explained to them, many had no idea of the terms to which they were agreeing. They only knew they were going to work in the United States (Rodriguez-Scott, 2002; Calavita, 1992).

The Bracero Program was to be officially ended in 1947. During this year, few braceros were actually imported because the INS had enacted a de facto (on the spot) legalization program for any illegal Mexican workers employed in agriculture. These unauthorized workers were legalized as braceros and contracted to their employers through the INS. However, the passage of PL 40 in April, 1947 stated that the original Bracero Program could be continued through the end of that year and then was to be terminated within thirty days. Instead, in February of 1948, the State Department arranged a new accord with Mexico and labor importations were resumed.

In 1949 a bilateral accord was signed stating that braceros already in the U.S. were to be given preference over newly imported braceros. Legalization was continually extended to cover the most recent arrivals. President Truman's Commission on Migratory Labor strongly opposed the measure, arguing that the INS's decision to legalize "wetbacks" violated immigration law. It also argued that the abundance of foreign workers was depressing domestic wages. However,

employers lobbied forcefully for legal measures that allowed them to hire workers under conditions of their own choosing (Calavita, 1992, p.31)

The legalization of undocumented Mexican workers in the U.S. actually had the effect of *increasing* illegal migration, as rumors spread that the way to become a bracero was to cross illegally into the United States. Thus, the Bracero Program together with INS enforcement policies (or lack thereof) served to increase the frequency of Mexicans entering illegally. During the first years of the program, officials turned a blind eye to the fact that the number of immigrants employed in farm work far exceeded the number of legal braceros. Pressure from growers was high, and the mass media had even begun to portray illegal aliens as essential to the prosperity of the agricultural sector². Meanwhile, the number of illegal immigrants began to rise. In 1943, approximately 12,000 illegals were apprehended; by 1945, the number had risen to 70,000 (Calavita, 1992, p.32). Ironically, Congress responded to the huge increases in undocumented workers from 1943-1944 by eliminating over 100 positions from the Border Patrol (ibid, p.36). This was a slap in the face to Mexico, who during the negotiations had *requested* increased numbers of Border Patrol agents. Such a demand was seen by U.S. negotiators as a concession (ibid, p.37).

Poor regulation of the Bracero Program caused instability, riots, confusion and desertion. The situation verged on chaos by 1951, and Mexico threatened to terminate its bilateral agreement unless the U.S. introduced a bill to re-establish government sponsorship of the bracero system. Congress did so almost immediately with the passage of Public Law 78 in 1951 which “voided the prohibition against foreign contract labor that had been on the books since 1885”

² The *New York Times* even went so far as to compare the actions of the Border Patrol to that of the Nazi government when the Border Patrol tried to enforce immigration laws. (March 29, 1958, p.31)

(Calavita, 1992, p.44). PL 78 was extended four times through 1959. Together with the Migrant Labor Agreement of 1951, PL 78 helped to define the terms of the Bracero Program until its termination in 1964 (Ngai, 2004, p.139). The Bracero Program became more stable and predictable under this law.

By the 1950s, the INS found itself between a rock and a hard place. On one hand, the government was demanding a halt to the flow of illegal aliens, and on the other hand, agents understood the economic utility of migrant labor (and were often reminded of it by employers). INS agents were further incensed at the government's own willingness to circumvent the law to keep growers happy. The President's Commission on Migratory Labor, for example, devised a creative solution to illegal immigration that the INS termed "a walk around the statute" or "drying out wetbacks." Illegal aliens were rounded up, walked across the border, deemed legal braceros, and allowed to re-enter the U.S. through official ports of entry (Calavita, 1992, p.41; Ngai, 2004, p.154). Such actions were little more than efforts to superficially appease critics while keeping the structure of the contract labor program intact.

Despite these efforts to keep critics contented, the 1950s reflected a period of particularly strong public sentiment against illegal immigration. Cold War paranoia inspired fear that an uncontrolled border would offer easy access to "subversives" (not so different than the arguments raised today about a weakened border offering access to terrorists). Organized labor, threatened by 'wetback labor' that was now reaching into industry and trades, published *What Price Wetbacks?* in 1953, urging a reduction in the flow of illegals.³ Fears of increased crime, disease, and displacement of domestic workers fueled the sentiment against illegals. Attorney

³ However, the terms 'wetback' and 'Mexican' were often used as a general racial stereotype to describe people of Hispanic descent *regardless* of their legal status. This made life very difficult for legitimate Mexican American citizens, who were subjected to discriminatory actions as well (Ngai, 2004, p.149).

General Brownell agreed that the “wetback problem” had never been worse, but at the same time recommended that the INS budget be *reduced* by over \$3 million (Calavita, p.52).

In June of 1954, the Eisenhower administration and newly appointed INS Commissioner Joseph Swing responded with “Operation Wetback” – a highly public campaign to deport large numbers of illegal migrants. In terms of doing just that, the campaign was successful. Swing spoke of a “direct attack...upon the hordes of aliens facing us across the border” (1954) as he and local Border Patrol agents set up road blocks, inspected trains and cordoned off neighborhoods for inspection (Calavita, 1992, p.55). During the campaign’s first three months, 3000 undocumented workers a day were apprehended (Ngai, 2004, p.156) and the 1954 *INS Annual Report* states that over **one million** illegals were apprehended over the course of the year (Calavita, 1992, p.55). This figure, however, likely includes thousands of illegals who left on their own as the result of an intensive publicity campaign advising them to do so.

The illegal workers who were removed during “Operation Wetback” were replaced once again with official Braceros. This kept employers happy because they did not have to wonder whether their labor supply was going to “skip” to a better paying job or be deported. Braceros offered control, predictability and stability to specific segments of the U.S. labor system. Critics pointed out that the program depressed farm wages and working conditions, but the lobbying power of employers was great and the program continued. Over the next ten years, changes made in the Bracero Program only served to lessen Mexico’s negotiating power and strengthen the position of employers. And despite the publicly acclaimed “success” of Operation Wetback, illegal immigration continued.

Over the course of the Bracero Program's 22 years in effect, over 4,500,000 Mexicans entered the United States to work, and many times that number came illegally to find jobs (Cardoso, 1980). For brief periods of time, federal efforts to limit the flow of illegal immigrants lessened the flow. Each of these periods, however, was followed by another surge in undocumented workers entering the United States, hoping to take advantage of higher-paying jobs than what they could find in Mexico (or any job at all). Even after the Bracero Program ended, the flow of Mexicans into the U.S. remained high because of great economic imbalances between the two nations. Additionally, the policies that allowed braceros to come legally to the United States placed greater pressure on the INS once the program came to a close. Subsequent programs or laws intended to address illegal immigration have continued to wrestle with the mandates of federal policies vs. practical labor demands.

AFTER THE BRACEROS – CHANGES IN MIGRATION FROM MEXICO

Although the volume of undocumented migration into the U.S. and level of enforcement efforts along the U.S. border both increased from 1965-1985, the nature of migration patterns during this period actually reflected a relatively stable system. Most workers tended to come to the U.S. for seasonal work and return home when their jobs were finished. Unlike previous eras, however, these migrants were increasingly likely to be employed in service and manual labor industries rather than agricultural industries (Massey, Durand & Malone, 2002).

This 'controlled' system was thrown out of balance, though, with the passage of the Immigration Reform and Control Act (IRCA) of 1986. This act introduced sanctions against employers who knowingly hired illegal workers, created a limited legalization program for

undocumented persons already living in the United States, and allocated increased funding for Border Patrol and the Department of Labor. The act was largely a response to a reemergence of anti-immigration sentiment that stemmed from the economic recession of the U.S. during the late 1970s and early 1980s. Once again, the nation's woes were blamed largely on immigrants, and President Reagan added to the nation's fears by citing insurgencies in Central America as a potential source for a "tidal wave" of "feet people" – not boat people⁴.

The effect of IRCA was to enrage critics who did not support an amnesty policy for immigrants who had entered the country illegally; this led to an anti-immigration backlash in the early 1990s (Andreas, 2001, p.39). IRCA also produced a rise in illegal immigration among the relatives of those who had been officially legalized. Perhaps most importantly, the policy was passed at the same time that Mexico entered into the General Agreement on Tariffs and Trade (GATT) and began discussing a free trade zone with the United States and Canada. However, rather than incorporating labor into the expansion and integration of markets, the United States stipulated policies that reaffirmed its right to control its own borders. Such U.S. policy was based on integration with selective separation (Massey, Durand & Malone, 2002).

Throughout the late 1980s and early 1990s, U.S. authorities sought to curb illegal immigration by reducing/lowering benefits and increasing costs for potential migrants. At the same time, they increased their own numbers of border patrol and related personnel⁵, but the numbers of illegal immigrants slowly continued to rise. A new approach had to be taken – one that would help the U.S. government regain an image of control over its southern border.

⁴ Quoted in the *Washington Post*, June 21, 1983.

⁵ This happened largely through the passage of the 1990 Immigration Act.

“FUNNEL EFFECT” LEGISLATION AND DEATHS IN THE DESERT

By 1995, the U.S./Mexico border was one of the most asymmetrical in the world in terms of economic disparities from one side to the other (Ganster 1995). At the same time, however, the U.S. government began earnest efforts to stop the flow of illegal migrants by allocating large amounts of money for the fortification of the border. Programs such as Operation Hold-the-Line in El Paso (1993), Operation Gatekeeper in San Diego (1994), Operation Safeguard in central Arizona (1995) and Operation Rio Grande in south Texas (1997) were designed to fortify traditional crossing areas to prevent illegal entry through these popular zones (Cornelius, 2005).

The “prevention through deterrence” approach carried out by federal government agencies *was* successful in reducing the numbers of illegal crossers in the most heavily trafficked areas. However, Operation Gatekeeper and similar policies had an additional effect – that of channeling the flows of migrant crossers away from urban zones into more dangerous desert regions. Migrants who choose these more remote, less heavily patrolled routes through the desert face life-threatening dangers such as extreme desert temperatures, dehydration, poisonous animals/insects, and disorientation that leads them far off their intended course. As a result, every year since the implementation of these programs, the number of unauthorized border crossing deaths has risen (Ufford-Chase, 2005). Conservative estimates conclude that a total of 3,600 bodies were found on U.S. soil between 1995 and 2005 (Nevins, 2006, p.1). The greatest concentration of these deaths has occurred in the Border Patrol’s Tucson Sector.

TUCSON SECTOR – “GROUND ZERO” OF THE IMMIGRATION DEBATE

The Tucson Sector is currently “ground zero” for the influx of hundreds of thousands of migrants from Mexico, Central America and South America (Rubio-Goldsmith et al., 2006). The number of crossers through this corridor has increased drastically over the past two decades. U.S. Border Patrol statistics show that in 1991, only one out of every 19 U.S. Border Patrol apprehensions occurred in the Tucson Sector. By 2004, one out of every 2.36 Border Patrol apprehensions took place there (ibid).

Because of Tucson’s current designation as the leading corridor for illegal entry (Cornelius, 2005, p.783) it is not surprising that the majority of migrant deaths also take place there. These deaths within the Tucson Sector have reflected changing trends in immigration patterns. The number of deaths in the Tucson Sector was minimal in the late 1980s and early 1990s. However, after restrictive policies and militarization were put into place along the border in the mid-1990s, the numbers of deaths skyrocketed. A recent study by the Binational Migration Institute (BMI) as well as a statement by the U.S. Government Accountability Office (GAO) concluded that the “funnel effect” resulting from federal legislation beginning in the mid-1990s has been the primary factor underlying the dramatic increase in known unauthorized border crossing deaths in the Tucson Sector (Rubio-Goldsmith et al., 2006, p.58). Most of these border crossing-related deaths were the result of heat exposure.

The agency charged with handling and processing the bodies of migrants who perish in their attempt to cross into the United States from Mexico through the Border Patrol’s Tucson Sector is the Pima County Medical Examiner’s Office (PCMEO) in Tucson, Arizona. Conservative estimates state that this office processes approximately 90% of all the known unauthorized migrant deaths in Arizona’s Tucson Sector (Rubio-Goldsmith et al., 2006). A

study carried out by the BMI shows there were nine known unauthorized border crosser deaths handled by PCMEO in 1990. By 2005, the number had increased to 201 – more than twenty times the original figure. Total cases handled by the office from 1990-1999 totaled 125; the number of cases from 2000-2005 was 802 (ibid).

These figures revealed in the BMI study do not match the official death counts of the Border Patrol. The BMI report, published in October of 2006, revealed serious discrepancies between official Border Patrol death counts and counts by various human rights organizations. Authors stated the reason for the differences in numbers was due to a very narrow set of criteria used by Border Patrol to classify a fatality as an unauthorized border crosser (UBC) death.⁶ Because of the limited criteria, they said, many bodies were left out of counts, such as those found on reservation lands or those decomposed to the point of being only skeletal remains.⁷

Local media also complained that Border Patrol statistics of unauthorized border crosser deaths were inaccurate or incomplete. An analysis by the *Tucson Citizen* newspaper found that Border Patrol had undercounted the number of deaths from October 2002 through July 2003 by 43% (LoMonaco, 2003). The *Arizona Republic* newspaper gathered information from medical examiners offices and foreign consulates in 2004 and concluded that 219 people had died that fiscal year– a figure significantly higher than the Border Patrol’s 172 (Gonzalez & Carroll, 2005). “It’s not that officials in Washington, D.C. have the information and are refusing to give it out” said Susan Carroll, then reporter for the *Arizona Republic*. “They don’t track all the

⁶ The study lists the following criteria as necessary for inclusion in Border Patrol statistics of unauthorized border crosser deaths: 1) the death must occur during furtherance of an illegal activity 2) the death must occur within a specific “target zone” specified by the Border Safety Initiative (BSI). This zone includes nine of the twenty Border Patrol Sectors. 3) if the deaths occurs outside the BSI target zone, to be included in statistics the Border Patrol must have been directly involved in the case

⁷ In such a case, Border Patrol would not be able to prove how the death occurred or that the deceased was an unauthorized border crosser and not a citizen of the United States.

deaths. To arrive at a more accurate count, journalists have to take on an independent watchdog role and pull together the statistics from medical examiners, foreign consulates, and law enforcement along the border” (Carroll, 2006).

Border Patrol representative Gustavo Soto said the agency has since corrected the practices that led to such discrepancies in statistics, such as now including skeletal remains in the official count. According to Soto, the numbers disparity was due to the fact that Border Patrol used to count only those bodies the agency found – not other bodies found by other law enforcement agencies or individuals and brought to the Pima County Medical Examiner’s Office for processing. Now, he says, the agency works more closely with the Medical Examiner’s Office and other law enforcement agencies to reach a more accurate count of total UBC deaths⁸.

This change in Border Patrol counts was seen as a step forward by media and activists alike, as have other changes that have improved the relationship between the agency and the public. Starting in 2004, the *location* of migrant deaths was considered a national security position, and Border Patrol and other federal authorities would not release that information (Calderon, 2007). However, in 2007 the agency changed its policy and made the information public. Statistics about migrant deaths which used to be difficult to access are now sent directly to media and civic groups that request them.⁹

However, some tensions still remain. Recently, humanitarian groups and news agencies were angered by an announcement by the U.S. Border Patrol that it would no longer provide death and apprehension statistics on a daily basis. Instead, the information is now most often released as a part of the Border Patrol’s end-of-month reports. The editorial board of the *Tucson*

⁸ G. Soto, U.S. Border Patrol: Tucson Sector Public Affairs Office (personal interview, May 23, 2007)

⁹ R. Hoover, personal interview (February 21, 2008)

Citizen criticized the move, saying federal public records laws require public information to be made available in a timely manner, and that with increased national attention on border security, the Border Patrol has an obligation to provide the public with more information – not less (Tucson, 2007).

Additionally, both media and civic groups acknowledge that death counts only provide statistics about the numbers of bodies actually found. They point out that decomposition in the desert happens very rapidly due to the harsh conditions, that the vast expanses of desert leave many areas unexplored, and that many missing persons reports are filed by families in Mexico whose relatives headed north across the border and are never heard from again. Given these facts, it is likely that the number of unauthorized border crosser deaths is actually much higher than any current figures show.

Such statistics prevent any obfuscation of the failure – and inhumane consequences – of the most recent border policies. Despite such evidence of a malfunctioning system, the federal government continues to allocate more money and/or resources each year for border enforcement. Currently, National Guard troops are stationed along sections of the border, and recent legislation has paved the way for construction of a 700-mile protective wall.

Many wonder why Mexico does not do more to curb the emigration of such large numbers of nationals. While the complexity of such reasons is too great to fully address here, one of the primary reasons is that the country itself greatly benefits from the remittances received from Mexican nationals working abroad. Only 4.9% of Mexicans in the United States are unemployed, indicating that nearly all who seek work there find it. In 2006, these workers sent back a total of \$23 billion in remittances to Mexico! (La Comisión, 2007) Even back in 2003

when the amount of the remittances was much smaller, this funding source provided “the biggest source of foreign income, bigger than oil, tourism, or foreign investment” according to Mexican President Vicente Fox (Lugo, 2003).

Finally, recent border policies have had an additional effect. What were once circular migration patterns among undocumented migrants have now become more permanent settlement patterns in the United States. Fortification and militarization of the border have made it too risky for those who successfully make it here to return home if they have any hope of coming back again. Furthermore, few can afford the \$1500-\$2000+ coyote fees charged for each crossing. Finally, given the rising death tolls, many feel that the risks associated with crossing through the desert are just too great. Thus, a policy designed to reduce the numbers of illegal migrants has actually succeeded in encouraging many to remain here within U.S. borders.

To summarize, recent border policies and immigration legislation have not only been ineffective in reducing the flows of illegal migrants, but they have created unprecedented dangers for potential migrants. Rather than deter migrants from crossing, the effects of these policies have led to large scale migrant deaths and injuries, creating what 2006 Senate Majority Leader Bill Frist called a “humanitarian crisis” (Rubio-Goldsmith et al., 2006) and what Centers for Disease Control & Prevention researchers have termed a “major public health issue” (Sapkota et al., 2006, p.1).

REFLECTIONS ON MX/US MIGRATION APPROACHES

If the effectiveness of administrative agencies created to manage Mexican immigration is measured by their ability to balance public sentiment with economic labor needs, then it can be said that the official Bracero Era (1942-1964) was a period of success. Although the program was not without problems, the INS and other federal agencies found creative ways to sidestep laws, overlook illegal immigration trends, and grant employers the labor they demanded while at the same time keeping public criticism of the program to a manageable level. Thus, employer (primarily agricultural grower) demands were satisfied while public criticism was appeased with periodic efforts to “crack down” on the problem of illegal immigration.

Operation Wetback (1954) is perhaps the greatest example of the government responding to public demands for an official action to send illegals back home. As a public relations campaign, the effort was brilliant. Due to both its own actions and the decision of many migrants to return home on their own rather than face legal or political consequences in the United States, the U.S. government was able to claim victory in its effort to remove hundreds of thousands of illegals from U.S. soil. Then, by simply replacing illegal migrants with legal braceros, the government was able to successfully keep the labor needs of growers in balance with the desire of Mexican workers to find employment in the United States.

The publicity generated by Operation Wetback served an important function in controlling the fears of the American public. The federal government, through widely disseminated reports of its ‘roundups of wetbacks’ crafted an image of itself as a strong, competent force that was in control of immigration issues. This was particularly critical during a time when Cold War fears inspired paranoia about foreigners, and when nationalist sentiment was on the rise.

If the effectiveness of federal agencies is measured in terms of preventing illegal immigration, however, then nearly all of the policies and programs that have been implemented would be considered failures. Nearly every new law that has been passed or policy that has been implemented to restrict illegal immigration has been followed by a rise in the numbers of illegals entering the country. Not all of these spikes take place immediately, but eventually the tensions of economic imbalance between the U.S. and Mexico combines with the dynamic of labor needs in the U.S. and availability of laborers from Mexico to overwhelm formal efforts aimed at stopping the flows. Cultural and familial ties formed by migrants who have relatives in the United States have also contributed to increases in the numbers of illegal entrants. As immigration scholars continually remind us, immigration is a cultural, not just a political phenomenon.

The Bracero Program in particular provides a good example of a program that exacerbated the very problem it was intended to solve. Through 22 years of bracero policies, flows of migrant laborers were continually expanded to meet grower needs and the Southwestern U.S. in particular became more and more dependent on Mexican labor. Once the program was terminated, the large flows of what were once braceros morphed into flows of *illegal* migrants, thus putting more pressure on the INS to deal with a continuing demand for labor and a simultaneous restriction on providing that labor through legal means.

Later policies that tried to address the presence of illegals already in the United States also failed. Efforts in 1986 to legalize undocumented individuals living in the United States through IRCA were met with cries of protest against “amnesty provisions” and “rewards” for those who have broken the law to come here. And IRCA itself, like the Bracero Program,

actually exacerbated the problem it hoped to remedy. Through this program of legalization, already well-established cross border migration networks were reinforced and expanded. Immigrants who had previously spent time in the United States but returned to Mexico opted to make another trip northward to collect legalization papers (Andreas, 2000).

The biggest failure of all in terms of restricting illegal immigration flows, however, has ironically come at a time when more resources than ever before have been poured into border security and enforcement measures. Starting with border militarization efforts such as “Operation Hold-the-Line” and “Operation Gatekeeper” in the mid-1990s, federal resources allocated toward border enforcement have risen to unprecedented levels. For instance, the expenditures for border enforcement have quintupled from \$750 million in 1993 to \$3.8 billion in 2004 and \$10.2 billion in 2008 (Cornelius, 2005; U.S. Customs, 2007). Yet despite these huge allocations, efforts to restrict and reduce illegal flows have been unsuccessful (Montgomery, 2005; Cornelius, 2004).

Worse yet, the militarization efforts of the mid-1990s have resulted in a redirection of the flow of migrants away from traditional urban areas such as San Diego and El Paso, and toward remote stretches of desert in Arizona and New Mexico. Such a shift has caused the number of unauthorized border crosser deaths to skyrocket. At the same time, the number of illegals successfully crossing into the United States has not only *not* decreased, but has actually increased since such prevention measures were put into place. When coupled with the additional effects such as reduction in circular migration (and increase in permanent settlement patterns among migrants in the U.S.), a boom in the human smuggling industry, increases in gangs and

crime rings that prey on migrants, and other immigration-related problems, there is no doubt that the most recent policies to address illegal immigration have failed miserably.

Even civil society and religious organizations have become frustrated with federal policy to the point of stepping in to do the job the federal government isn't doing. Groups as ideologically opposed to one another as the Minutemen and Humane Borders share one sentiment in common: current immigration policy is not working. The system is broken, and reform needs to be made. The Minutemen argue that the reform should consist in an upholding of federal law to prevent unlawful persons from entering the country (The Official, 2007) while humanitarian organizations and religious groups are calling for comprehensive immigration reform that addresses deeper social issues of family unity, economic inequality and human rights (Humane, n.d.; No More, n.d.; Interfaith, 2005). Voices on all sides of the debate have resonated with the feelings of the U.S. public, and sentiments both sympathetic to and opposed to the unauthorized migrant have caused immigration concerns to rise to the top of the national political agenda.

Immigration scholar Peter Andreas argues that the expansion of border policing in the past decade has been less about deterring border crossers and more about politically recrafting the image of the border to reaffirm the state's authority over its territory. He points to the clandestine labor market that serves as the impetus for current illegal immigration trends, and argues that "[t]he current immigration policy debate remains conveniently afflicted by historical amnesia" (Andreas, 2006).

Amnesia or not, the status of current immigration policy is not reflective of a successful system. More money is being spent on deterrence, and yet more undocumented crossers are

entering the U.S. than ever before. The fact is that for the past five years, *at least* 280,000 Mexican migrants per year have crossed into the United States. An additional 60,000 per year entered using tourist visas with the real intention of seeking jobs (La Comisión, 2007). In comparison, the number of legal visas issued to Mexicans each year is small, and even these are restricted to those with financial means to prove they have incentive to return home again. According to Mexico's National Commission for Human Rights, "only about 60,000 Mexican nationals immigrate to the U.S. each year with their documentation in order" (2007).

Busses and vanloads of hopeful crossers making their way from Altar to Sasabe each day defy claims by federal authorities that greater investments in border deterrence and prevention will keep illegal migrants out of the United States. The migrants themselves know better, and they are willing to risk their lives to take the chance of successfully making the trip. These migrants are proof enough that if any policy is to be successful in curbing illegal immigration, it will have to acknowledge the human lives and needs of those travelers, and the reasons they are willing to risk so much to make so little.