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# NAFTA AND ITS TWENTY-YEAR EFFECT ON IMMIGRATION

*Natalie Sears\**

## I. NORTH AMERICAN FREE TRADE AGREEMENT- TWENTY YEARS LATER

THE North American Free Trade Agreement (NAFTA) recently celebrated its twenty-year anniversary.<sup>1</sup> NAFTA took effect on January 1, 1994, and created a free trade zone between the United States, Mexico, and Canada.<sup>2</sup> NAFTA governs trade occurring between the participating countries, including the acquisitions of goods, constructions and services.<sup>3</sup>

When first proposed, NAFTA was predicted by many to serve as a quick-fix for illegal immigration occurring at the Mexican-United States border.<sup>4</sup> Many supporters of NAFTA predicted Mexico's economy to experience significant growth after NAFTA's implementation, including the creation and expansion of jobs and industries within Mexico.<sup>5</sup> Those NAFTA proponents predicted that this economic growth would improve the lives of many Mexican workers, thus reducing their incentive for migration to the United States.<sup>6</sup>

When drafting NAFTA and predicting its effect on U.S. immigration, different assumptions came into play regarding how the participating countries and citizens would react to NAFTA's implementation.<sup>7</sup> But those assumptions, including assumptions about the way the Mexican government would behave and the way its markets would respond, proved contrary to prediction.<sup>8</sup> In fact, in the twenty years since NAFTA was implemented, we have seen quite the opposite effect.

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1. North American Free Trade Agreement, U.S.-Can.-Mex., Dec. 17, 1992, 32 I.L.M. 289 (1993).

2. *Id.*

3. *Id.*

4. Louis Uchitelle, *Nafta Should Have Stopped Illegal Immigration, Right?*, N.Y. TIMES, Feb. 18, 2007, <http://www.nytimes.com/2007/02/18/weekinreview/18uchitelle.html>.

5. *Id.*

6. *Id.*

7. *Id.*

8. Roger Bybee & Carolyn Winter, *Immigration Flood Unleashed by NAFTA's Disastrous Impact on Mexican Economy*, COMMON DREAMS (Apr. 25, 2006), <http://www.commondreams.org/views06/0425-30.htm>.

Many people believed illegal immigration was not a concern in relation to NAFTA because they believed wage disparities between Mexico and the United States would actually fall, thus reducing the number of illegal immigrants making their way from Mexico to the United States.<sup>9</sup> The prediction was that NAFTA would decrease wage differences by providing a greater market for Mexican exports in a more efficient, accessible manner.<sup>10</sup> Many of those in support of this argument theorized that reduced investment barriers inherent in NAFTA coupled with lower wages found in Mexico would entice Canada and the United States to expand its employment opportunities into Mexico.<sup>11</sup> These supporters predicted a subsequent demand for workers in Mexico coupled with lowered demand for workers in the United States and Canada, thereby narrowing the wage gap among the three countries.<sup>12</sup>

But an opposed minority believed that NAFTA would actually *increase* illegal immigration—the exact result we see today, twenty years after NAFTA’s original implementation. One particular legal scholar noted the relatively small size of Mexico’s economy would make it difficult for Mexico to adjust to international shocks.<sup>13</sup> Other opponents, including the State of California, argued that NAFTA would actually invite increased immigration from Mexico and argued for increased regulation following NAFTA’s implementation.<sup>14</sup> As we know today, NAFTA did not regulate or give incentive for further immigration regulation standards because the majority of people believed NAFTA would actually improve the immigration situation of the United States.

## II. THE FLOODGATES OF IMMIGRATION FROM MEXICO INTO THE UNITED STATES

### A. IMMIGRATION—IS NAFTA TO BLAME?

When NAFTA was drafted and implemented in 1994, supporters believed its established free-trade zone would stimulate economic growth and shrink wage disparities between the three participating countries.<sup>15</sup> But the facts prove that such prediction did not work out. With regard to the increased immigration resulting from NAFTA, in 1995, there were 2.5 million Mexican illegal immigrants in the United States and by 2006 that number had almost quadrupled to eight million.<sup>16</sup>

Many Mexicans have made desperate attempts—even risking their lives—to enter the United States since NAFTA, and its adverse economic

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9. Susan Pozo, *Illegal Immigration, Wage Volatility and NAFTA*, 1 *NAFTA: L. & BUS. REV. AM.* 3, 3–4 (1995).

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. Sidney Weintraub, *NAFTA and Migration*, 74 *NAT’L F.* 29, 29 (1994), available at <http://www.iupui.edu/~anthkb/a104/mexico/naftaimmig.htm>.

15. *Id.*

16. Bybee & Winter, *supra* note 8.

effects came into play beginning in 1994.<sup>17</sup> In 2006, it was reported that during that year, almost 400 Mexican citizens died trying to enter the United States.<sup>18</sup> Legal scholars have called this immigration movement the “network effect” because today, twenty years after NAFTA was implemented, many young Mexicans travel illegally into the United States to join the growing number of their family members already living there.<sup>19</sup>

How exactly NAFTA caused this dramatic increase in illegal immigration of Mexican citizens can be explained through two routes—which both boil down to the adverse effects experienced by Mexico’s national economy. First, the U.S. subsidies given to American farmers drove out small-business Mexican farmers through the exportation of crops, such as corn. Second, NAFTA’s tariff reductions led to foreign expansion of American and Canadian companies, whose prices beat the small businesses found in Mexico, causing them to shut down.<sup>20</sup>

#### B. U.S. SUBSIDIES GIVEN TO AMERICAN FARMERS CAUSE EXPORTATION OF TRADITIONAL MEXICAN CROPS

A very large portion of Mexican citizens live in rural areas and rely on farming as their income—even though it does not provide more than a poverty-level lifestyle. Approximately twenty-four million Mexicans live in rural areas of their country.<sup>21</sup> It has been reported that those twenty-four million people account for approximately 8 percent of Mexico’s gross domestic product and, therefore, live in extreme poverty.<sup>22</sup> Legal theorists argued that because of the extreme living conditions these Mexicans endure, they will either move towards urban Mexico or to the United States.<sup>23</sup> Their theory is that even without regard to NAFTA, many Mexicans have a great incentive to move to the United States in search of a better lifestyle.<sup>24</sup> But, while there, many of those Mexicans live on farms and produce the country’s biggest food staples—corn and beans.<sup>25</sup>

During its NAFTA negotiations, Mexico agreed to remove its country’s protection against the import of agricultural products over a ten-year period following NAFTA’s implementation.<sup>26</sup> This decision is exactly what worried most of those opposing NAFTA on immigration grounds.<sup>27</sup> Some NAFTA supporters initially pled for an improvement in the relationship between the United States and Mexico, and believed that in-

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17. *Id.*

18. *Id.*

19. Uchitelle, *supra* note 4.

20. *Id.*

21. Weintraub, *supra* note 14.

22. *Id.*

23. *Id.*

24. *Id.*

25. Bybee & Winter, *supra* note 8.

26. Weintraub, *supra* note 14.

27. *Id.*

tensely preparing for Mexican immigration would damage that relationship.<sup>28</sup> But these proponents clearly did not predict the intense immigration that would result from the implementation of NAFTA—especially the shift in exports and imports between the two countries and the vital agricultural crop of corn.

“NAFTA, by permitting heavily-subsidized U.S. corn and other agribusiness product to compete” with local Mexican farmers, “has driven many of those Mexican farmers” off their lands in search of alternative employment.<sup>29</sup> As a result, many of these farmers cross the border to the United States in search of other ways to earn a living.<sup>30</sup>

NAFTA reduced tariffs and allowed the United States to grant large subsidies to American farmers.<sup>31</sup> These farmers were then able to export their agricultural goods for a cheaper price, thereby lowering the amount of goods Mexican farmers could and needed to export to the United States.<sup>32</sup> Many Mexican farmers depended on such exportation as their income, and the subsidies issued to U.S. farmers prevented them from profitably continuing agricultural practices.<sup>33</sup> The result was that Mexican farmers couldn’t support themselves anymore, so they illegally migrated to the United States in search of other income.

The lost job opportunities were not only experienced in Mexico. From 1994 to 2005, it was reported that one million job opportunities were lost across the United States because of NAFTA.<sup>34</sup> The two states that lost the most jobs in that time frame were those sharing borders with Mexico.<sup>35</sup> In those eleven years, California lost 123,995 jobs, while Texas lost 72,257.<sup>36</sup> The experience in both Mexico and the United States was similar—lost job opportunities caused by an influx of economic changes. Mexico experienced dramatic increases in foreign manufacturing investment, while the U.S. workers experienced competition with the dramatic increases in Mexican immigration.

When it was passed, NAFTA was silent on protections for both labor and environmental standards.<sup>37</sup> As a result, many legal scholars believe that NAFTA has really benefited the investor, but not the average la-

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28. Weintraub, *supra* note 14, at 29.

29. Bybee & Winter, *supra* note 8.

30. *Id.*

31. Rick Relinger, *NAFTA and U.S. Corn Subsidies: Explaining The Displacement of Mexico's Corn Farmers*, PROSPECT J. (April 19, 2010), <http://prospectjournal.org/2010/04/19/nafta-and-u-s-corn-subsidies-explaining-the-displacement-of-mexico-corn-farmers-2/>.

32. *Id.*

33. *Id.*

34. ROBERT E. SCOTT & DAVID RATNER, NAFTA's Cautionary Tale, 214 ECON. POLICY INST. 1 (2005), available at <http://s2.epi.org/files/page/-/old/issuebriefs/214/ib214.pdf>.

35. *Id.*

36. *Id.*

37. ROBERT E. SCOTT, THE HIGH PRICE OF 'FREE' TRADE: NAFTA'S FAILURE HAS COST THE UNITED STATES JOBS ACROSS THE NATION 1 (2003), available at [http://www.epi.org/publication/briefingpapers\\_bp147/](http://www.epi.org/publication/briefingpapers_bp147/).

borer.<sup>38</sup> These adverse consequences had dramatic effects on Mexico's agricultural and manufacturing industries. In addition, the real wages of Mexican manufacturers have fallen dramatically.<sup>39</sup> This change was the complete opposite of what NAFTA supporters initially predicted would happen. Even worse, within the Mexican agricultural sector, where one-fifth of Mexicans still work, there have been 1.3 million lost jobs.<sup>40</sup>

To really understand the impact of agricultural labor changes that have occurred due to NAFTA, consider the difference between exports and imports. For example, if the United States exports 1,000 cars to Mexico, then many U.S. workers would be employed in the production of those cars. On the contrary, if the United States imports, rather than build their own, 1,000 cars from Mexico, the U.S. workers, who otherwise would have built them, are without work. This is exactly what happened to a large portion of Mexican workers in the agricultural and manufacturing sector.<sup>41</sup> This is also exactly what California, which took the minority position, predicted—NAFTA would actually increase illegal immigration.<sup>42</sup>

California was a part of the opponents who argued that NAFTA, "especially its provisions opening Mexico to agricultural imports from the United States," would increase the amount of undocumented immigrants traveling from Mexico to the United States.<sup>43</sup> The NAFTA supporters claimed that it would improve Mexico's economy by increasing incomes at home and thereby decreasing their incentive for immigration.<sup>44</sup>

### C. NAFTA'S TARIFF REDUCTIONS LED TO FOREIGN EXPANSION AND LOCAL SHUT-DOWN

When considering the passing of NAFTA, the U.S. government assumed many farmers would continue farming in Mexico, even as less-expensive corn was imported from the United States and flooded the Mexican market.<sup>45</sup> Instead, the Mexican "farmers exported themselves" in search of more profitable ventures.<sup>46</sup> In addition, many U.S. companies and investors began investing in Mexico and predicted a large economic growth would occur.<sup>47</sup> To the contrary, when the large U.S. companies, such as Wal-Mart, began to expand into Mexico, many local Mexican business-owners and farmers lost their jobs because they could not compete with the low-price models that the U.S. companies could provide.<sup>48</sup>

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38. *Id.*

39. SCOTT & RATNER, *supra* note 34, at 2.

40. *Id.*

41. Bybee & Winter, *supra* note 8.

42. Weintraub, *supra* note 14.

43. *Id.*

44. Bybee & Winter, *supra* note 8.

45. Uchitelle, *supra* note 4.

46. *Id.*

47. *Id.*

48. Bybee & Winter, *supra* note 8.

Although an initial prediction was to expect more job opportunities for Mexican workers as a result of foreign expansion within the country, the lower prices of these U.S. giants drove out thousands of Mexican workers.<sup>49</sup> This resulted in almost 28,000 small businesses shutting down because they could not compete against the retail giants in the United States.<sup>50</sup>

The manufacturing industry of Mexico also experienced significant changes. When NAFTA came into effect in 1994, U.S. investment flooded Mexico and provided financing for manufacturing factories.<sup>51</sup> The Mexican government simultaneously assured the United States that it would provide its own investment for its citizens' needs such as new roads, schools, and sanitation to accommodate the new factories.<sup>52</sup> But this investment never took place and the amount of foreign investment began to displace the technological culture of Mexico.<sup>53</sup>

#### D. NAFTA, DESPITE ITS PROBLEMS, CONTINUES TO SERVE AS MODEL FOR TRADE AGREEMENTS

Despite the numerous unintended consequences of NAFTA on Mexico's economy and the U.S. immigration situation, NAFTA still serves as the model for trade agreements in developing Latin countries.<sup>54</sup> NAFTA served as the model for the Central American Free Trade Agreement, passed by Congress in 2005, and other agreements involving Panama, Columbia, and Peru.<sup>55</sup>

The free trade zone NAFTA established has clearly had positive effects in some aspects, but drawbacks in others. While the United States can certainly claim to have reaped benefits from this agreement, it could be argued that Mexico, with the right societal improvements, could have experienced the same improvements.

### III. REVERSING THE NEGATIVE EFFECTS OF NAFTA

In 2005, it was reported that since NAFTA took effect in 1994, wages for most Mexican workers had either stagnated or declined.<sup>56</sup> In fact, some reports show that wages among the Mexican border have decreased by about 25 percent since NAFTA's implementation.<sup>57</sup> In addition, it has been reported that 1.3 million Mexican farmers were driven out of business since NAFTA, and the monthly income for the rural farmers shrank

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49. *Id.*

50. *Id.*

51. Uchitelle, *supra* note 4.

52. *Id.*

53. *Id.*

54. SCOTT & RATNER, *supra* note 34, at 1.

55. Uchitelle, *supra* note 4.

56. SCOTT & RATNER, *supra* note 34, at 3.

57. Bybee & Winter, *supra* note 16.

from 1,959 pesos per month in 1991 to 228 pesos per month in 2003.<sup>58</sup> A combination of factors caused these results.

Although NAFTA did not specifically address or even mention immigration in its text, it is clear that everyone expected it to improve Mexico's economy and foreign investment between the three countries.<sup>59</sup> But once U.S. manufacturers began flooding Mexico with their investments, Mexico's economy seemed to crumble. It could not keep up with the demands, nor was it prepared to do so.<sup>60</sup> In addition, the competition of China's low wages caused U.S. investors to direct their money in Chinese investments.<sup>61</sup>

In order for the United States to prevent further illegal immigration into its country, something must be done. NAFTA clearly did not intend for this effect, nor was it prepared to deal with something of this magnitude. Some economists believe the solution to stop or decrease illegal immigration is to increase Mexico's wages.<sup>62</sup> This might be especially true because when the Mexico peso devalued in the early 2000s, the country experienced even deeper economic struggles.<sup>63</sup>

Recent trends, however, show that the Mexican economy may be improving after all, no thanks to NAFTA or its regulations.<sup>64</sup> At the recent World Economic Forum, Mexico was considered to be one of the top options for investments because its market has an expected 2014 growth rate of 4 percent, while other markets like Brazil, Russia, and India are expected to weaken.<sup>65</sup> In addition, many factories that were previously transferred to China are expected to return to Mexico due to higher transportation costs and increased wages in China.<sup>66</sup>

If Mexico's economy can support an increase in wages, an improved lifestyle for Mexican workers would likely follow and probably result in less of an incentive to migrate to the United States in search of more fruitful employment. It may be that NAFTA was implemented too soon to accommodate Mexico's socio-economic conditions. But if Mexico can make the turn-around that is expected of them, then NAFTA may begin to prove fruitful for that country after all.

#### IV. THE FUTURE OF NAFTA

The huge influx of immigration resulting from NAFTA's implementation twenty years ago could be a culmination of many factors. The U.S.

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58. Pramilla Jayapal, OneAmerica Exec. Dir., Comments from the Urban Poverty Forum (Feb. 13, 2011).

59. *Id.*

60. *Id.*

61. Bybee & Winter, *supra* note 8.

62. Luis Vieira, *Raising Wages in Mexico Could Sharply Reduce Illegal Immigration, Experts Say*, INDEP. VOTER NETWORK (Feb. 12, 2014), <http://ivn.us/2014/02/12/raising-wages-mexico-sharply-reduce-ilegal-immigration-experts-say/>.

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

subsidies, exportation of Mexico's biggest crop, corn, or even its investment in the manufacturing industry all combined to simply overwhelm Mexico's economy. As a result, thousands of Mexican workers migrated to the United States in search of alternative employment opportunities. Because it has been twenty years since NAFTA was put into effect, the migration effects have only compounded into what some scholars call the "network effect."<sup>67</sup> This network effect can be seen through second-generation family members who are now moving from Mexico to join their elder family members in the United States.<sup>68</sup>

But NAFTA, despite its criticisms, is clearly here to stay. It currently serves as a model for many other treaties, including agreements with countries such as Panama, Columbia, and Peru.<sup>69</sup> Whatever adverse effects followed NAFTA's implementation, those aspects have clearly been perceived as far outweighed by its positive, economic-stimulating effects.

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67. Uchitelle, *supra* note 4.

68. *Id.*

69. *Id.*