Sustainable Jobs and Emigration: Drawing Mexico's Responsibility in Immigration Reform

Miryam Hazan
SUSTAINABLE JOBS AND EMIGRATION: DRAWING MEXICO'S RESPONSIBILITY IN IMMIGRATION REFORM

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ABSTRACT

The U.S. and Mexican government supported by numerous experts in both countries, have recognized, at least at the discourse level, that Mexico and the United States must cooperate in developing policies to limit and control unwanted emigration from Mexico to the United States, and that this effort should emphasize measures to promote a better job market in Mexico.

Mexico's chronic incapacity to satisfy the demand for employment is the most telling indicator that it is failing to do its part. Every year this country adds around one million new entrants to its workforce but generates only around 400,000 to 500,000 new salaried jobs. This means that every year approximately 500,000 Mexicans are forced to join the informal economy, the black market economy, or to emigrate.

A better job market in Mexico requires a significant shift from low-wage, low-skilled, and informal labor to formal higher-wage, higher-skill labor. At present, major institutional bottlenecks stand in the way of this shift, including the current economic policy model, the social welfare system, and the country's labor laws.

This paper explores major barriers to development for a vibrant and sustainable labor market and, in the context of calling for a thorough going rethinking of economic paradigm, explores highly concrete technical labor and social security reforms urgently needed to create sustainable employment path to development and help address current emigration trends.

Failure on the part of either the Mexican or the U.S. government to support such reforms strongly and consistently can only make more difficult the challenge of adopting viable and widely satisfying immigration reforms in the United States.

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I. INTRODUCTION

COMPREHENSIVE immigration reform is an urgent need in the United States. Despite measures recently debated in the U.S. Congress, true reform must also include structural reforms to improve employment conditions in Mexico and to reduce the incentives for unauthorized migration. Reducing migration pressures will require action by the Mexican government to create sustainable jobs and to protect Mexican workers' rights at home. Such reform will help gradually turn emigration to the North into an option rather than a survival strategy for Mexicans. It will also help increase Mexico's capacity to achieve its goals of protecting the rights of Mexican workers abroad and of making its case with the U.S. government in favor of a comprehensive immigration reform that includes both regularization and citizenship paths for unauthorized workers in the United States.

Since 2000, policymakers in both the United States and Mexico have looked to the principle of shared responsibility for solutions to the problem of unwanted immigration from Mexico. While the United States needs to carry out activities that ensure that Mexican nationals are not exploited while working in the United States, regardless of their legal status, Mexico must work to improve the economic and social conditions to reduce incentives for Mexicans to leave their own country.

The current debate on immigration reform in the United States and the current economic crisis which has forced political and economic actors in Mexico to re-evaluate recent policies, together provide a unique opportunity to identify specific policy solutions to Mexico's challenges.

Accordingly, this paper identifies three factors contributing to Mexico's poor economic performance and unwanted emigration pressures: 1) the overall development strategy; 2) the badly designed social welfare system; and 3) poor labor laws, which fail to protect workers' rights. The paper concludes with a series of short and medium-term policy recommendations relating to each of these areas.

I suggest that there is a need to implement policies that create and maintain sustainable jobs and to make such policies the centerpiece of the country's developmental goals. These policies should help link Foreign Direct Investment (FDI) to the country's economic development process, encouraging foreign manufacturing firms to set up operations that not only add jobs but also help transfer some technological know-how, and to establish links with domestic firms so that productive chains in Mexican industry can be revived. These policies should also encourage service industries, which have increasingly taken a more important role in the Mexican economy, to create permanent jobs rather than rely on subcontracting, outsourcing, or taking advantage of protection contracts signed between employers and ghost unions that sharply constrain workers' rights.
There is also a compelling need to bring firms in the informal economy into the formal economy through an effective system of sanctions and incentives. The existence of a large informal sector not only makes workers more vulnerable, but it also does not allow them to lift themselves out of poverty. Furthermore, it represents one of Mexico’s major obstacles to development because it is “both a major cause and a consequence of Mexico’s lower gross domestic product per capita.”

The system proposed might include a temporary amnesty for employers through which they would not be forced to pay fines for their past actions, as long as they commit to paying their taxes and registering their workers with the social security system from then on. Failing to comply with this requirement would result in new fines which would the increase over time.

Such a system should go hand in hand with reforms in the social welfare field to make the social security system more universal, while also promoting its long-term financial viability. Social protection programs targeted to the informal sector recently created by the government should be aligned with the social security system. These programs institutionalize informality as they grant benefits to people in the informal economy without requiring forced contributions from employers and employees. Furthermore, they constitute a burden for taxpayers and for the national economy because they are fully financed by the state. As firms are put back on track into the formal economy, the government should gradually reduce the size of these programs and start providing social protection benefits solely through the social security system.

Parallel to these reforms, evasion of the social security system by firms already in the formal economy should be firmly prosecuted. Currently it is estimated that between twenty and thirty percent of social security contributions are not paid, a situation that undermines the financial viability of the system. Tax collections should also be enforced as up to sixty percent of tax revenues are not collected.

Mexico should also consider reducing or eliminating its severance payment system in which workers in the formal economy receive a large compensation when they are dismissed, and replace it with an unemployment insurance program. The lack of unemployment insurance, in fact, is a reason why unemployment rates have been historically low in Mexico:

without it, people are forced to take any job rather than to wait until they find a good opportunity that matches their qualifications, which often typically happens in countries that offer such insurance. This situation

has a negative impact on Mexico's productivity levels because people are not employed to their full potential. Creating an unemployment insurance program or some alternative such as individual unemployment savings accounts would also help reduce the current rigidity of the Mexican labor market and create more incentives for firms to hire new workers in the formal economy as relieving firms of the obligation to pay large severance packages would lower labor costs.

Finally, Mexico should also modernize its labor laws towards enhancing workers' rights. The United Nations, the United Nations High Commission on Human Rights (NHCHR), the International Labor Organization (ILO) and other international bodies have repeatedly proposed measures to remedy systematic deficiencies in Mexico's labor laws, but so far these measures have not been adopted. Adopting new regulations that help strengthen unions vis-à-vis employers is crucial to increasing Mexico's competitiveness in the world economy: real economic progress—which is marked by real, resilient competitiveness of firms and national economies—requires a well-paid, highly-skilled, highly productive labor force; allowing the business community as a whole to easily shift much of its resources to low-cost, low-quality production, as it has done in Mexico for the past two decades, amounts to that community shooting itself in the foot. Real competitiveness requires reforms that encourage union autonomy and democracy and facilitate the formation of independent unions, and a relaxation of restrictions on the right to strike.

In the first section of the paper, I explore what shared responsibility means for Mexico in the context of the U.S.-Mexican bilateral agenda on migration. In the second section, I present a diagnosis of Mexico's poor economic performance including unemployment and underemployment and poor job quality, and trace its links to the expansion of informality, the growing black market economy, and unwanted migration to the United States. In the third section, I present Mexico's two major developmental strategies implemented since the mid-1940s, including import substitution industrialization (ISI), and export led growth, and show how they have contributed to Mexico's poor economic performance and diminishing job quality. In the fourth section, I review Mexico's social policies of the past few decades and demonstrate how the current expansion of social protection benefits to workers in the informal sector undermines the social security system, institutionalizes informality, and undermines economic growth, which increases unwanted emigration pressure. In the fifth section of the paper, I review Mexico's labor laws and explore how their lack of modernization has contributed to the country's declining labor standards and job quality. In this section, I also explore how the lack of democratization and accountability of Mexico's labor unions has further contributed to a low-wage path to development. In the sixth and final section of the paper, I sketch out an approach to help address the challenges presented by all the factors mentioned above and present
highly concrete policy proposals that are key to diminishing the pressures of unwanted emigration to the United States.

II. THE MEANING OF SHARED RESPONSIBILITY FOR MEXICO

The idea of shared responsibility in managing the migration phenomenon has been incorporated in immigration legislation and resolutions in Mexico and the United States since the beginning of the twenty-first century. This concept was first used during negotiations towards a new immigration accord between Mexico and the United States conducted from February to July 2001. The accord negotiated between Mexican and American officials proposed that undocumented Mexicans would be able to regularize their status in the United States through a points system and to gain legal residence for a period of three to five years. The points system would take into account time of residence in the United States, the existence of U.S. citizen children, employer letters showing a willingness to hire the immigrant, and English proficiency. In exchange, Mexico offered to control and to reduce emigration from its territory over the next twenty years by encouraging the country's economic development. This agreement was first derailed when news of the negotiation leaked to the press. By early September, the agreement was put back on the agenda during a summit between Mexico's president Vicente Fox, and the U.S. President George W. Bush. A few days later, however, the terrorist attacks of September 11th took place, and the window of opportunity for an agreement that for the first time recognized the need of shared responsibility was, for the moment, closed.

On February 16, 2006, nonetheless, this notion was again revived when the Mexican Congress adopted a concurrent resolution supported by all political forces that officially recognized Mexico's responsibility for addressing the problem, including the need to produce more social and economic development to encourage its people to stay in Mexico. The resolution argued that as long as "a large number of Mexicans do not find in their own country an economic and social environment that facilitates their full development and well-being[,]...conditions for emigrating abroad will exist." On the U.S. side, on May 25th of that same year, the U.S. Senate passed the Comprehensive Immigration Reform Act (bill 2611) which also recognized the U.S. responsibilities, "including assisting in the development of economic opportunities and providing job training for citizens and nationals in Mexico." Although the bill failed to pass the Conference Committee and never became law, it did help to build upon the notion of shared responsibility, not only for managing South-North migratory flows, but also for encouraging the development of the

5. See S. 2611, 109th Cong. §117 (2006). This bill refers to cooperation with the government of Mexico regarding circular migration.
emigration-source country as a way of discouraging unwanted migration. In October 2009, other emigration-heavy countries such as El Salvador, the Dominican Republic, and Guatemala also joined in the debate; endorsing a declaration by the Secretary General of the Central American Integration System that the immigrant-sending and receiving countries should be understood to have a shared responsibility for finding solutions that can order and regulate migratory flows, as well as also encourage the long term development of the immigrant-sending countries. Attempting to be forthcoming as a way of contributing to the U.S. immigration debate, this declaration signed by the foreign ministers of those countries as well as by U.S.-based Central American diaspora organizations argued that the immigrant-sending countries must commit to discouraging irregular migration by implementing national and regional development policies.

Mexico needs to contribute further to this initiative and to help lead the recent conversation over the principle of shared responsibility by looking at new policy solutions to its labor market problems as a central means of combating unwanted migration. With this idea in mind, I identify Mexico's challenges in the labor market and suggest what it could do to create sustainable jobs and protect workers' rights at home in the interest of turning emigration to the United States into an option and not a survival strategy.

III. MEXICO'S POOR ECONOMIC PERFORMANCE AND THE CAUSES OF UNWANTED EMIGRATION

Mexico's economic performance during the past few decades has been inadequate in satisfying the demand of providing a decent living for its population. Its current challenges include low overall economic growth; unemployment and underemployment; poor job quality, which is reflected in low wages that do not keep pace with other developing countries; limited respect and protection of workers' rights; abuse and exploitation of vulnerable populations; and inadequate opportunities for skilled workers and young people entering the labor market. The results of such failures include large informality, a growing illegal economy, and unwanted emigration to the United States.

Since the beginning of the 1980s when it entered a major economic crisis, Mexico has shown a chronic incapacity to satisfy the demand for new employment. This has been evident even in periods of decent economic growth, such as in the early 1990s and then again in the late 1990s after the country recovered from its 1994-1995 economic crisis. Every year, Mexico adds around one million new entrants to its workforce.6

6. This number is calculated by considering the number of people seventeen years of age, which hypothetically will graduate from High School the following year and will then look for a job. The number is calculated from the Encuesta Nacional de Ingresos y Gasto de los Hogares (ENIGH) (National Survey of Household Income and Spending).
However, the Mexican economy only generates around 400,000 to 500,000 new salaried jobs.\textsuperscript{7}

The current economic crisis has further sharpened Mexico’s inability to generate new jobs. According to the Mexican National Institute of Statistics and Geography (INEGI), the unemployment rate among the Economically Active Population (EAP) increased from 4.3 percent in the third trimester of 2008 to 5.6\% in the third trimester of 2009, which represents a 30.2\% increase in only one year.\textsuperscript{8} This sudden jump, moreover, comes on top of what was already a worrying upwards tendency since at least the year 2000 (see figure 1).

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{unemployment_rate.png}
\caption{REPORTED UNEMPLOYMENT RATE}
\end{figure}

Even these figures, however, do not tell the whole story. If the Mexican unemployment rate were to be measured by the same standards used for the developed countries, the actual unemployment rate would be considerably higher. Adjusting to U.S. measurements,\textsuperscript{9} using current Mexican data, we find that unemployment has risen from 8.3\% in the third trimes-

\begin{itemize}
\item \textsuperscript{7} Gustavo Merino, Vice-Minister, Soc. and Human Dev., Mex., Speaker at OECD Policy Forum: Creating More and Better Jobs (May 7, 2008).
\item \textsuperscript{9} Mexico, for example, counts as employed those who are on temporary layoff. In the United States, this group is included in the unemployed population. In Mexico, people working less than fourteen hours a week are still considered part of the labor force. In the United States, such persons are not. For the adjustments we followed: Martin, supra note 1. It is important to clarify, however, that in contrast to Martin’s work, we did not include the persons waiting to start a job in thirty
\end{itemize}
ter of 2008 to 10.9% one year later (see figure 2), making Mexico’s unemployment rate similar to figures found in much of the developed world.

![Figure 2: Adjusted Unemployment Rate](image)


The precariousness of Mexico’s current situation, which has been aggravated by a record drop in remittances coming up from the United States, is already having an impact on its population: according to the Social Development Ministry, “an additional 6.6 million Mexicans will fall below the poverty line” in 2010, thus nullifying many of the positive effects of recent government efforts to fight poverty thorough its highly publicized cash transfer program known as oportunidades (opportunities).  

As can be seen, Mexico confronts major challenges ahead. Already in 2005, the Mexican National Population Council (CONAPO) stated that the country needed to create one million jobs a year to satisfy the employment demand that the growth of the working age population will

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generate over the next twenty years. By the most optimistic estimate, this would require annual Gross Domestic Product (GDP) growth of at least 4.7%. Less optimistic estimates suggest that to achieve this goal Mexico needs 7.4% GDP growth per year.

Mexico, however, needs more than to simply create more jobs for its working age population, which is expected to peak in 2030 at a level representing sixty-eight percent of the total population. To lift itself out of underdevelopment, take real advantage of its demographic bonus, reduce emigration to the North, and transform its economy into a knowledge-based one, it needs to create high-quality jobs—jobs that raise workers’ productivity by providing them with benefits and training opportunities.

Creating sustainable jobs is one of Mexico’s biggest challenges. For the past three decades the quality of jobs has dramatically deteriorated across all skill and age levels despite measurable improvements in health and education, and thus in the quality of its workforce. In a well functioning labor market these two factors of improvement alone should have facilitated real increases in productivity, and thus in rates of economic growth.

The decline in the quality of jobs is reflected in sharp decreases in real wages for blue collar workers since the mid 1980s, after a long period of steady increases from the 1940s to the 1970s. A 2005 study by the Jus Samper Foundation that compared the Purchasing Power Parity (PPP) indexes of production-line manufacturing wages of all G7 nations, and other countries with economies similar in size to that of Mexico, showed that, while all but Mexico had experienced a significant reduction in their PPP wage gaps with the United States, which was used as the benchmark, the Mexican-U.S. PPP wage gap continued to expand to a dramatic eighty-four percent by 2003. In other words, equivalent manufacturer workers in Mexico earned only sixteen percent ($2.48/hour) of what they would have if compensated at par with U.S. counterparts doing the exact same job. If differences in costs of living in each country were taken into consideration, Mexican workers should have been earning $15.24 per hour for performing a job for which their U.S. counterparts earned $21.97 per hour. A similar study conducted three years later concluded that Mexico’s wage gap with the United States remained almost the same: eighty-three percent. In 1975, this gap was seventy percent.

Mexico’s recent experience contrasts with that of South Korea, which had considerably lower development levels in 1975. While, in Mexico, the government has opened its economy with very few restrictions, seek-

15. Id. at 12.
ing to attract FDI and to expand its export sector, South Korea has focused on endogenous development by strengthening domestic market aggregate demand through maintenance of minimum wage increases above inflation and selective opening of the economy. These policies helped to drastically reduce its wage gap with the United States from eighty-nine percent in 1975 to twenty-nine percent in 2003. While three decades ago South Korean workers earned half of what Mexican workers earned, by the early twenty-first century, they earned more than three times as much as their Mexican counterparts.

Assembly line manufacturing wages, however, are not the lowest in Mexico. Manufacturing workers, in fact, get better salaries than workers in other areas of the economy. This is reflected in the fact that fifty-six percent of the labor force earns no more than three times minimum wage per day, which is equivalent to $4.25 dollars a day or a little more than fifty cents per hour. Only ten percent of the Mexican labor force earns more than five times the Mexican minimum wage, indicating a highly polarized distribution of income in the country (see Figure 3).16

**FIGURE 3: LABOR FORCE BY INCOME LEVEL (THIRD QUARTER 2009)**


The low quality of most Mexican jobs is also reflected in the fact that a large portion of them offer few benefits for workers, and that labor rights

are generally not respected. At the same time, the young and the educated have a hard time finding jobs that match their abilities.

Fewer than forty percent of Mexican jobs offer access to social security benefits, and the proportion of the population enrolled in social security has declined since the 1980s. Furthermore, worker rights in Mexico are not generally respected. Although Mexico was one of the first to embed them in its Constitution in 1917 and is considered to have one of the most stringent employment protection laws among the OECD members, in reality, they are constantly violated. Labor inspections of companies are uncommon, and even when firms are inspected, and labor law violations are discovered and fines imposed, the government has a limited capacity to enforce the payment of the fine. At the same time, collective bargaining rights are difficult to enforce because they are dependent upon official approval from the Local Boards of Conciliation and Arbitration (Juntas de Conciliación y Arbitraje) (JCA), which generally favor the interests of employers. In addition, labor law has yet to be reformed to remove those limitations that inhibit the freedom to unionize, democratic unionization, and union autonomy; such reform remains unfinished business for Mexico's democratic consolidation.

Mexico has also displayed little capacity to protect its population from abuse and exploitation. According to a report for the World Trade Organization performed by the International Trade Union Confederation, over three million children in Mexico must work to survive, “due to the poverty and inequalities in the country,” and forced labor, including children, is found in the country. Furthermore, the country is a “source, destination and transit country for persons trafficked for sexual exploitation.”

Although more educated Mexicans have been increasingly better paid than those with fewer skills and are more likely to find jobs in the formal economy, they also have a hard time getting jobs related to their qualifications. A longitudinal study concerning the performance of the labor market for professionals during the 1990s showed that because the demand for professionals was saturated, only fifty-five out of 100 graduates were actually able to take jobs that matched their qualifications. The rest were forced to take unrelated jobs in the service sector-jobs that required only a vocational education or jobs that did not require any special quali-

18. Project Agenda on Project Work and Wellbeing: Towards an Institutional Framework that Integrates the Social Development and Employment Agendas in Mexico 60 from Juan Ramón de Laiglesia, Project Leader, Economist, Development Centre, OECD.
20. Id.
More recent studies suggest that fewer than twenty percent of recent graduates from high school and above entering the job market are able to find a job that meets their qualifications after their graduation.22

A. INFORMALITY, THE BLACK MARKET ECONOMY, EMIGRATION AND POOR ECONOMIC PERFORMANCE

A large informal sector, a growing criminal economy, and unwanted emigration are all causes and consequences of Mexico's poor economic performance and its incapacity to create sustainable jobs for its population. The clearest indicator that the Mexican economy is failing is the current size of the informal sector, which a recent OECD study estimated at between forty-eight percent and sixty-one percent of the labor force depending on the definition used.23 Furthermore, although overall employment may have grown during various periods from the past two decades, informal employment still has grown at a much higher annual rate than formal employment, and if agriculture is excluded, this trend is even more pronounced. As Santiago Levy has explained, this situation undermines workers productivity and compromises Mexico's possibilities of achieving higher rates of economic growth.24

The growth of the black market and the criminal economy is yet another indicator of poor job opportunities in Mexico. It is extremely hard to determine the number of people who make a living from illegal activities. But it is estimated that the income generated by the illegal drug business amounts to between 1.8% and 2% of Mexico’s legal GDP. Although drug money may help to finance the extravagant life of drug bosses, it also provides a living to many people. In the 1990s, it was estimated that 200,000 people lived off cannabis or opium cultivation, and it is highly probable that this number has gone up. Also, numerous among the participants in the drug business are street sellers or carriers, who perform “very precarious, poorly paid and dangerous jobs, that are mostly taken as a survival option, given the scarcity of legal jobs.”25 For instance, greater criminality, the growth of the black market economy, and lack of economic opportunities seem to be correlated, although there

23. See de la Iglesia, supra note 18, at 12. If registration of the company and type of contract of workers are taken as the definition the level of informality is forty-eight percent. However, if access to social security coverage is taken as the definition the level of informality is 61.4 percent. These numbers include subordinated and self-employed workers.
is still not enough data to prove that connection. A recent study has suggested that although Mexico is not necessarily more violent today than it was ten years ago when measured by the numbers of homicides, there seems to be a clear correlation between greater criminality and reduced economic opportunities and state presence. For example, criminality has increased in Northern cities that have doubled their population during the past decade, and where there has been a lack of governmental services and economic opportunities.26

Although Mexican emigration to the United States has a long history, the depreciation of Mexican wages and increasing wage differentials with the United States are clearly connected to the large flows of migrants to the United States in the past few decades, which helped double the Mexican immigrant population in the United States almost every decade from the 1970s to the beginning of the twenty-first century.27 For example, an examination of month to month changes in apprehensions of illegal immigrants attempting to cross the U.S.-Mexico border reveals "that when Mexican wages fall by 10 percent relative to U.S. wages, attempts at illegal entry increase by 6 percent."28

Wage differentials alone, however, do not explain the dramatic growth of Mexican migration during the past few decades. Various academic studies29 have documented how irregular Mexican migration to the United States increases when the U.S. economy is expanding and the Mexican economy is contracting; when relative deprivation increases within Mexican communities due to changes in its economic structure; and when there is a spread of economic development to a rapidly growing region, enough to increase resources to facilitate migration but not enough to make a decent living and to better manage the risks associated with life (such as illness, poverty and unemployment). In addition migration is also a form of overcoming widespread failures in capital and credit


markets.\textsuperscript{30}

But low-skill individuals who represent the large bulk of Mexican migrants are not the only ones attracted to better economic opportunities in the United States. The difficulties educated workers face in finding jobs that match their skill levels is also taking a toll on the country. As Elena Zuñiga and Miguel Molina explain, "Mexico's supply of educated individuals is growing almost five times faster than overall population growth."\textsuperscript{31} Because domestic opportunities for professionals are not expanding as quickly, this creates incentives for skilled people to migrate to the United States. Although Mexico is best known as a source for low-skilled migrants to the United States, it is also providing a rapidly growing flow of professionals. "In fact, the skill level of Mexican immigrants is gradually rising, with an increasing proportion of US-bound immigrants educated to the equivalent of high school level and beyond."\textsuperscript{32}

Clearly, Mexico must reconsider its overall economic development model, which has discouraged the creation of new high-quality jobs and encouraged more informality, more criminality, and more emigration; and must instead come up with new policies that address important obstacles to the improvement of Mexico's current labor market conditions.

\textbf{IV. THE LIMITS TO THE CAPACITY OF THE CURRENT ECONOMIC MODEL TO CREATE LONG-TERM JOBS}

In this section, I review the characteristics of Mexico's two major developmental strategies implemented after the World War II: state-led inward-looking import substitution industrialization (ISI) and outward-looking market-led growth, neither of which has been able to provide adequate solutions to some of the country's major bottlenecks that stand in the way of development. I then argue that the current economic model fails to exploit the valid insight that underlies the inadequate ISI model: that state commitment to rapid economic development can in fact be realistic, regardless of the economic model employed, and that the state has a particularly important role to play in expanding the labor market and addressing economic inequality. I argue that the current economic model, which included a transformation of the Mexican state from a developmental to a regulatory one and thus to one with no defined role in the development process, has produced a low-wage, low-skill path to development. This path has predominantly benefited Multinational Corporations (MNCs) that have invested in the country but without benefiting the rest of the economy, as there has not been an effective state strategy to productively link them to the domestic industry. This situation has undermined the capacity of national industries to create more jobs, thus


\textsuperscript{31} Zuñiga \& Molina, supra note 27, at 3.

\textsuperscript{32} Id.
encouraging more informality, reduced productivity, real GDP growth below historical averages, a growing black market economy, and emigration. I also suggest that the country’s ongoing transition to a predominantly service-sector economy threatens to deepen all of these problems if they are not adequately addressed.

A. FROM IMPORT SUBSTITUTION INDUSTRIALIZATION TO EXPORT-LED GROWTH

Mexico’s current economic challenges cannot be understood without a short historical review of the development premises and paradigms that have guided the country since its emergence as a modern nation after its violent Revolution. These paradigms have guided the country’s social and political arrangements, and ultimately also left unresolved important challenges that have placed major limits on the country’s path towards a more developed society.

From the 1940s to the 1970s, Mexico implemented an ambitious developmental agenda. The main goal of this agenda was to transform the country that emerged from the Revolution into a modern one by creating a competitive economy and reducing Mexico’s dependence on the world, especially the United States. The path chosen to achieve this goal was through strong state intervention in the economy with the purpose of correcting market imperfections, channeling aggregate demand, and developing a domestic industry capable of driving sustained economic growth. In this regard, Mexico had a developmental state.

Developmental states can be distinguished from regulatory states by the fact that, while regulatory states only concern themselves with the rules of economic competition, developmental states implement policies aimed at carving out temporary positions of advantage for a country’s economy in the international division of labor by implementing policies that privilege one or more niches of development.33

To promote development, the Mexican state embraced a structural economic model indigenous to Latin America known as Import Substitution Industrialization (ISI). The main goal of ISI was to encourage the country’s industrialization through production of consumer goods which would substitute for imports. For that purpose, the government sharply increased protections against these goods. Originally justified as a form of easing Mexico’s severe balance of payments difficulties, its net effect was to provide a guaranteed market for domestic production, which theoretically made sense in a market as large as Mexico’s.

Industrialization was to be done from the top down. The goal was to import machinery and components and to produce final products domestically. With the demand for the final product growing, it was expected that at a certain point the demand for intermediate components (such as

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machinery) would be sufficiently high to warrant investment in their production domestically.

The importation of machinery and components was subsidized through agricultural exports, which were, therefore, heavily taxed. Agriculture was not conceived as a long-term source of development because the idea was that the international demand of agricultural exports would not change regardless of changes in supply and for that reason, development would only be possible by promoting a national industry.

ISI was possible in a context of a global consensus on the need for industrial development as a means of avoiding the financial, political, and economic instability of the pre-war era. The representation of this consensus was the Bretton-Woods system, which established a de facto financial regime affording governments considerable leeway in the decision-making process. Governments were able to maintain currency exchange values by intervening in the currency markets, to install capital controls, and to run deficits to stimulate their national economies because of the widely shared consensus that development should not be considered spontaneous but instead required a regulated market system to fully exploit society's productive potential.

Industrialization had its positive effects in Mexico: between 1940 and 1965 the share of the GDP for manufacturing activities grew from eighteen percent to 25.3% while the country’s GDP rose at an average rate of 6.3% in real terms; at the same time GDP per capita increased by 117.2%.34

But the agricultural sector, which was heavily penalized, was left behind. This situation produced a fall in rural incomes relative to urban incomes that became a continuous source for internal and external migration. Although Mexican migration to the United States had mostly been a spontaneous phenomenon, during the Second World War the government helped institutionalize it by agreeing to a guest worker program, the bracero program, with the United States in 1942, which was revived during the Korean War and maintained until 1964. From that point international migration became a de facto safety valve for surplus Mexican labor in the agricultural sector, excluded from the benefits of the country's industrialization. In that respect it was a direct consequence of the chosen modernization path.

The limits to the capacity of ISI to produce development became evident by the 1970s. These included "an excessive dependence upon imports of intermediate and capital goods, overvalued exchange rates, and chronic balance of payments problems."35 In addition, because of a lack of external competition, domestic industries became inefficient, produc-

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35. Id.
ing high-cost, low-quality goods for the domestic market. As a model, ISI was unable to provide solutions to at least five challenges:

1. the need to go beyond the production of durable consumer goods to the production of more capital-intensive and technologically sophisticated intermediate goods
2. the need to increase economic competition
3. the need to diversify its export sector
4. the need to modernize the agricultural sector
5. the need to lessen Mexico's dependence from external capital

Beyond its endogenous limitations, there were also national exogenous limitations to the model that hindered its success: because the model was implemented under authoritarian conditions, it was very difficult to guarantee accountability and the efficient use of resources produced by the rapid pace of development; there was not an autonomous civil service bureaucracy, which in other countries with developmental states, such as Japan and South Korea, proved crucial to formulation and implementation of viable developmental policy strategy.36

ISI, however, also left some useful lessons for the future. State commitments to rapid economic development can in fact be realistic. From the 1940s to the 1970s, Mexico grew at a faster rate than ever in its history, and while a return to developmental policies of that time promises limited benefit, nothing is gained by abandonment of an institutional commitment to developmental policy per se. To address economic inequality the State needs to play an active role. The market will not solve this problem by itself. ISI helped to reduce economic inequality even though a better redistribution of resources remained one of the country's major challenges.

In 1973, the favorable international environment for the implementation of inward-looking developmental policies reached an end: the Bretton Woods system of fixed exchange rates was discarded altogether two years after the United States abandoned it. Thanks to heavy borrowing from abroad and the fact that it was an oil producer, Mexico was able to extend its ISI policies for almost another decade. By the 1980s, however, the country entered a deep economic crisis as a result of a drop in oil prices and the incapacity of the country to service its foreign debt or secure more borrowing.

36. In his studies about the Latin American developmental states which he called desarrollistas, Ben Ross Schneider identified this factor as one of the main elements that distinguish them from the Asian developmental ones (Japan, South Korea and others), and that made the former less successful than the later. See Ben Ross Schneider, The Desarrollista State in Brazil and Mexico, in THE DEVELOPMENTAL STATE, supra note 33, at 276-305.
B. EXPORT-LED GROWTH AS THE NEW ALTERNATIVE FOR DEVELOPMENT

During the 1980s Mexico lost ground on many of the social accomplishments of the previous forty years. In that decade, the government implemented a series of structural adjustment policies to stabilize the economy and a series of radical market-oriented reforms that included trade, exchange, and industrial policy liberalization. In 1986, Mexico entered into the General Agreement on Tariffs and Trade (GATT), reducing the tariff rate from 100 percent to fifty percent that year and then to twenty percent the year after. It also lifted many of the extensive restrictions on foreign direct investment that had been an important element of ISI.

By joining GATT and unilaterally reducing the tariff rate, the Mexican state was, in effect, abandoning its explicit developmental goals and moving towards a new economic model in which the market, not the state, would be at the forefront of economic development. In this regard the state was also transitioning from a developmental model to a regulatory model. Along with these measures, the government adopted a new strategy to ignite economic growth, based on stimulating exports. This new strategy was inspired by the experiences of Japan, South Korea, and other East Asian countries, which had attained sustained rates of economic growth by creating a competitive exporting sector. But the policies pursued in Mexico differed from those of the East Asian countries in important respects. While in these Asian countries the state still played a central role in the development process, placing priority on the strengthening of industries that had a wider impact in the domestic economy, in Mexico the state was gradually shrunken through massive privatization, deregulation, and a more limited role in the social field. Sector-specific industrial policies were also abandoned in favor of sector-neutral policies, on the grounds that these sector-specific policies created market distortions.

The answers provided by the export-led growth model to the challenges originally posed by ISI took the country in a very different direction. To expand the country's sources of economic development the Mexican government focused on expanding and diversifying the export sector. This was done by attracting more FDI and international capital inflows, which allowed the economy to receive fresh sources of money needed as sources of financing as petroleum revenue and extensive foreign credits had become insufficient or unavailable.

Attracting international capital to the export sector, it was reasoned, would also help address the need to go beyond the production of durable consumer goods to the production of more capital-intensive and technologically sophisticated intermediate goods. But because Mexico lacked enough skilled workers and infrastructure to put this capital to use in high-wage employment, incoming FDI flowed almost exclusively into low-wage maquila-style production and service sectors. To insure that FDI would produce diversification of production and wage increases
more state action was needed. Without it, FDI could not automatically diversify or help increase wages because of the existing labor markets in Mexico, which gave the country a comparative advantage in low-wage jobs only, very much a legacy of earlier development policies.

To increase economic competition, the government opened up the economy to the world. This was done by joining GATT and, in 1994, the North American Free Trade Agreement (NAFTA), which the United States had originally concluded with Canada. Mexico's participation in NAFTA helped institutionalize the export-led growth strategy because it committed its members to overall trade and investment deregulation. At the same time, it limited state capacity to implement an industrial policy like previous ones in the past because the agreement required its signatories to treat all firms and investors equally. In theory, at least, this meant that no country could implement in the future any policy that favored firms with specific characteristics, although in practice, the United States maintained subsidies to its transportation and agro-business industries.\textsuperscript{37}

Mexican policymakers did not perceive this as a problem as they had already committed, at least at the level of discourse, to a neutral industrial policy. Instead, they perceived participation in the agreement as crucial because the Mexican economy had opened so extensively that, to really reap the benefits of that liberalization, the country needed preferential access to the American market as well as to bring in additional FDI.

The challenge of reducing the country's dependence on external capital was not addressed directly because the guiding premises of the new model did not call for it to be addressed. ISI was a nationalist model, and to the extent that it was nationalistic, it was about building the country's strength vis-à-vis the rest of the world. For that reason, reducing Mexico's dependence on external capital was of the utmost importance, even though that was not achieved. The new economic model was more concerned, instead, with economic efficiency. One of its guiding ideas was that by liberalizing the economy, the state would stop playing a role in directing investment, which had produced an inefficient use of resources. Its role would be replaced by domestic and foreign private investors whose investment decisions would follow market signals, and thus channel investment to those sectors that would make better use of the factors of production and increase the potential for economic growth.\textsuperscript{38}

Finally, to promote the modernization of the agricultural sector, the government reduced state subsidies, changed the land tenure structure, and officially ended land distribution in 1992, while also allowing the privatization of formerly collective lands known as \textit{ejidos}. The idea was


\textsuperscript{38} Jorge Máttar, Juan Carlos Moreno-Brid & Wilson Peres, \textit{Foreign Investment in Mexico after Economic Reform}, in \textit{CONFRONTING DEVELOPMENT}, supra note 34, at 123.
that the number of people working in the countryside should be reduced because the existence of a large peasant population was a bottleneck for further development. Luis Tellez, one of the strategists of these reforms summarized it this way:

As long as peasants cling to a marginal plot of land, without resources and with low productivity, they will remained impoverished, a dead weight on society. The solution is for this population to find work in better-paid activities and for agricultural production to be left to those who have what it takes to make it profitable and dynamic.\(^3\)

It was expected that the reactivation of the economy and modernization of the countryside would create the employment needed to absorb the peasants displaced from rural production. In this regard, agriculture ceased to be the main lever for urban-industrial development as it had been during ISI. Because agricultural products imported from the United States and other advanced countries were cheaper than the domestic ones, the government lost interest in fostering the development of this sector, except for those firms able to export and compete in the international markets.\(^4\)

The exogenous obstacles that limited the success of ISI policies were not properly addressed by the economic reformers who implemented the new economic model. First, they did not reform the authoritarian structures of the Mexican political system, which discouraged accountability and an efficient use of national resources. They held that economic liberalization should precede political liberalization, and actually used the authoritarian structures of the system to implement their market-oriented reforms, such as using its corporatist institutions to control labor and agrarian potential unrest. The concentration of power in the hands of the executive branch also impeded legislative and judicial oversight of key reforms such as the privatization of state owned enterprises and the reprivatization of the national banks. The final transition to democracy in the year 2000 allowed for an alternation of power, but there is still the need of major political reforms to increase accountability and reduce corruption. Although for the past few years the government has implemented important reforms to the Mexican constitution aimed at increasing accountability (e.g. more transparency and homogeneity in government accounts, and more supervision in the use of national resources), the various norms that should in theory integrate this system “are organized following different principles, with fragile links, and they respond to different rationalities and goals.”\(^4^1\) The major constitutional

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40. Id.

challenge is to align all of the recently adopted measures into a full-fledged policy towards greater accountability.

Second, Mexican reformers did not address the need to create a civil service bureaucracy, what has been called an “embedded bureaucracy” capable of implementing long-term development policies regardless of the political times. As a result, every six years, with the change of government, there is still a large turnover within the Mexican bureaucracy, which makes it very difficult to guarantee continuity in the policymaking process. Nonetheless, to consolidate the market oriented reforms, the central bank was made autonomous. This situation has facilitated the continuation of the country’s fiscal and monetary policy towards avoiding fiscal deficits and high inflation, which were identified as the most intractable challenges created by previous state-led policies as they discouraged savings and investment.

C. The Effects of the Export-Led Growth Strategy

The market-oriented export-led strategy has proved to be a very slow road to development. Close to two decades after its first implementation this model has not been able to provide solutions to most of the challenges left unresolved by the previous state-led model, and instead has further compromised the country’s future, by creating institutional bottlenecks that are proving to be very difficult to overcome.

1. The Expansion and Diversification of the Export Sector

As mentioned above, one of the main goals of the new development strategy was to expand and diversify Mexican exports by attracting more FDI into the country. Because the country was emerging from a deep economic crisis, to achieve this goal Mexico first needed to stabilize its economy and regain the confidence of international creditors and investors. For that purpose, since 1987, the government has adopted tight monetary and fiscal policies to reduce the fiscal deficit and lower inflation. In addition, it created the so-called “pacts” signed by representatives of labor, agricultural producers, and the business sector between 1989 and 1994, in which the industry agreed not to raise prices and the trade unions not to press for wage hikes above inflation. Finally, price stability was also attained by maintaining an overvalued exchange rate, which made imports cheaper. All of these policies came at a high cost to the country. To maintain fiscal and monetary discipline, the government was forced to impose very high interest rates. This was also in response to the fact that there was the need to bring in foreign portfolio capital inflows to finance the balance of payments gaps created, in large part, by the transition of the economy from inward-oriented to one focused on exports. High interest rates, along with a restrained money supply
growth, had a devastating effect upon manufacturing firms, which were the engine of the domestic economy. In contrast to large, export-oriented firms, which had access to international markets and received foreign investment, inward-looking companies had very little access to new credit, and the credit they did secure carried very high interest rates. The effect was real contraction in domestic investment, especially in the manufacturing sector. This, in turn, had a strong negative effect on employment in the formal economy, as well as on wages, because these firms were historically the major employers. At the same time, it also had a negative impact on economic growth.

Despite these facts, these policies did meet the objective of attracting large amounts of FDI into the country, which helped expand the export sector. Mexico was one of the few developing countries able to capture part of the unprecedented increases in the levels of FDI worldwide during the 1990s, seventy percent of which went to the developed world. Only China and Brazil were able to capture more money than Mexico during this period. This flow of resources to the country increased especially after the implementation of NAFTA.

But this investment did not go to the creation of high-quality jobs. Apart from its macroeconomic stability and its further integration to the American economy, what made Mexico attractive for MNCs investing in the country was, as was mentioned above, its low wages in comparison to those in the United States. As a result, most of the investment went to the low-skill, low-wage maquiladora industry; this trend helped institutionalize a low-wage path to development.

The maquiladoras were first established in 1965 under the Border Industrialization Program created by the Mexican government to alleviate the high unemployment rates in Northern Mexico that had resulted from the cancellation of the Bracero program in 1964. The new program used low-skilled Mexican labor as a lure to draw U.S. manufacturing to the region. American firms were allowed to move production machinery and unassembled parts into Mexico duty-free as long as the finished good was returned to the United States for final sale. Since then, the maquiladoras have served as a low-wage platform for U.S. manufacturing. Although in their origins the maquiladoras represented only a marginal industry, their relevance increased as the country became more dependent on exports. In 1980, maquiladora workers accounted for about five percent of total manufacturing employment in fixed establishments. By the year 2000 they approached thirty percent. In raw numbers, “maquiladora employment expanded from 120,000 jobs in 1980 to 1.3 million in 2000.”

Although these jobs were crucial to offset weak job creation in the domestic manufacturing industry, and arguably may have helped reduce emigration to the United States by providing viable opportunities in Mex-

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ic to otherwise likely migrants, their contribution to satisfying the country's annual demand for new employment has been very marginal, as Mexico needs to create around one million jobs per year. Furthermore, although this industry has shown a large expansion, it is not a sustainable one because it is highly dependent on the U.S. business cycle. This is reflected in the fact that after the year 2000, employment in this sector showed a decrease as a result of a 2001 recession in the United States. And, although by 2004 the industry was able to take off again, this only lasted a few years because the industry is again confronting a major decline due to the U.S. economic crisis that started in 2008. Furthermore, because MNCs that have invested in the maquiladoras operate under the low-wage principle, once lower wages are found in another country, there is no longer an incentive to remain in Mexico. For instance, as real Mexican wages have stabilized and new low-wage alternatives such as China, India, and Vietnam have emerged, some of these MNCs have pulled out of Mexico, thus placing the country again in the dilemma of how to bring in new sources of foreign investment.

Apart from the traditional maquiladora industry, Mexico was able to diversify and become internationally competitive in the automotive, software, and electronic sectors, which represented fifty-eight percent of the country's total exports of manufactures from 1994 to 2003. But these industries, which have also captured large amounts of FDI, are built in Mexico on the same model as the maquiladora industry in that they are essentially composed of manufacturing plants focused on assembly processes. For this reason, Raúl Delgado Wise and Luis Eduardo Guarnizo have called them the "disguised maquila sector," because it reproduces the low-wage, low-skill path to development, even though the industry may require a more qualified labor force.

In summary, although the export sector has expanded considerably during the past two decades, it has not diversified as originally expected, and it has not created enough jobs or jobs of sufficiently high quality to move the country up the development ladder.

2. The Production of More Capital-Intensive and Technologically Sophisticated Intermediate Goods

Because the export sector was not able to diversify enough, Mexico was not able to go beyond the production of durable consumer goods to the production of more capital-intensive and technologically-sophisti-

43. Id. at 30.
icated intermediate goods, as was originally expected by Mexican reformers. The export-led growth strategy, thus, did not perform better than ISI in this regard: Mexico remained a country predominantly dependent on assembly line manufacturing.

As mentioned above, most of the growth in the export sector, which was expected to be the new engine of development for Mexico, was in the maquiladora industry. But because this industry depends on high levels of imported components, it provides weak linkages with domestic suppliers, which means that it has been unable to connect with the rest of the economy. Its overall benefits have been mostly restricted to the creation of new low-wage jobs. For this same reason, the plants that MNCs have opened in the country have brought in few technology transfers and very little in research and development—both crucial elements for turning the country’s economy into a knowledge-based one.

3. Increased Economic Competition and the Growth of the Informal Sector

Increased economic competition was supposed to help modernize the national industry. But with very limited access to capital and in a context of tight fiscal and monetary policies, the domestic manufacturing industry was only partially able to transform itself from one focused on satisfying national demand to one centered on competing in the international markets. Trade liberalization, along with an expansion of domestic demand in a context of a persistent appreciation of the exchange rate, increased Mexico’s structural dependence on imports, which became cheaper than the goods produced at home. Because they were not able to compete any more in the national market, domestic firms were forced to modernize themselves and reorient their sales towards exports in order to survive. Many, however, were unable to do so, imparting a great negative impact on the labor market.

As Carlos Salas and Eduardo Zepeda explain, between 1987 and 1994, as the economy liberalized employment decreased in “100 of the 129 manufacturing sectors” for which information is available. The most affected sectors included those that produced metal products, electrical power generation, and goods that faced strong international competition, such as toys and cotton and other natural fabric textiles. These subsectors accounted for about three quarters of all manufacturing jobs in 1988. The 1994-1995 economic crisis further exacerbated the incapacity of previously protected manufacturing plants to create new jobs. In other words, Mexico’s adoption of a development strategy based on manufactured exports (primarily for the nearby U.S. market) did not help increase manufacturing’s share of total employment, but instead actually

47. Carlos Salas & Eduardo Zepeda, Employment and Wages: Enduring the Costs of Liberalization and Economic Reform, in Confronting Development, supra note 34, at 536.
In a context in which the size of the working age population was growing, due to high population growth of previous decades and to changes in the women's labor force participation, this situation helped enlarge not the size of the open unemployment rate, which was actually relatively low during the 1990s, but the size of the informal sector.

The informal sector in Mexico can be measured following different standards. Four common standards are: 1) based on "the size of the firms where the individual work, with five or less being considered informal and more than five being considered formal"; 2) based on access to health benefits, with those who receive them considered formal, and those that do not, informal; 3) based on access to social security benefits rather than to health services in general, where those workers enrolled in the social security system are considered formal and those not enrolled are considered informal; and 4) based on whether or not a written contract is associated with an individual's job; in the case of self-employed workers, those who work in a firm that is registered with the government are considered formal, and those who do not are considered informal. By all of these measures, the size of the informal sector in Mexico has shown a dramatic increase, and there is no doubt that this increase is associated with a decline in the manufacturing industry's share of total employment because domestic manufacturing firms in Mexico were the main source of formal jobs during the ISI period.

4. Dependence on External Capital

Although the new path to development was directly concerned, not with reducing Mexico's dependence on external capital, but on increasing economic efficiency in the allocation of resources, neither of these goals was achieved. As part of its neutral industrial policy, the government did not create any types of incentives, subsidies, or other programs aimed at the promotion of specific activities. As a result, most of the FDI into the country was guided by "market signals" focused on profiting from Mexico's low-wage base and its contiguity to the U.S. market, rather than on other activities that would have diversified the sources of economic growth for the country (e.g. the production of new technologies or research and development). This may have been efficient for the companies but was not necessarily productivity-enhancing for the country, which saw its dependence on external capital grow. At the same time, because the government also refused to establish measures to promote investment spending, as opposed to consumption expenditure, many of the resources that entered into the country through its financial system went to the consumption of imported goods. This situation made it impossible for Mexico to eliminate its external imbalances and its balance-
of payments crises, which have historically undermined the country's development process.

5. The Modernization of the Agricultural Sector

One of the most strongly affected sectors of the new economic reforms implemented by the government was agriculture. Privatization of previously collective lands brought a wave of land consolidation, mechanization, and a shift to capital-intensive production methods. This situation produced a large displacement of subsistence farmers and small landowners: from 1990 to 2008, 2.3 million agricultural workers lost their jobs.\(^5\)\(^2\) This displacement had already started during the 1980s when the federal government drastically reduced its financial support to the countryside. Mexico's participation in NAFTA further increased this displacement because it undermined production of corn and maize, the country's main crops, through large imports of these products from the United States, which even exceeded the quotas Mexico had originally negotiated under NAFTA. By accelerating the import of these agricultural products, the Mexican government was betting that production would turn to fruits and vegetables, which Mexico seemed to be more competitive in. This turned out to be efficient in the narrow terms by which it was justified, but its benefits were quite unevenly distributed. The only companies that profited from this were large agro-businesses capable of exporting those products. These businesses, however, have not been able to produce employment for more than a fraction of Mexico's displaced peasants. Meanwhile, small and mid-sized producers, incapable of competing with American imports or acquiring the necessary technology to move from the production of corn and maize to the production of fruits and vegetables, simply disappeared. Many displaced workers had no option but to migrate to the cities, or to the United States, or to go back to subsistence agriculture. In this regard, the main effect of these policies has been the polarization of Mexico's countryside.\(^5\)\(^3\)

6. Export-Led Growth and Unwanted Migration

The export-led growth model had, as its main goal, the construction of a free market society, one where the state would play only the role of regulator. The process of transforming the previously protected Mexican market economy into an open one involved major social and political dislocations, both in urban areas and in the countryside. These dislocations are the source of the large increase in Mexican migration to the United States for the past few decades, which is reflected in the numbers: while


\(^5\)\(^3\) Hubert C. de Grammont, *The Agricultural Sector and Rural Development in Mexico: Consequences of Economic Globalization*, in *CONFRwNTINc, DEVELOPMENT*, supra note 34, at 350.
the Mexican population in the United States increased over a hundred-fold over the past 105 years, “95 percent of that increase (nearly ten million) occurred from 1970s onwards.”54 As Douglas Massey explained in the late 1990s, far from discouraging emigration from Mexico, as promised by some Mexican and U.S. policymakers, the North American market has promoted it:

In the course of constructing an open market society, old structures are inevitably cast aside and new ones are created through a process that Joseph Schumpeter labeled “creative destruction.” International migration originates in the social, economic, political and psychological transformations that accompany the process of market creation and development.55

This is exactly what has happened in Mexico, with the development intensified by the institutionalization of a low-wage path to development and an explicit decision by Mexican policymakers not to use state mechanisms to compensate for these dislocations. Although employment was restructured in favor of export-related activities, the Mexican government created no programs to ease such a transition or to compensate displaced workers in other manufacturing fields. It also did not design effective mechanisms to help link the maquiladora industry to the wider economy or to effectively channel financial capital inflows arriving to long-term productive investments.

In this regard, the market-oriented economic strategy implemented in Mexico for the past few decades reflects a failure to take note of one the key lessons of ISI: that an institutional commitment to development policy is crucial to achieving higher rates of economic development, regardless of the model at hand.

7. From Dependence on Manufactured Exports to the New Service Economy

Over the past few years the service industry has taken on a larger role in the Mexican economy. Jobs in the service sector have increased from fifty percent to sixty percent of total employment.56 This has happened as manufacturing employment produced by the nation’s industry has decreased, and in a context in which MNCs have also reduced their levels of production in Mexico, either because of incentives to transfer their production processes to countries with even lower wages than Mexico, or due to a diminished demand for final goods in the United States as a result of the current economic crisis. Although the service sector is a healthy and growing one, many industries within this sector, such as cleaning, security, restaurants, and tourism, offer few of the permanent

54. NAT’L POPULATION COUNCIL OF THE GOV’T OF MEX., & THE UNIV. OF CAL., Mi-
GRATION AND HEALTH: LATINOS IN THE UNITED STATES 8 (2008), available at
55. Massey, supra note 30, at 3.
56. Zepeda, Wise & Gallagher, supra note 52, at 11.
high-quality jobs that the country desperately needs. Industries within this sector have increasingly tended to rely on subcontracting, outsourcing, and other methods to guarantee a low-wage base that they consider key to their profitability. This situation has established a new trend in the low-wage trap in which Mexico has been immersed for the past two decades. But in contrast to the manufacturing sector, this situation affects not only low-skill workers but also more educated ones. Institutions that traditionally employ professionals, such as financial institutions and architectural and legal firms, increasingly rely on subcontracting and outsourcing services for staffing. This is the reason "Manpower," which specializes in temporary and contract recruitment as a form of helping firms reduce their costs, has become one the major private employers in the country, especially in the largest cities. This development may actually help firms, but its benefit to the country is questionable because it helps institutionalize the low-wage developmental road. If the economic experience of the past two decades has taught us something, it is that this is not the best path to development. At the current turning point of economic policy strategy, Mexico must at last learn this lesson or keep reproducing many of the obstacles it has been confronting since the 1980s.

In the end, emigration, the growth of the informal economy, and the workforce's low productivity levels are expressions and consequences of the same basic problem: the abundance of redundant labor in the Mexican economy that flows to wherever wages can be found.

V. THE LIMITS OF THE SOCIAL WELFARE SYSTEM

In this section, I provide a short review of Mexico's social policies from the 1940s to the present, with an emphasis on reforms implemented in the last two decades. These include: 1) the replacement of the pay-as-you-go retirement scheme, based on publicly administered common funds with a mandatory program of individual retirement accounts managed by private financial institutions; and 2) the recent expansion of the social welfare system through the provision of benefits to workers in the informal sector. With respect to the first issue, the privatization of the retirement system, I argue that it failed to seriously address two of the original problems of Mexico's social security system: low contributions, as compared to any industrialized nation, and high levels of evasion by contributors to the system. This reform further undermined the system's long-term financial viability by raising the level of risks in the administration of retirement funds. With respect to the second issue, the expansion of the social welfare system, I show how this reform is helping to institutionalize informality, reinforcing the country's low-wage path to development and low rates of economic growth, and intensifying the pressures to migrate.
A. FROM SOCIAL JUSTICE TO SOCIAL DEVELOPMENT: CHANGING NOTIONS OF SOCIAL POLICY IN MEXICO

The 1917 Constitution that resulted from the Mexican Revolution strongly emphasized social entitlements and liberal rights that would be advanced through the consolidation of post-revolutionary institutional arrangements around the corporatist state and an ambitious agrarian reform. One of the key institutions that emerged from these arrangements was the social security system. This system would help provide some measure of legitimacy to the new regime, which, though undemocratic in nature, positioned social justice as one of the key bases of Mexico's notion of citizenship.

The Mexican social security system follows the European social entitlement model, which links the provision of benefits to the condition of the individual in the labor market. It was created in a context in which the country was expanding the domestic market and the size of the middle class through the promotion of ISI, the creation of salaried employment, and some wage protections.

IMSS's main task was to provide health, disability, work risk, life insurance, and retirement benefits to salaried workers in the private sector. It was financed through wage-based contributions paid by firms and employees, and to a lesser extent, through subsidies from the federal government. Over time it also came to provide day care for workers' children and housing loans through a federal agency, the Instituto del Fondo Nacional de la Vivienda de los Trabajadores (Institute of the National Fund for Workers' Housing, INFONAVIT), which was created in 1972.

All these benefits were bundled and, thus, non-voluntary: workers had to contribute specified parts of their wages to finance them, regardless of whether or not they wanted to enroll in them. Under Mexican law, salaried workers were those who worked at a fixed place and received a fixed compensation (a wage) for work performed and could be directly observed and monitored by a boss who gave them orders. Salaried workers and the firms that employed them were expected to register with and to contribute to IMSS. The creation of this institution, therefore, established the official parameters of the formal and informal sectors in Mexico. Although, as mentioned in the previous section, the criteria to measure informality can vary depending on the definition adopted. Following these parameters, formal workers and firms were those registered with the IMSS; informal workers and employers were those not registered with the IMSS. Mexico's labor market, however, remained fluid as workers moved from one sector to the other with relatively high frequency. This made it difficult for poorer workers—who tended to perform temporary salaried activities and then return to work on their own

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57. This responded to the fact that social welfare policy in Mexico was guided by the principles of comprehensiveness, solidarity, and redistribution. See Asa Cristina Laurell, The Transformation of Social Policy in Mexico, in CONFRONTING DEVELOPMENT, supra note 34, at 323.
(e.g. peasants who picked fruits and vegetables for big landowners during specific seasons of the year)—to receive benefits.

Overall, the social security system was skewed towards urban workers. This does not come as a surprise as these workers were the major target of Mexico's development model from the 1940s to the late 1970s. Because benefits were not universal, Mexico never had a welfare state. Instead, it had what could be called a "segmented" welfare or citizenship model in which the expansion of social benefits responded, to a great extent, to the needs and demands of those social groups that were fundamental to the survival of the regime. Such groups included workers in strategic sectors of the economy, the middle class, the military, and teachers in the public education system. Following this logic, in 1960 the social security system was expanded to public employees with the creation of the Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado (Social Security Institute for State Workers) (ISSSTE), although IMMSS remained the country's major provider of social security benefits, covering at least three quarters of the salaried population. The military and the national oil company, Petroleos Mexicanos (PEMEX) also developed its own social security systems.

A social policy system that provided social protection benefits only to salaried labor turned out to be insufficient. Ultimately, although Mexico's industrialization helped expand the size of the economy, the Mexican economy never became large enough to create sufficient jobs in the formal sector like its Western European models. Although the social security system grew steadily over four decades, it never covered more than fifty-five percent of the population.

Because the regime based its legitimacy on social justice, this was a problem. For this reason, over the years, the government introduced various programs for non-salaried workers, including some health services, housing subsidies, day care services, and others that were administered by the federal and state ministries, or by specialized agencies distinct from IMSS. For the most part these benefits were free of charge or required a small contribution from the beneficiary, and they were unbundled, meaning that individuals were free to choose whether or not to enroll. These programs, however, sowed the seeds for future problems because they created negative incentives for poor workers to join in the formal economy: contributing a part of their already low wages to the social security system was a burden, and an especially unattractive burden if they


59. The military and workers in the oil industry also had their own social security institutions.

60. In the early 1990s the size of the IMSS-insured population dropped for the first time in its history. As a result, its strategy of expanding the base of contributors to extend coverage was reversed. See Laurell, supra note 57, at 325.

61. Santiago Levy has called "social protection programs" those benefits provided by the Mexican state to non-salaried workers, and "social security benefits" to those provided through the social security system. See Levy, supra note 24.
had access to other social benefits free of charge or at a relatively low cost. Similarly, for firms not registered with the IMSS, these programs represented a subsidy because their workers could get health benefits and other services without the firms incurring financial expense. Of course, this was only true to the extent that those programs were accessible to poor workers, which was not the case. Many workers, especially in rural areas, remained unprotected, with access neither to social security benefits nor to the social programs created by the government outside the social security system. It is also important to clarify that these programs offered only inadequate services, not comparable to those offered by the social security system.

During the 1980s, in the context of Mexico’s economic crisis, the social security system suffered a great deterioration as increased unemployment, wage declines, and government subsidy cutbacks substantially lowered IMSS revenues. In turn, the quality of medical services provided by this institution fell as salaries of health professionals were cut and medical equipment and supplies were depleted, while demand for services rose as the insured population became poorer and relied less on private physicians.

The deterioration in the services provided by the social security system helped to discredit it. Because social services and benefits were not universal or equitably distributed, the discourse alleging middle class and corporate privileges at the expense of the poor permeated both progressive and conservative thought. IMSS and ISSSTE were suddenly conceived as intrinsically inefficient, bureaucratic, and inhumane institutions.

B. SOCIAL WELFARE REFORM: THE PRIVATIZATION OF THE PAY-AS-YOU-GO SYSTEM

By the mid-1990s the stage was set for social welfare reform. All actors agreed that the key problem of the social security system was a lack of funding, although they disagreed on the cause of this problem. Government officials and employers argued that the funding shortfall was the result of demographic and epidemiological trends and of an inefficient use of resources. Employers complained that this inefficiency, along with unjustifiably generous entitlements provided by the IMSS, created undue labor costs.

A more probable reality was that contributions to the social security system in Mexico were insufficient to sustain it, especially in a period of economic distress. They were considerably lower than in any other industrialized nation, a situation that undermined the capacity of the system to capitalize itself.62 On top of that, evasions from contributors were high, further limiting the resources available to the system. At the same time, the capacity of IMSS to strengthen its finances by expanding its base of contributors was limited by the anemic growth of formal employment.

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62. See Laurell, supra note 57, at 325.
In the context in which the government was reducing the size of the state and reorienting the Mexican economy towards an open market, the solution proposed was to eliminate the pay-as-you-go retirement scheme and to replace it with a mandatory program of individual retirement accounts managed by private financial institutions. This solution, similar to the one implemented a few years earlier in Chile, was also in response to strong lobbying efforts by recently privatized Mexican financial institutions.

In 1995 Mexico passed a new social security law that represented a clear departure from the past. As Asa Cristina Laurell explains, this country’s “former scheme [was] built on a match between income and disbursements—that is, part of workers contributions [were] used to pay pensions,” but the system did not need to “accumulate assets equal to future pensions. It needed only to have sufficient actuarial reserves...—present value of the future cash flows—...to cover annuities in the event that contributions should fall below immediate pension commitments.”

The new model followed a completely different logic. “Under this scheme the [contributions or] premiums paid by active workers could not be used to pay current annuities. Instead, the basic goal was to capitalize the accounts at a level sufficient to cover the holders’ future annuities. The accounts [were supposed] to be managed by private trust funds, and [to be] invested in financial markets with the objective of maximizing profits.”

Although this model had the goal of taking responsibility away from the state, in reality it implied important state intervention. One major form of such intervention was legislation to create a new market—the market for the pension funds. Intervention also took the form of subsidies, including a commitment of public funds by the state to pay for the cost of transition from the old system.

This second aspect was not a small commitment. According to Laurell, the estimated transition costs represented one to 1.5 percent of Mexico’s GDP. This was a large amount considering that, around the time of the privatization, total government social expenditures—expenditures on education, health care, housing, social welfare and poverty alleviation programs—amounted to less than ten percent of GDP.

The privatization of the pension system created great controversy among the Mexican public because “financial trusts [were perceived as] the winners and uninsured taxpayers and insured workers as the

63. Id. at 327.
64. Id. at 326.
65. Id. at 329.
66. Id.
67. Id.
68. Id. at 330.
69. Id.
losers.” A prevailing perspective was that the transition to the new system was being subsidized with money from uninsured taxpayers, whom would not get anything in return because they could not benefit from the system.

After the reform was implemented there were signs of future problems with the new system. Within a few years of the privatization the new system was showing a tendency towards concentration in the number of institutions controlling the new pension plans, the Administradoras de Fondos para el Retiro (Retirement Funds Administrators or “Afores”). Close to sixty percent of workers belonged to only five of them. At the same time, only four years after the law was implemented, four Afores had already gone out of business. These signs showed the great risks that the Mexican state was taking by privatizing the social security system; failures in the new pension system, due to mismanagement by private institutions or to deep crises in both Mexican and international financial markets like the current one faced today, could eventually require a large state intervention to make good the future pensions of a large number of Mexicans, although it is true that retirement accounts in Mexico have shown fewer losses than in other countries because the country’s regulations do not allow financial managers to take high risks with worker savings. This scenario, created by the privatization of the system, is especially worrisome considering that, even without a financial crisis, Mexico will have to overcome serious challenges to develop stable saving and investments mechanisms to support its increasingly older population.

But when the advantages or disadvantages of this model are assessed, it is clear that the privatization of the pension system left major original problems unresolved:

1) Large sectors of the Mexican population still lacked access to social protection mechanisms, in a context in which poverty and inequality, already acute in Mexico, had actually increased due to the economic crises of the 1980s and the 1990s; the subsequent policies of structural adjustment implemented to address them; and the negative impact of the overall development strategy pursued since the 1990s on the quality of jobs.

2) The social security system still faces major financial challenges because net contributions to the system remain low while evasions are still high.

In the next part we will review these issues in further detail.

70. Id.
71. Id.
72. Id. at 328.
73. Id.
C. FROM SOCIAL SECURITY TO SOCIAL PROTECTION: THE EXPANSION OF MEXICO'S SOCIAL INFRASTRUCTURE

In 1997, during the tenure of Enesto Zedillo, the Mexican government implemented a program targeted at the poor called *Progresa* (Progress), which, during the government of Vicente Fox, was expanded and renamed *Oportunidades* (Opportunities).

This program completely departed from Mexico’s previous policies that dealt with poverty and inequality. While during the ISI period the government attempted to address these issues by attempting to correct major structural asymmetries created by the markets, through agrarian reform, technical assistance to peasants, credit, expansion of health services and other policies, *Progresa-Oportunidades* was directly and narrowly targeted at the very poor.

This program used resources previously used for food subsidies to transfer cash to low-income people. The main idea was to provide monetary resources to the female heads of poor households to purchase food and other basic goods and supplies. In exchange, they were expected to break the cultural cycle of poverty and to avoid transmitting the culture of poverty to their children by making sure that they attended school, received regular medical check-ups, and had a healthy diet. When launched in 1997, this program was criticized on the grounds that the poor would spend the money on things that they did not need rather than on their basic needs. It became clear over time, however, that most households that started to benefit from the program and were meeting the conditions of using the money appropriately.74

By 2005, the program covered five million families, which represented almost a quarter of Mexico’s population and practically all the households that lived in extreme poverty.75 The program was also subjected to external, independent evaluations, which also had the goal of identifying problems that might emerge and of improving some of its characteristics through specific and direct observations. In practice, *Progresa-Oportunidades* became the de facto welfare system in Mexico for the twenty-first century.76

Among the program’s successes, a study focused on Mexico by the World Bank found that poverty rates had been brought down to the pre-1994-95 economic crisis levels by 2002.77 Extreme poverty, which had affected thirty-seven percent of Mexico’s population in 1996, affected only twenty percent in 2002. In other words, the initial success of the program was that it allowed Mexico to reverse its increases in extreme

75. Id. at 2.
poverty levels due to the economic crisis, and bring them back to their pre-crisis levels, which were around twenty-one percent. Newer estimates from the Mexican government showed that, by 2006, extreme poverty had further decreased to 13.8% and this decrease seems to have been linked to the anti-poverty measures implemented by the government. The World Bank corroborated this view in the study mentioned above, concluding that Progresa-Oportunidades, along with Procampo, a social assistance program targeted to rural areas, “contributed substantially to the growth in incomes to the rural poor,” a trend that was reinforced by large flows of remittances from the United States. According to this study, these policies also produced a slight decrease in inequality in rural areas, which had been on an upward trend until 2000. Further evaluations of Progresa-Oportunidades suggest that it also had an impact in lowering the rates of malnutrition, anemia, and stunting among Mexican children. Arguably, even more important was the program’s effects on high school dropout rates: in some rural areas enrollment in middle school and high school increased as a result of the program.

Probably inspired by the successes of this program and conscious that the poor have acquired political muscle in a context of greater democracy the Mexican government, in the last few years, has intensified its efforts to address poverty and inequality. Its programs have attempted not only to alleviate poverty, but to increase access to social protection mechanisms for larger segments of the Mexican population. For example, from 2001 to 2006 the government created various new housing programs parallel to INFONAVIT, and in 2004 it created the Seguro Popular (Popular Security), which provides health insurance to the uninsured population in the informal sector. In addition, in 2007, the Mexican government introduced Seguro Universal de Primera Generación (Universal Insurance for the First Generation), which attempts to provide health insurance to all infants born after December 1, 2006. That same year, the Federal government introduced two other programs: one known as Estancias Infantiles (Child Day Care) that would provide day care services for children of working women without social security coverage, and another that would provide noncontributory pensions to all persons over seventy years of age living in communities of 2,500 inhabitants or less, known as Programa de Atención a Adultos Mayores de Setenta Años (Adults Over Seventy Program).

All of these programs represent an expansion of previous ones implemented during ISI to target the population in the informal economy not covered by the social security system. Although their intentions are laudable, they represent only imperfect substitutes for social security. For one
thing, they do not guarantee long-term coverage for individuals because they depend on the executive’s will to continue them, and therefore, can change from one administration to another. Moreover, they do not provide full coverage for individuals. Long term health conditions, such as kidney disease for example, are not covered. Further, they lack long-term financial viability and thus depend on the government’s financial priorities and available budget space.

Apart from the above considerations that call into question these programs’ capacity to serve the basic functions of the social insurance program for which they are intended to substitute, these programs present an even more basic problem: they help institutionalize the informal economy because they reduce the incentives for workers and employers to join the social security system. The unresolved problem of the past thus reemerges: if given the choice, why would anyone pay for the additional cost of joining the social security system when available social protection benefits can be accessed for free or almost-free?

As can be seen in Figure (4), Mexico’s social welfare system is in fact divided into two compartments with no connection to one another. In

**FIGURE 4 FUNDING OF THE HEALTH SYSTEM**

Source: Sotelo, J. “Challenges and Opportunities in the Health Sector” Secretaria de Salud. Mexico.

this regard it is a dual system in which half of the workforce relies on private or assistance health services and the other half on the social security system. This Figure also makes it possible to appreciate a major difference: while the social security system is primarily financed from contributions from employers and employees and only partially by the government, the new social protection programs are fully financed by the
federal and state governments with resources coming from taxes and the rents collected from Mexico’s oil exports. This means that, in the medium to long term, these programs are unsustainable, a situation that contrasts with the social security system, which is potentially self-sustaining. The resources used to finance the new social protection mechanisms are administered by the Health Ministry. As can be seen in Figure (5) by the year 2010 government expenditures in these programs will approximately equal the social security system’s expenditures.

FIGURE 5 HEALTH EXPENSES FOR THE HEALTH MINISTRY AND SOCIAL SECURITY INSTITUTIONS IN MEXICO

Source: Sotelo, J. “Challenges and Opportunities in the Health Sector” Secretaria de Salud, Mexico.

It must also be noted, finally, that the many recent efforts to expand the universality of social welfare are far from sufficient. According to the Consejo Nacional de Evaluación de las Políticas de Desarrollo Social (National Council for the Evaluation of Social Development Policies) (Coneval), even with the new programs created, 50.1% of today’s Mexican families do not have full social protection, and it is unlikely that this percentage will fall dramatically even if Mexico grows at a fast rate. In other words, quite apart from the concerns discussed above regarding fiscal sustainability, undesirable labor market effects, and adverse impact on economic growth introduced by institutionalization of the informal economy, the new policy direction seems, at best, a modest success considered strictly on its own terms. Gustavo Merino, Mexico’s current undersecretary for Social Development, argued in 2008 that Mexico’s goal was to

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have a universal system of social protection by the year 2010.\textsuperscript{85} Even in good economic conditions this looked like a very tall order indeed.

D. **Universality and Long Term Financial Viability of the Social Security System**

As has become evident, the social welfare reforms implemented during the 1990s and the first decade of the twentieth century have stopped short of addressing many of the original problems faced by the social security system, such as the need to improve its services, expand its universality, and to guarantee its long term financial viability. In fact, many of the solutions proposed seem to have made these problems worse. Privatization of retirement accounts did not provide a solution for the inefficiencies and large deficits of the system, but instead raised costs for tax payers and financial risks for future retirees. The creation of a new set of programs targeted at the informal sector did not really expand universality of social welfare, but it did further undermine its long term viability by encouraging informality and thus less reliable funding sources.

The lack of modernization and challenges faced by the Mexican social security system today are reflected in the numbers. In 1983, the IMSS had 1.83 beds per each thousand beneficiaries. In 2009, there were only 0.85 beds, a number that falls short of OECD recommendation of four beds per 1000 beneficiaries. Furthermore, that same year 37,000 patients were on a waiting list to get the surgeries they need at IMSS hospitals.\textsuperscript{86} The deficit created by the medical insurance programs administered by IMSS, such as those for sickness, maternity, family health, and medical expenses for retirees is extremely high; estimated at the end of 2009 as amounting to thirty-six percent of Mexico's GDP.\textsuperscript{87} Meanwhile, the chances of overcoming these challenges are slim because basic problems, such as low contribution levels and large-scale evasion, have not been addressed effectively. According to data from the U.S. Bureau of Labor Statistics, in 2007 Mexico's share of labor costs taken by tax and social security contributions was the lowest for any OECD country at a mere 15.3%. In contrast, in the United States these costs represented thirty percent and in Germany, costs were 52.2%.\textsuperscript{88} At the same time, and as mentioned before, current evasion of the system amounts to twenty to thirty percent of all contributions,\textsuperscript{89} equivalent to 1.5% of Mexico's GDP. The government is expected to launch a program that will prosecute the companies that evade the system, which will rely on crossing data between the different social security institutions to identify evaders. Al-

\textsuperscript{85} Merino, supra note 7.
\textsuperscript{87} Id.
\textsuperscript{89} Id.; see also Graduño & Méndez, supra note 2.
though it is laudable that the government is finally attempting to enforce the law and address problems previously neglected, it is clear that much more is needed. There is the need not only to prosecute evaders within the informal economy but to bring firms in the informal economy into the formal economy through an effective system of sanctions and incentives.

The system proposed might include a temporary amnesty for employers through which they would not be forced to pay fines for their past actions, as long as they commit to pay their taxes and register their workers to the social security system henceforth. Failing to comply with this requirement would result in new fines which would increase over time.

Parallel to the measures proposed above, the government needs to devise a way to integrate the two social protections systems that currently exist in Mexico—the social security system and the private assistance one. As a technical problem, this challenge might feasibly be addressed by a clear subordination of one of the parallel structures to the other. This would imply a gradual elimination of social protection programs in the informal sector and an incorporation of their functions within the social security system. But it is important to recognize that, in the short term this solution would face an important limitation: it would require that the Mexican economy do a better job creating jobs in the formal economy than it did over even longer periods of economic growth far higher than can be expected in the future.

If the goal of creating enough formal-sector employment to make the employment-based social security system comprehensive and viable is abandoned, then integration of today’s two systems would have to be achieved through expansion of social protection mechanisms to the point where they would constitute a genuine replacement of the social security system. Though this would be an immensely ambitious undertaking, it ironically has an advantage of political momentum. Progress on social protection over the last twenty years has moved in this direction and sober, respectable experts have made the case for a vast expansion on these lines. Santiago Levy, for example, proposes that the Mexican government eliminate wage-based social security contributions, provide social insurance to the whole population, independent of their position in the labor market, and pay for such insurance from a single source of revenue: raised consumption taxes that can be collected from the entire population. Recognizing the lack of progressivity in consumption taxes, Levy further recommends creation of targeted programs similar to Progresa-Oportunidades. In this way, he suggests, the poor could be compensated for the increased tax burden involved. Raising income taxes would be a simpler alternative, from the perspective of progressivity, but doing so would unfortunately “strengthen firms’ incentives to be illegal, because while firms no longer would have to pay for social security contributions, they would have to pay higher income taxes.”

90. Levy, supra note 24, at 265.
It must be clearly recognized, however, that adopting this latter method of integration will not, in itself, solve the problems that have made major reform an urgent need. A fiscally viable and robust social protection system will not be brought into being by a change in funding mechanism and eligibility requirements. Institutional legitimation of the informal economy will not guarantee a level of labor productivity high enough to place a social protection system, decoupled from the labor market, on a sound fiscal footing. Nor should the political challenge of instituting the proposed universal social protection system be underestimated.

Integration of today's disconnected systems, under whatever scheme, will not serve its basic purpose of making life and work in Mexico a viable proposition for those now strongly pressured to emigrate unless the basic challenges that made reform of the early postwar system, and now of the post-developmental system, seem necessary in the first place. From both a fiscal and a political perspective, the effectiveness of social protection reform will be constrained by the labor market on which the system rests.

D. Social Policies and Unwanted Emigration from Mexico

In the last decade, Mexico has implemented successful programs to alleviate poverty such as Progresa-Oportunidades. Successful as they have been, however, such programs promise only marginal gains without a full reform of Mexico's social institutions. Mexico may have healthier and more educated youth today than it did a few years ago, but, their enhancement as human capital notwithstanding, they still face the problem of finding jobs that will enable them to break the poverty patterns that have afflicted their families. The Mexican economy is not producing enough of these jobs, and thus they are still likely to end up in low-productivity jobs in the informal sector or emigrating to the United States.

Ironically then, Progresa-Oportunidades and similar programs may actually facilitate an increase in unwanted migration. As is well known, most Mexican migrants to the United States belong to the poor strata of Mexican society. They do not typically belong to the poorest, however. Those in extreme poverty are likely to lack even the minimal skills and resources needed for emigration. But, by helping the very poor acquire just enough of such assets, Progresa-Oportunidades may, in the end, help them become international migrants. A recent study of the impact of Progresa-Oportunidades in various communities gives some basis for this scenario; the researchers found, in one village, that families there considered the improvements in educational levels promoted by this program important for international migrants.91

But lack of access to good quality jobs is not the only element that spurs emigration from Mexico. As described above, the country has of-

ferred but limited social protection mechanisms to its population. This situation increases pressures to migrate as a form of protection from hardships associated with poverty, illness, and aging. For Mexicans, emigration to the United States has been both a form of improving life's opportunities, through access to better jobs and higher income, and a form of diminishing major life threatening risks.

VI. ORGANIZED LABOR, LABOR LAWS AND POOR JOB QUALITY

In this section I explore the ways in which organized labor and Mexico's current labor laws affect labor standards and job quality. Probably because it was historically aligned to the state, labor did not play a key role in the country's democratization process; though there have been reforms in the labor sector during the last two decades, the law has not been reformed to be more in line with Mexico's more liberal regime. I suggest that the lack of modernization of Mexico's unions and labor law represents one of the country's major obstacles today, not only to consolidating its democratic system, but also to improving the quality of jobs. I also explore how limited autonomy and the lack of democracy within organized labor have contributed to the country's declining labor standards and job quality. To solve this problem Mexico needs to re-form its labor laws and to bring them up to international standards. Adopting new regulations that help strengthen unions vis-à-vis employers is crucial to lifting Mexico out of its current low-wage path to development and improving its competitiveness in the world economy.

A. FROM INCLUSIONARY CORPORATISM TO THE "DISINCORPORATION" OF LABOR: THE EVOLUTION OF MEXICO'S STATE-LABOR RELATIONS

Since the 1930s, and at least until 2000 when Mexico transitioned to a democratic regime, the Mexican political system was generally characterized as corporatist. This term referred to the way in which state-society relations were structured. Under this system, the state defined, subsidized, and mediated all social group relations through the official party that ruled the country for more than seventy years, the Institutional Revolutionary Party (PRI). This party was divided into three mutually exclusive sectors: labor, rural, and popular. The labor sector was predominantly dominated by the Confederación de Trabajadores Mexicanos (Confederation of Mexican Workers) (CTM), which included most of the country's industrial unions. The interests of the rural sector were officially represented by the Confederación Nacional Campesina (National Peasant Confederation) (CNC). The catch-all, loosely defined popular sector included a variety of groups, including the two major unions representing public employees, the Federation of Public Sector Workers (FSTSE) and the Sindicato Nacional de Trabajadores de la Educación (National Teachers Union) (SNTE).
The separation of the industrial unions and the public employees unions in two different sectors, the labor and the popular, facilitated state control over the labor movement by creating two competing groups that constantly sought to outbid each other for special privileges from the PRI.

Despite these divisions within labor, which weakened it vis-à-vis the state, Mexican corporatism from the 1920s to the 1970s could be characterized as "inclusive" because labor was a centerpiece of the development path pursued by the Mexican state, part of a grand, if unequal bargain, to modernize the Mexican economy.

Throughout this period, labor exchanged short term economic benefit and self control for important economic and political benefits. It would avoid making wage demands and refrain from protests over wage conditions, which, in other Latin American countries with similar developmental paths, produced the breakaway of democratic regimes, in exchange for long term guarantees of employment and wage gains for its members as well as greater presence and influence in the political arena.

The inclusionary corporatist regime was thus characterized by state regulation of union registration, strikes, and workers' grievances. This was combined with compensating structures such as subsidies for unions and labor participation in the Federal and Local Labor and Arbitration Boards ("JCAs"), which were tripartite agencies (incorporating labor, employers, and the state) responsible for determining the legality of strikes and for making decisions on collective and individuals' workers' grievances; the National Minimum Wage Commission ("CNSM") set minimum wages. In addition, the PRI granted unions' leadership spaces of representation within the party and in the country's political institutions.

A major player in this labor-state bargain was the CTM. This organization contributed to political continuity within the regime by throwing its political support to the PRI presidential candidate every six years, discouraging possible dissidence. It also helped sustain the Mexican long-term developmental agenda by favoring conciliation and arbitration over mobilization, discouraging strikes by its own affiliates, as well as independent unionism that might challenge the government, and by exercising a moderating influence in the JCAs where it controlled the labor seats. Furthermore, during periods of high inflation, it contributed to wage moderation and austerity through its formal participation in the CNSM. In return for this cooperation, the CTM received considerable material and political benefits.

In practice, the major role of official unions was to maintain labor peace and keep wages low enough to make the national industry profitable and attractive to foreign investment, which were crucial elements in the development strategy. But, because these unions emerged from legitimate social movements, they were also concerned with delivering for their members. For this reason, if they were client-focused, they were
also committed to guaranteeing job security, wage improvements, and the expansion of benefits and social security for all workers. In this regard, they did a trade off: they relinquished their autonomy and expectations to have a say in Mexico’s productive processes in exchange for better job conditions in the future. This decision actually paid off between 1950 and 1970 when the Mexican economy grew at an average annual rate of 7.8 percent while annual inflation was around three percent. During this period, formal employment grew steadily and wages showed considerable increases.

Many new jobs were created in the manufacturing industry, which also had high rates of unionization. In this sector workers saw their wages and benefits grow “by an average of eighty-five percent between 1960 and 1975.” Employment in other industries such as mining, petroleum, construction, and public utilities, expanded as well. Overall, employment in the secondary sector of the economy grew at an average annual rate of five percent, a situation that contributed to a “quadrupling of average real wages between 1952 and 1976.”

Workers also received nonwage gains in the form of social security, which was expanding at the time, health care, education, and subsidies on basic commodities. In addition, the government through the PRI generally supported a pro-labor agenda. As Katrina Burgess explains, in the mid-1950s the Labor Ministry used its extensive powers “to pressure employers to increase wages and benefits in collective contracts negotiated with unions.” These negotiations set the pace for increases in the minimum wage, a situation that benefited both unionized and not unionized workers. The government also “fulfilled its constitutional mandate to require workers’ participation in company profits,” and it created INFONAVIT, which provided access to subsidized housing. In this institution, and in other government agencies with an impact on labor, unions had representation. Such agencies clearly expanded benefits for workers, but they also served as a source of patronage, especially for the CTM, in the context of limited democratic oversight and accountability.

By the 1980s, the bargain between labor and the state became unsustainable in the face of growing challenges at home and abroad. The government’s decision to change to a completely different economic model in the context of a major economic crisis turned organized labor into more of a liability, than an asset. At the same time, increasing demands for greater pluralism within the Mexican political system increased the pressures to dismantle the links between the state and the official unions.

93. Id.
94. Id.
95. Id.
96. Id.
97. Id.
which were increasingly perceived as one of the most undemocratic features of the regime.

In the 1990s, in the context of greater political competition and a more market-oriented approach in the economic arena, the government gradually dismantled its political bargains with official unions, reducing their autonomy by limiting their sources of patronage, as well as their capacity to deliver benefits to their members. In this context, the leadership increased its dependence on the figure of the executive, which used their loyalty to implement unpopular economic reforms. Attempts at government control over official unions became particularly prominent during the administration of Carlos Salinas de Gortari (1988-1994). During his mandate, union leaders perceived as challenging the presidential figure or the presidential regime were defenestrated. This was the case of Joaquín Hernández Galicia, the leader of PEMEX's union whom was replaced by Carlos Romero Deschamps, and Carlos Junguitud Barrios, whom lead the SNTE, by that time the largest union in Latin America, and was replaced by Elba Esther Gordillo. Parallel to those measures, the government attempted to redistribute political power within the PRI by granting more political space to non-union leaders within the popular sector, which was renamed the "territorial sector." The idea behind this last reform was to allow for individual affiliation to the party, hitherto only collective. This would turn the party into a citizens' party rather than a merely corporatist one. But those measures were opposed by official labor unions, and this new sector never really took off.

The "disincorporation" of Mexican labor in the context of export-led growth had the goal of increasing "labor flexibility," while at the same time keeping a strong control over dissidence within the labor movement. These were some of its features:

1) There was a reduction of subsidies to unions and a curtailment of labor privileges through privatization measures in the social security system (e.g., the privatization of individual retirement accounts mentioned above) and state agencies that provided benefits to workers such as INFONAVIT. These measures reduced official unions' sources of patronage, but at the same time they impacted negatively the general workforce because individual workers lost many hard-won benefits.

2) Labor participation in tripartite agencies and wage setting commissions became meaningless as the government transferred control over minimum wages from these agencies to the economic cabinet. In the past, wage increases negotiated in collective contracts had set the pace for minimum wage adjustments. The succession of "pacts"

98. This term was firstly used by María Lorena Cook. See María Lorena Cook, State-Labor Relations in Mexico: Old Tendencies and New Trends, in MEXICO FACES THE 21ST CENTURY 82 (Donald E. Schulz & Edward J. Williams eds., 1995). This term refers to the gradual removal of labor from the arenas and institutions that historically defined Mexican corporatism and that included its institutional representation in the PRI and in other national institutions.
in which government, business, labor and rural organizations signed agreements covering wage increases and price controls reversed this tradition, thus effectively eliminating one of the central functions of unions and collective bargaining: the negotiation of wages. The pacts made union leaders even less popular among workers, increasing their dependence on the presidential office and thus further personalizing and centralizing state-labor relations.

3) Organized labor lost institutional spaces of representation within the PRI and in the country’s political institutions as the PRI gradually dismantled its relationship with labor to reduce its influence within the party.

4) The state mostly abandoned its roles as arbitrator of labor-capital relations and enforcer of labor rights. For instance, because the new economic model required low wages and labor stability to attract FDI, the government tacitly supported the gradual expansion of schemes that violated the spirit of the labor law. These schemes have unilaterally increased labor flexibility, violating worker’s rights expressed in the Mexican constitution, such as the right to organize and to strike. These include “protection contracts” which firms conclude with “ghost unions,” unions that have no real representation but have been created with the support of employers with the explicit purpose of undermining independent unionization. These contracts allow employers to provide employees only the minimum wage conditions provided by the law, curtail collective bargaining, and eliminate organized labor influence on issues such as hiring and firing, job descriptions, and promotions.

5) Despite the changing political and economic environments, Mexican labor law, the Ley Federal del Trabajo (Federal Labor Law) (LFTF), did not undergo any loosening of the rules governing the individual or collective rights of workers in either direction: not favoring more independent and democratic unionization, nor benefitting firms by allowing for a more flexible labor market as a form of reducing actual violations of the law. Industrial restructuring towards export-led growth implied major labor dislocations, which would certainly be magnified by Mexico’s participation in NAFTA. For this reason, any serious attempt at reforming the law was strongly opposed by organized labor. In fact, during the early 1990s the Mexican government won the collaboration of the CTM in its policies towards industrial restructuring by: a) retreating from any reform of the law; and b) supporting this union’s struggles against rival unions.99

Overall, the process of disincorporation of Mexican labor reflected big changes in the country’s political and economic spheres. In the political sphere, Mexico had become more plural, if not yet fully democratic. As a

99. Id. at 88.
result, official organizations such as the CTM did not have the same capacity to deliver large blocks of voters to the PRI as it had in the past. Candidates to political office, handpicked by the party leadership in conjunction with union leaders, now had to be more electable. This situation created strong clashes with the bosses of organized labor, who expected to maintain their quotas in the party's lists. Finally, Mexico's social structure had become more heterogeneous, and to maintain its grip on power, the party needed to accommodate in its corporatist structure other social groups as well. This implied that labor influence had to be reduced.

In the economic sphere, the state could not deliver real wage growth, stable employment, and generous social spending, which had been characteristic of the ISI during a period of high economic growth, and focus on controlling inflation and the fiscal deficit to attract FDI and financial inflows at the same time. The new economic model implied low labor costs and a flexible labor market so that exporting firms could compete in the global marketplace. In this context, the state could not deliver to labor the same benefits as it had during the successful years of ISI. During the 1980s, the policies of economic stabilization pursued by the government, which had a negative impact on wages, compelled the CTM to file thousands of strike petitions and to warn that "its collaboration with the regime was in jeopardy if the government did not grant higher wage increases." 100 The government, however, did not respond to these threats, and the CTM, with less political leverage than in the past, finally acquiesced.

In the end, Mexican government policies towards industrial restructuring had a strong impact on organized labor. According to David Fairris and Edward Levine, union density for the labor force as a whole had declined from thirty percent in 1984 to under twenty percent in the year 2000, and this trend can be accounted for primarily by institutional changes, such as changing support for unions by government actors or greater resistance to unions by workers or employers. 101 These institutional changes effectively undermined the ability of unions to organize and retain workers. 102

By having severely weakened and reduced the size of the organized labor force, Mexican government policies of the past few decades effectively institutionalized a low-wage, low-quality jobs path to development that has undermined the capacity of the economy to produce higher rates of growth that would improve the standards of living of the Mexican population.

100. Id. at 82.
102. Id. at 14.
B. THE ROLE OF ORGANIZED LABOR UNDER THE NEW DEMOCRATIC REGIME

In the year 2000, Mexico had an alternation of power for the first time in more than seventy years. Vicente Fox, the presidential candidate from the PAN, won the elections against the PRI candidate Francisco Labastida Ochoa. Fox's triumph was a culmination in Mexico's long awaited transition to democracy. While many social groups played a pivotal role in this process, including indigenous people's movements, intellectuals, NGOs, the media, and common citizens, organized labor played only a marginal role. This situation contrasted with other Latin American countries where labor was crucial in their democratization processes.

The neoliberal reforms of the 1980s and 1990s, along with the incapacity of the leadership of official unions to adapt to the new times and allow for greater union autonomy and democracy in the selection of leaders and the emergence of more independent organizations within the labor movement, diminished the possibility that organized labor could play a more important role in Mexico's democratization. Despite this fact, there were increasing and important challenges from within and without official unions towards greater union autonomy coming from organizations such as the National Union of Workers (UNT), which was created by dissidents from within the PRI labor sector, and the Mexican Electrical Workers (SME) union.

Fox's government followed a very managerial approach in both the economic and political spheres. Although he was the first democratically elected president in Mexican modern history, his administration did not make any real attempt to reform the labor law in a way that would help improve worker's rights and align them to international standards—an issue that is key for Mexico's democratic consolidation and economic development.

When he was a presidential candidate Fox signed a document put forth by the independent labor movement, in which he committed himself to uphold worker's rights, including the right of workers to choose their own unions. But upon election it became clear that Fox would not fulfill this commitment because he appointed a former business leader with a right wing and anti-labor background, Carlos Abascal Carranza, as the Minister of Labor.

The Fox administration quickly established close links with official union leaders, such as with Elba Esther Gordillo, originally appointed by Carlos Salinas de Gortari to lead the SNTE, and with Leonardo Rodriguez Alcaine, the head of the CTM. Just as in the past, Fox's government protected the interests of these leaders, and in exchange, got their support to implement his economic agenda towards further privatization.

104. Id.
105. Id.
liberalization, and deregulation. At the same time, Fox’s government also followed the practice, which was common during the PRI governments and the Salinas administration, of going after unions or union leaders who were perceived as too belligerent and set against the government’s interest. For example, Napoleón Gómez Urrutia, who was the Secretary General of the Sindicato Nacional de Trabajadores Mineros (National Union of Mining workers), was removed from his post because of embezzlement charges that clearly violated the autonomy of this union.

The economic policies implemented during Fox’s administration further undermined workers’ conditions and standards of living. One of his key developmental strategies was to support the creation of more microenterprises, which he called changarros. Through these changarros individuals were supposed to employ themselves to make a living rather than to have to find good employment, which was increasingly less available. This policy not only encouraged and legitimized the further expansion of the informal economy, but it actually placed informal firms at the center of Mexico’s economic development. This both undermined the capacity of the Mexican economy to become more productive, as informality is generally associated with low productivity levels, and made Mexican workers even more vulnerable because informal economy workers are less likely to be unionized and are protected by the law.

The arrival of Felipe Calderón has not brought any changes to the policies towards labor policies pursued by the Fox administration. His government has neither reformed the law nor helped improve workers’ rights in other ways, such as by discouraging the expansion of protection contracts and subcontracting. In fact, his administration has used the authoritarian features of the Mexican labor law to undermine union autonomy and to implement its economic agenda towards greater privatization.

A well-known incident in this respect is the recent elimination of the Sindicato Mexicano de Electricistas (Mexican Electrical Workers Union) (SME), which was one of the most independent and belligerent unions in the country and opposed to the privatization of the energy sector. The Compañía Luz y Fuerza del Centro (Company of Light and Energy of the Center) (CLFC), the public company that employed SME’s members, was also eliminated.

Although for years consumers of electrical energy had complained of the SME and the CLFC because of the many bureaucratic structures and excessive charges they faced when they dealt with this company, the government never did anything to address this in a way that could advance consumers’ and workers’ interests at the same time. According to the journalist Laura Carlsen, there are studies that show that the government did not attempt to modernize this company by increasing its energy ca-

106. Id.
pacity since at least 1974. At the same time, its administrative structures and operating systems had not been improved for years, so it is difficult to attribute all of the problems of this company to its union or its workers. Carlsen’s research shows that the government had been carefully planning a way to eliminate this union, as it represented an important obstacle in its attempt to privatize Mexico’s electric energy sector. Among other things, there were clear signals that it actively encouraged divisions within this union, which were manifested in its internal elections in June 2009. Furthermore, on October 5, 2009, the labor minister, Javier Lozano, rejected the registration requested by the new elected leadership, even without waiting for the decision of the JCA. A few days later on October 10th, the government sent in the army and took over the CLFC, which was eliminated along with its union by presidential decree that same night.

Although the CFLC may have been an inefficient company, and its union one of the major obstacles to its modernization, the authoritarian way in which both were eliminated shows the major limitations and challenges that the Mexican democratic system still faces. In its actions, the government did not respect workers’ right to freely elect their leadership, nor did it respect SME’s autonomy. Also, it clearly committed an abuse of power in the drastic way in which it eliminated both this union and the CLFC, putting thousands of workers out of their jobs without offering them real employment alternatives.

For Mexico to improve its democratic system, escape from its current low-wage path to development, and reduce excessive migration, the Mexican government needs to reform state-society relations by strengthening organized labor and turning it into an ally in the country’s development process, rather than an enemy. There is empirical evidence that the presence of a union in a firm helps raise not only workers’ wages and benefits, but also productivity and profits for employers; well treated employees generally are more productive. Furthermore, unions also play an important role in encouraging innovation in industrial production and processes and in improving training and skills of the workforce. In this regard, Mexico needs to modernize its labor law in a way that eliminates the authoritarian structures of the past and creates effective mechanisms to address labor-management and state-labor disputes without undermining union autonomy. At the same time, these reforms should allow for more flexibility in the labor market in a way that considers the interests of employers and workers alike.

108. Id.
109. Id.
110. Id.
111. Id.
112. For a summary of the empirical studies and its application to Mexico, see David Ferris, Qué Hacen los Sidicatos en México?, 22(2) ESTUDIOS ECONÓMICOS 185-240 (July-Dec. 2007).
of both labor and management so that employers can stop violating the law by resorting to protection contracts and other schemes to overcome the costly rigidities.

C. THE NEED TO REFORM AND ENFORCE THE LABOR LAW

When it was written in 1917 the Mexican Constitution was one of the world’s most progressive in terms of labor rights. Article 123 of the Mexican constitution gave workers the right to organize unions and to strike. In 1931, this article found expression in national legislation in the form of the LFT.

This law grants employees the right to join and form a union of their choice and to form independent unions, but the unions are subject to formal registration with the government. Although this may seem a small proviso, registration procedures are complicated, and on many occasions the government has used them to reject applications from independent unions or to give preference to a particular union leader over another.

This situation has facilitated the creation of protection contracts, already mentioned above, which are false collective agreements negotiated by the management of a firm with ghost unions. These contracts are generally negotiated and registered with the government prior to the existence of the company, a situation that makes it legally much more difficult for workers to organize when they are hired. The company pays a monthly sum to the “ghost union,” which is generally controlled by former official union bosses who still make a business today of offering these services to employers. In exchange, the “union” guarantees industrial peace because the exclusion clauses present in the contracts give these pro-management unions the right to demand the dismissal of certain workers, especially of workers favoring free trade unionism. These contracts also grant companies more capacity to hire and dismiss workers than a genuine negotiated collective agreement, which typically establishes complex mechanisms for approving these decisions.

As Graciela Bensusán has explained, in the old economic model, protection contracts were only common in marginal sectors of the economy, such as the garment and construction industries. But since the 1980s, as the Mexican economy transited to an open market economy centered in maquiladoras, franchises, and services, these contracts became a way out for firms to overcome some of the rigidities of the Mexican labor law and to have labor peace. Today, however, protection contracts have become so widespread that there are even websites offering “model contracts” that employers only need to modify. Although it is difficult to know for sure, there are estimates that eighty percent of all labor union

114. Id.
115. ITUC, supra note 19, at 4.
agreements may be protection contracts. The issues mentioned above show that the law should be reformed in a way that recognizes the right of workers to be represented and puts in place mechanisms to eliminate the figure of the “ghost” unions. Mexican law should make sure that unions really represent workers, requiring proof that their leadership has been actually elected by democratic and free elections. This will help improve labor relations and the living standards of workers, which are key issues in the productive process. As mentioned above, the best way to incorporate workers in the productive process is by recognizing their rights to representation.

Other limitations of the law are related to the right to strike. Although this right is recognized by the law, there are multiple limitations for this to be exercised:

Employees in the public service may only call a strike in the event of a general and systemic violation of their rights set out in the Constitution. All strikes must have the support of two thirds of the workers in the public body concerned. The law enables the government to requisition workers in a national emergency, even when the cause is an industrial dispute.

Although every year thousands of strikes are called, only 0.3% go ahead. Mexican authorities have argued that this is a sign of industrial peace. The real explanation is that in Mexico it is very difficult for workers to carry out a strike because of the many legal obstacles placed in front of an attempt to do so.

Reforms to the law should eliminate all the many obstacles that inhibit the right to strike because a formally democratic system cannot be truly democratic without effective guarantees of this basic right.

VII. CONCLUSIONS: TOWARDS SUSTAINABLE JOBS AND A SHARED RESPONSIBILITY IN THE IMMIGRATION DEBATE

During its modern history from the 1940s onwards, Mexico has addressed its labor market challenges following two approaches: the state-centered approach and the market-oriented approach.

The state centered approach prevailed from the 1940s until the 1970s when ISI was implemented. This approach emphasized long-term development policies and the expansion of the formal economy by granting the state a greater role in the economy. This allowed for the creation and expansion of a social security system tied to the labor market following the European example. Because this model privileged the expansion of the manufacturing sector, wages were low but increased steadily, and formal employment flourished. This model privileged long-term develop-

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116. La Botz, supra note 103, at 4.
117. ITUC, supra note 19, at 4.
118. Id. at 5.
119. Id.
120. Id.
ment policies and the expansion of the formal economy by granting the state a greater role in the economy.

Although this model was able to produce high rates of economic growth for a sustained period of time, in the end it was unable to provide solutions to issues that were crucial for allowing Mexico to move up the development ladder, such as the need to produce more capital intensive and intermediate goods, increase economic competition, diversify the country's export sector, modernize the agricultural sector, and lessen the country's dependence on external capital. Apart from these limitations, the model relied on an authoritarian and corporatist structure that encouraged patronage and a waste of national resources, undermined workers' rights, and discouraged accountability. Thus, the model did not provide a long-term viable path to sustainable development.

The market-oriented approach has emphasized greater "flexibility" of the labor market at the expense of long-term formal sector job creation and very low wages as an inducement to FDI. The prevailing idea was that this would help create a better investment environment that would allow for more sustainable and higher rates of economic growth. The main engine of growth for this model was supposed to be the exporting sector. But, because this sector was never effectively linked to other productive chains, it failed to have a spillover effect that could produce more sustainable jobs for the rest of the population.

Under this model, the state moved away from employment-tied social policy to a minimal physical needs safety net system. This was problematic because it did nothing to move people into better jobs, or even to address the basic sustainability problem of the old system. While recognizing the existence of informality and committing something to ensuring that everybody at least can get access to food and health care are laudable, the economic policy point of a social protection system is to build up a workforce that can be engaged into high-productivity activities. Ultimately, if the economy does not actually produce good quality jobs for most people, the promise makes no sense; that fact gives the justification for moving to the safety-net model; but in moving to the safety-net model, Mexico has effectively done nothing but acknowledge that it cannot employ its population in the most productive way. Even if the new safety net model, in the form of progresa-oportunidades, and in new additions such as seguro popular, succeeds on its own terms—by guaranteeing better nutrition, education and access to health for the poor—it does nothing to address the basic problem of underemployment. Therefore, this system is not even fiscally sustainable, unless it somehow is linked to other instruments for lifting labor out of the low-productivity trap onto the upward productivity curve of a viable and competitive national economy.

The old system of recognizing only the formal labor sector had the fatal flaw of leaving huge parts of population uncovered; the new system, in assuming the unavoidability of the informal sector, and even in positively
celebrating it as an engine of innovation, has the flaw of guaranteeing that nobody will be covered very well. Mexico therefore needs to implement reforms that can meet the needs of the vast low-paid, low-productivity, low-margin sector of the population, or else it will remain trapped in an underdevelopment trend.

Furthermore, in a context in which the labor law was not flexible enough to meet the needs of the new economic model and was also not reformed to eliminate its authoritarian characteristics of the past in a context of greater political pluralism, it created incentives for employers to participate in unilateral schemes such as “protection contracts” that violate the spirit of the law, undermine workers rights, and reinforce Mexico’s low-wage developmental road.

Today both of these approaches have shown their limitations. Neither the policies of the past nor the policies of the present have allowed the country to find an effective path to development that can improve the quality of life of the Mexican population and reduce excessive emigration.

The current context needs a developmental approach that includes elements of both basic models applied to date.

From the old model we can learn that Mexico cannot produce satisfactory rates of economic growth and address inequality without an active state that addresses major market imperfections and encourages the development of a strong domestic economy. An active state, need not to be the major driver of economic development, but must have “the capacity to perform a strategic and coordinating role in the productive sphere beyond simply ensuring property rights, contract enforcement, and economic stability.”121 In other words, the desired state role goes beyond what regulatory states do to make substantive choices that can shape the development process. From that experience we also learn that inequality beyond a certain level becomes a bottleneck for economic development, and that addressing this problem cannot be left to markets alone. The state needs to commit to a long-term path to development in which the main goals should be higher wages, better employment, less informality, universal access to a financially sustainable social welfare system, and the existence of strong, democratic unions that truly represent workers’ interests and that can allow for effective and constructive participation of labor in the development process.

From the new system we can learn that Mexico also needs to develop an economy that can compete with the rest of the world and benefit from globalization. In the past, many Mexican industries became highly inefficient because they were excessively protected by the state and for a very long time. During the last few decades Mexico has diversified and has shown that it can have a competitive exporting sector. What the government needs to do now is to develop policies that can help link this sector

with the rest of the economy. Mexico needs to develop more economic activities in more regions of the country to provide opportunities for its citizens near where they live so that they do not have to migrate elsewhere or to the United States or, worse still, enter into the illegal economy. This will require a set of economic policies that would prioritize development, though some that are rather different from the ones pursued from the 1940s to the 1970s.

Even if NAFTA has restricted the freedom of the Mexican state to exercise discretionary power to implement policies in favor of specific sectors or firms, there are still things the government can do to encourage the creation of a stronger domestic economy. Rather than supporting specific sectors per se, as in the past, it can support specific activities that add value through spillover effects on the rest of the economy.

What Mexico needs to learn from the two models it has implemented in the past six decades is that it needs to invest in its human capital above all. This has to be done not only by improving the infrastructure of schooling (e.g. more schools, more teachers, more books) or the health of its population (e.g. a better nourished youth), but by creating incentives for people to be interested in acquiring learning, which implies the creation of more opportunities in the job market and more sustainable jobs where individuals can use what they learn and thus value their acquired skills and knowledge. For that purpose, unions can be great allies because they could participate in helping update workers on the skills they need to find better jobs.

If individuals know that their only opportunities for employment are in a maquiladora or migrating North where, notwithstanding any investment they have made in schooling, they will work mostly in low-skilled activities, their demand for schooling will be low. Policies oriented towards improving the country's human capital, therefore, imply encouraging the creation of a business sector with an adequate demand for innovation (and thus for individuals with specific skills) and not one whose main interests are in making profits out of a cheap labor force.

To implement these policies towards greater development, Mexico will have to become a truly developmental state with characteristics that are useful for the twenty-first century. These include:

1) The development of a more meritocratic bureaucracy with embedded autonomy able to design and plan long-term developmental goals that are environmentally sustainable, and help to revive the domestic economy while harvesting the benefits of having opened the economy to external competition; and

2) The improvement of state-society relations and the creation of better governance mechanisms that facilitate the inclusion of wider array of interest into the policy process including those of labor and business, and help increase the levels of accountability.

Apart from this thoroughgoing rethinking of economic paradigm Mexico should consider highly concrete technical labor and social security re-
forms to create more sustainable jobs that can help address current emigration trends. These reforms include enhancing worker’s rights in their workplaces while creating more incentives for employers to hire them and sign them up in the social security system; and increasing the universality of the social welfare system without helping institutionalize informality.

All of these reforms should be part of Mexico’s commitment to a shared responsibility in immigration reform.