An Immigration Policy of Helping Bring People to the Resources

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JAMES A.R. NAFZIGER*

I. INTRODUCTION

The issue of undocumented aliens in the United States eludes resolution because of several factors. These include distorted, ritualized commentary, an incomplete and incoherent national policy framework, deficiencies in the federal immigration law and its implementation, and consequent public misperceptions which encourage more of the same. In response, the federal government desperately needs to formulate a coherent, informed immigration policy which rises above misplaced public fears to define the national interest more broadly in terms of emerging political, economic, and demographic realities and world order imperatives. As a fulcrum of a new policy, the United States should assist in the rational process of human migration and the related redistribution of global resources. In general, people should be allowed, indeed encouraged, to migrate internationally, as they do domestically, in search of a better life.

There is no dearth of legal techniques, actual and proposed, which address the issue of undocumented aliens. The threat of undocumented aliens, however, has been grossly exaggerated. The United States can, and should, revive its mori-

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1. "It is not a question whether or not to act upon the national interest, but whether we perceive and define that national interest in terms broad enough to respond to the actual determinants of political behavior." Shulman, On Learning to Live with Authoritarian Regimes, 55 For. Aff. 337 (1977). The newly established Select Commission on Immigration and Refugee Policy will have an opportunity to formulate a new policy which takes account of emerging national and world order interests. Act of Oct. 12, 1978, Pub. L. No. 95-412, § 4, 92 Stat. 907.

2. See, e.g., the injunctions of the World Population Plan of Action, infra notes 85 and 86; President López Portillo of Mexico has emphasized the transnational consideration that "[i]t is not a crime to look for work [by Mexican immigrants] and I refuse to consider it as such," quoted in Eying Mexico's Oil Bonanza, Newsweek, Feb. 19, 1979, at 31.

bund hospitality toward immigration and, in the process, legitimatize the status of undocumented aliens in the country. Unnecessary immigration barriers serve neither national nor global interests.

A fortress mentality is especially detrimental to the interests served by Mexican migration. Although the presence of large numbers of undocumented Mexican aliens is not cost free to this country, on balance they have more than paid their way; they are more of a benefit than a burden.

By official acknowledgement, the issue of undocumented aliens remains at dead center in relations between Mexico and the United States. The "special relationship" between the

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5. Id.


The February 14-16, 1979 meetings in Mexico City between Presidents Carter and López Portillo seem to have featured three issues: trade, energy, and immigration, although others were discussed. Nelson, Mexican President Delivers Blunt Warning to Carter, L.A. Times, Feb. 15, 1979, at 1, col. 2; Nelson, Carter Defends As "Fair" U. S. Dealings with Mexico, L.A. Times, Feb. 16, 1979, at 1, col. 1; Greenwood and Nelson, Carter Vows to Push for Mexican Gas Deal, L.A. Times, Feb. 17, 1979, at 1, col. 5; The Oregonian, Feb. 17, 1979, at 1, col. 5.; Goodsell, Mexico: Goodwill—but not Necessarily Oil for U.S., Christian Sci. Mon., Apr. 6, 1979, at 7, col. 1. Leonel Castillo, Director of the Immigration and Naturalization Service, described the meeting as the most important development involving the two nations since Mexico nationalized American oil holdings in 1938. L. A. Times, Feb. 16, 1979, at 12, col. 1. Generally, however, appraisals of the meeting were less exuberant. See, e.g., Goodsell, Little Enthusiasm for Carter in Mexico, Christian Sci. Mon., Feb. 16, 1979, at 1, col. 1. Whatever the final appraisal of the meetings, they did establish a process of better communication—a "joint consultant mechanism"—between the two countries on the issues of immigration and undocumented aliens. Del Olmo, First Step Taken To Solve Alien Issue, L.A. Times, Feb. 17, 1979, at 1, col. 16. In a joint communiqué following the meetings, Mexico for the first time agreed that it shares the migration problem with the United States. The Oregonian, Feb. 17, 1979, at 1, col. 5. The issue of undocumented Mexican aliens will apparently be a central consideration of the newly established Presidential Select Commission on Immigration and Refugee Policy. L.A. Times, Feb. 17, 1979, at 12, col. 1. On the background of the Carter-López Portillo meeting, including summaries of divergent views on the issue of undocumented aliens, see, e.g., Holt, Carter in Mexico: It Could Be a Turning Point, Christian Sci. Mon., Feb. 7, 1979, at 23, col. 2; Goodsell, Carter's Mexican Test: Coal Friend, New Riches,
United States and Mexico, 7 and the historical and geographical circumstances of Mexican migration (which is estimated to involve as much as one-quarter of the total Mexican work force8) should be instrumental in shaping a comprehensive, coherent immigration policy and law. In focusing on the issue of Mexican migration to the United States, it is recognized that undocumented aliens from other countries are more apt to be visa overstayers rather than, as is more typical of Mexicans, undocumented entrants at the border. A comprehensive national policy should consider what, if anything, this formal distinction among undocumented aliens implies.

Before examining the substantive issues, it will be useful to take note of recent commentary and studies as an indication of public and scholarly opinion. Throughout this article, special attention will be given to Mexican press commentary, in an effort to maintain a broad perspective.9 In surveying the domestic media, to which lesser attention is given, it is depressing to find very few items which offer new insights and abjure the familiar ritualized mythology.10 One can find several responsible press commentaries and several useful studies.11 On

7. The relationship supposedly emanates from the social and economic ties of the border region and from the basic situation of 'neighborliness' that geography has imposed upon the two nations. By definition, goes the argument, neighbor nations enjoy a particularly intimate relationship exemplified by a plethora of favorable interactions, including voluminous trade, mutual investment, reciprocal tourism and cooperative efforts to resolve occasional problems.


9. Of particular note is a column on these issues, usually appearing in the Monday edition of the Mexico City daily Unomásuno, written by Jorge Bustamante of El Colegio de México, the director of a $1 million study involving interviews with some 800,000 Mexicans who have worked in the United States. L.A. Times, Feb. 17, 1979, at 16, col. 1.

10. For a description of this mythology, see Nafziger, supra note 4, at 64.

11. For salient press commentary, see especially, Kirsch, California's Illegal Aliens: They Give More Than They Take, New West, May 23, 1977, at 26; Cook, How Illegal Aliens Pay as They Go, New West, May 23, 1977, at 34; Critchfield, They Still Come Home to Huc corio, Christian Sci. Mon., Aug. 31, 1977, at 14, col. 1 (a concise, revealing account of migratory patterns involving one small town in the Mexican state
the other hand, there is a mass of regurgitated mythology, much of it expressed with apocalyptic vision, which princi-


BRINGING PEOPLE TO RESOURCES

pally serves to distort public opinion.

Written commentary is, however, only one factor in the vicious circle of current public concern. The Federal Government has also been instrumental. Finally, public opinion, doubtlessly fed by these first two factors, has become more hostile toward aliens. As an example of this trend, the United States public now seems to favor the requirement that all persons carry an identification card presumably unavailable to undocumented aliens, large-scale roundup of them, and a law penalizing employers who hire them. Public opinion also disfavors “amnesty” for undocumented aliens already in this country. Although these responses address specific policy propos-


13. Both Federal immigration laws and their enforcement are instrumental. One official responsible for regional enforcement of the Federal laws described them as “too harsh, too cumbersome” and “among the most difficult to administer.” He added that the “law needs drastic revision.” Remarks by Carl Houseman, Acting (Portland) District Director, Immigration and Naturalization Service (Willamette University, Apr. 16, 1979). See also notes 27-31, and 58-59 and accompanying text, infra. In addition, U.S. governmental spokesmen have asserted doubtful statistics and assumptions. See, e.g., statements of John J. Gilligan, Agency for International Development, Excelsior, May 3, 1978, at 3-A, col. 1; Griffin Bell, Attorney General, Excelsior, May 11, 1978, at 1-A, col. 6; and F. Ray Marshall, Secretary of Labor, Excelsior, May 12, 1978, at 1-A, col. 3.

als and hence may be interpreted as ad hoc, it is important to note more generally, by contrast to an earlier poll, that a plurality of respondents now favors a decrease in the present level of immigration. Particularly in view of a disturbing current of nativism which may underlie some opinion, a sharp change in public attitudes is essential if the United States wishes to maintain its integrity in the promotion of human rights and otherwise to satisfy its responsibilities to the global community. Convincing the U.S. public and the Congress that opening the door to more immigrants is within the national interest will be difficult.

The development of U.S. leadership toward a global accommodation of the rational process of human migration is both more important and more difficult to attain in view of the emerging sentiment against alien labor throughout the world. Xenophobia directed against aliens has increased in such western countries as Switzerland, France, West Germany, the United Kingdom, Canada.

Gallup Political Index, Aug. 1965, at 15 (during the intervening 12 years, respondents favoring a decrease in the immigration level increased from 33% to 42%, those favoring a retention at the present level decreased from 39% to 37%, those favoring an increased level decreased from 8% to 7%, and those voicing "no opinion" decreased from 20% to 14%).

See, e.g., the Corwin Report, supra note 12; Fernandez Ponte, Nace el más espantoso Racismo en EU contra los Mexicanos y los Latinos, Excelsior, Feb. 20, 1978, at 1, col. 6; and Cornelius, supra note 3, at 95.


Id. at 95.

Under the circumstances, there is serious doubt that the U.S. will be able to rise above scapegoating, political expedience, and racial prejudice to pursue an immigration policy which will serve its own long-term national interests as well as those of Mexico and other sending countries. Like some West European nations, the U.S. may well have lost the capacity to respond rationally, constructively, andhumanely to large-scale migration from less developed countries. The implications of this are profoundly disturbing, but Mexico and other sending countries would be well advised to ponder them.


22. Id.

II. CURRENT UNITED STATES LAW AND POLICY

The present immigration law and its implementation contribute substantially to the perceived problem of undocumented aliens. Sheer chaos reigns. For example, not only does the law, carelessly amended in 1976, unwisely establish the unrealistically low annual quota of 20,000 Mexican documented immigrants, but it is easily violated with impunity. Provisions for alien labor certification have been improperly administered by the Department of Labor, to the detriment of both prospective immigrants and the nation's economy. In flagrant violation of the law, the Federal Government has in effect converted prospective immigrants into undocumented aliens.

The rights of undocumented aliens remain uncertain and their access to justice minimal. On the state level, De Canas...
v. Bica\textsuperscript{33} permits legislation discouraging undocumented aliens. In ten states it is now illegal for employers knowingly to hire undocumented aliens.\textsuperscript{34} All but two of these are on the East Coast, and six are in the New England and California of Robert Frost ("Good fences make good neighbors"). Other states are considering such legislation,\textsuperscript{35} so that by the time of this article's publication, more may be on the list.

In no small part because of an inadequate policy framework, Federal legislative initiatives have been diffuse and generally unproductive, if not harmful. Although the Carter administration, with encouragement from the United States Embassy in Mexico and other quarters within the Department of State, is reevaluating its position, it initially assumed the rather extraordinary position that the mere presence of undocumented aliens violates the law and that, therefore they should have no rights.\textsuperscript{36} Moreover, the Administration narrowly construed the criteria under recent Supreme Court opinions to the disadvantage of aliens and to the impairment of their rights so as, for example, to authorize arrests under the law on the basis of Mexican appearance alone.\textsuperscript{37} At least one recent court decision has enjoined police entry of private dwellings when there are no other reasonable grounds for suspicion.\textsuperscript{38} This re-

\textit{Texas Schools and Mexican Aliens}, Christian Sci. Mon., Feb. 16, 1979, at 4, col. 2. In regard to civil action on behalf of and by undocumented aliens, see, e.g., Zavala v. Bell, 453 F. Supp. 55 (N.D. Cal. 1978); see Excelsior, Mar. 18, 1978, at 4-A, col. 1; Capital Journal (Salem, Or.), Oct. 20, 1977, at 5A, col. 1. But see the recent decision of the Wisconsin Supreme Court, reversing a unique 45-year precedent, which establishes that the "illegal" status of aliens can no longer bar access to the state's courts in civil actions. Arteaga v. Literski, 83 Wis. 2d 128, 265 N.W. 2d 148 (1978). The 1933 decision which Arteaga overturned stood alone "for the proposition that an alien's status strips him of standing to maintain a suit." \textit{Id.} at 149.


38. \textit{Illinois Migrant Council} v. Pilliod, 540 F.2d 1062, \textit{modified} 548 F.2d 715 (7th
reflects the hard line taken against undocumented aliens by the Carter administration, it is reported that 15,655 lawful residents were detained in the period from June to December 1977 alone, allegedly for "introducing, concealing, harboring, or shielding" aliens. The opportunities for abuse are obvious.

A legislative proposal known as the "Carter Plan" provided "amnesty" in the form of permanent resident status for undocumented workers who have resided since January 1970 in the United States; nondeportable status for five years, without further rights, for all who have resided here since December 1976; civil injunctions and fines for employers who knowingly hire undocumented aliens; substantial expansion of border patrols and other police enforcement of the immigration laws; an increased enforcement of the Fair Labor Standards Act and the Federal Farm Labor Contractor Registration Act; a modest increase in the annual quota for Mexican and Canadian immigrants; and foreign aid designed to lessen the "push" factor of undocumented migration from economically depressed areas. A proposal to require identification cards of all documented residents, urged by the Secretary of Labor and adopted in a draft proposal, was withdrawn, apparently in response to vigorous political opposition, although the public seems to favor such a card and the Secretary of Labor continues to propose it.

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Cir. 1977); see also Christian Sci. Mon., Nov. 17, 1977, at 6, col. 1. For an official position taken by one state, see 38 Op. Atty. Gen. (Or.) 759 (1977) which states that, within Oregon, not only do state and local law enforcement officers not have authority to arrest individuals on the sole ground that they are suspected of being "illegal aliens," but that presumably the Federal stopping and detention of such aliens involves a "higher standard" than that of appearance alone.


42. For arguments for and against the amnesty provisions of the Carter Plan, see 56 Cong. Dig., Oct. 1977, at 232. At id. is a quotation of the "amnesty" provisions of the Carter Plan.

43. The emphasis to be placed on foreign economic assistance is uncertain in view of President Carter's puzzling statement that the plan does not relate specifically to economic assistance. Excelsior, May 16, 1978, at 14-A, col. 3.

44. Christian Sci. Mon., Mar. 17, 1977, at 9, col. 3; 35 Cong. Q. 823 (1977) (de-
Adverse reaction to the Carter Plan has been strong, and the apparent result of its announcement ironically was a new flood of undocumented aliens, encouraged by the amnesty provisions, in the Mexican border communities. The President clearly “stumbled into an emotionally charged minefield,” perhaps because of exaggerated fears, bureaucratic confusion, a pragmatic commitment to whatever program is “politically viable,” or simply the complexity of the perceived problem. Moreover, the uncertainty of valid data bearing on the description of the original proposal for an identification card). On public approval of such a card, see Gallup Political Index, note 14 supra; on the Secretary of Labor’s continuing support of the cards, see Christian Sci. Mon., Nov. 17, 1978, at 10, col. 1.


47. The Sunday Oregonian, Sept. 11, 1977, at G1, col. 2.

48. See L. Estrada et al., supra note 11, at 14.

49. E.g., according to the author’s count, at various times there have been no fewer than 16 official, often contradictory, spokesmen for the plan.


51. Despite the repeated concern over illegal aliens, few policies have been brought to bear on the attendant problems associated with the mass influx from Mexico. One difficulty lies in the inability to devise policies which do not provoke adverse responses from Mexico and domestic interest groups such as Chicanos and growers. Another difficulty is that “illegal” immigration cuts across a number of disparate areas of expertise and interests, ranging from the intricacies of immigration law, civil rights, law enforcement, and labor economics to the questions of foreign policy and the balance of payments. Further, the changing character of agriculture, the high levels of unemployment and a general national perception of an economy of increasing scarcity conspire to change not only the facts of illegal immigration, but also our perceptions of those changing problems.

Rochin, supra note 11, at 1. In another view of United States’ relations with Latin America, the Carter administration “has failed, or is unwilling, to understand that the old forms of political and economic organizations are unable to deliver minimally acceptable conditions of life to millions of persons south of the border.” Fagen, The
the issue has led to a chronic reliance by immigration policymakers on questionable data and short-term responses. In its most recent efforts, the Federal Government seems to have acted responsibly in seeking a solution to what was metastasizing into a major public issue, but in doing so, it impatiently settled upon a grab bag of techniques without first going through the arduous task of constructing a comprehensive policy framework. Political efficacy rather than rigorous policy analysis seems to have governed the selection of items for the grab bag.

This country does not need further penal or civil sanctions against aliens. Nor does it need further fortification of the border—the so-called “tortilla curtain” established by the Carter administration. There is already one border trooper for every one-half mile of the border, and the Carter administration announced plans to more than double this concentration. Nor does the United States need further dragnets of Mexican-appearing suspects; a revival of the bracero program or a reliance upon ad hoc permits in times of agricultural emergency.

Carter Administration and Latin America: Business As Usual?, supra note 6, at 669. “One point most people who have studied the problem agree on is that an economic rather than an enforcement solution is required.” Smith, Immigration Key Issue: Carter Faces Mexico Trip, The Sunday Oregonian, Feb. 11, 1979, at A20, col. 2.


54. See, e.g., Nabbing 29 “Illegals” in One Illinois Town, 83 U.S. News & World Rep., July 4, 1977, at 33 (note the date of the event). On the use of special agents appointed by the Department of Labor to investigate employers suspected of hiring undocumented aliens, see Excelsior, May 12, 1978, at 10-A, col. 4. The Carter administration has shunned massive deportation of undocumented aliens and has denied that its amnesty proposals imply deportation for those not granted amnesty. Unomásuno, June 7, 1978, at 1, col. 1; id., at 10, col. 5. See also Bustamante, Las Deportaciones Masivas desde E.U., Unomásuno, June 12, 1978, at 5, col. 2.

an intensified inspection mechanism in Mexico; nor any other such legislative agents of exploitation and harrassment. "At best, all such proposals treat symptoms or peripheral aspects of the real problem, and many carry with them serious potential for infringements of civil liberties." 57

Besides the probable inefficacy of such jerrybuilt measures, the Federal Government should remember the sobering lesson that each time it has for good reasons tinkered with the immigration laws, it seems to have created problems. Two examples are instructive. In 1965, Attorney General Katzenbach concluded that there was "not much pressure" 56 from Western Hemispheric immigration and, with complete lack of foresight, successfully promoted legislation which imposed an entry quota on inter-American immigration for the first time in history. In 1976 the next reforms, which improved the system in a number of respects, nevertheless adopted irresponsibly low annual immigration quotas of 20,000 even for Mexico and other major Western Hemispheric sources of immigration. Prior to 1965 there had been no per country quotas for Western Hemispheric immigration, only a single, overall ceiling; between 1965 and the 1976 reforms, the newly established quotas in effect permitted somewhat higher immigration from Mexico and other primary sources of immigration than from countries in the Eastern Hemisphere, for which the 20,000 ceiling already had been established. The 1976 reforms attempted to bring the flexible system governing immigration from within the Western Hemisphere into conformity with the more precisely regulated, uniform country-quota system for Eastern Hemispheric applications. In a number of respects the geographical uniformity of the law improved the prospects for Western Hemispheric applicants and achieved a greater overall fairness in the law, but the 20,000 per country limitation was an unfortunate result. The dynamics of immigration pressures and needs were thereby sacrificed to an unnecessarily artificial symmetry in

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the law. A 1978 reform establishes a worldwide annual ceiling of 290,000 alien admissions.\^59

III. NEW FEDERAL POLICY WITH EMPHASIS ON THE ACCOMMODATION OF DIVERGENT GLOBAL INTERESTS

United States policy on undocumented aliens should involve five measures:\^60 the continued improvement of data and of a mechanism for data collection and dissemination; legitimation of the status of acceptable numbers of undocumented aliens; discouragement of labor exploitation and protection of indigenous labor; accommodation of divergent global interests; and improvement of law enforcement and discouragement of excessive migration.\^61 The accommodation of divergent global circumstances deserves particular emphasis.

A. Unilateral Accommodation by the United States

The United States should reassume its historic hospitality to prospective immigrants.\^62 Human migration is a natural, more or less biological pattern of manifest destiny;\^63 it is a "familiar and healthy phenomenon."\^64 The myopic vision of current U.S. immigration law and policy urgently needs correction; an accommodation of the manifest destiny of human migration is within both the national interest and the framework of global population policy and the new international economic order. More generally, the United States should commit itself to a more hospitable immigration policy to facilitate


\^60. See Nafziger, supra note 4, at 100 et seq.


\^64. Wall St. J., June 18, 1978.
substantially greater redistribution of the world's economic resources. One of the easiest, economically sensible, and effective ways to satisfy a commitment to international development is to rely less on transferring material and financial resources abroad and more on redistributing people on their initiative. Programs of economic development abroad would be greatly strengthened by putting greater reliance on transferring people to the resources. Foreign assistance could remain or could be further developed as an important element in national policy.\(^6\)

The impact of migration on economic development is impressive. Statistics show, for example, that money transfers by Third World aliens to their countries of origin do not present serious balance-of-payments problems for the host countries, but are of such enormous importance to the countries of origin as to equal net economic assistance from multilateral agencies and members of the Organization for Economic Cooperation and Development (OECD), comprised of Western, industrialized countries and Japan.\(^6\)

A broader, world order perspective which seeks to accommodate natural patterns of migration readily brings into question the validity of national immigration barriers. It is not inconceivable that comprehensive immigration barriers, a rather recent phenomenon in United States history, may be eliminated in time. Short of that, the Congress should amend

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\(^{65}\) An official of the United States Agency for International Development, noting that this country does "pitifully little" in promoting economic development in Latin America, emphasized that "we need to stop thinking of meeting the problem [of undocumented aliens] by stopping or regularizing [their] flow into this country." Remarks by Abelardo L. Valdez, Annual Meeting, American Society of International Law, in Washington, D.C. (Apr. 26, 1979).

A combined program of highly targeted investment and relaxation of immigration barriers has been proposed, as follows:

- Optimally, a well targeted program of rural and small-town investments in Mexico should be combined with steps by the U.S. to increase the number of opportunities to migrate legally to the U.S., for varying lengths of time: raising the legal immigration quota, administering the existing H-2 temporary worker visa in a less restrictive way, or better, instituting a new type of temporary worker program not modeled on either the H-2 system or the former "bracero" program. Such measures would create alternatives to illegal migration, for those who must continue to go to the United States.

Cornelius, supra note 3, at 95.

the Immigration and Nationality Act to allow substantially greater annual immigration, particularly from the Western Hemisphere. Total and per country levels can be determined on the basis of demographic and economic projections which would take full account of the true capacity of the United States to absorb immigrants rather than xenophobia which currently dominates United States immigration law and policy. The Federal Government should also relax its restrictive interpretation of the H-2 "temporary worker" visa standard.

B. Source-Country and Bilateral Accommodation

The political feasibility and operational success of a new emphasis on bringing people to the resources will depend greatly on the efforts and cooperation of immigrant-source countries, particularly Mexico. Despite recently discovered Mexican oil, the United States will probably maintain its overwhelming comparative advantage in economic resources. Although a short-term bracero agreement is no longer a cornerstone of negotiations between the United States and Mexico, as it was as recently as 1974, there is ample opportunity for bilateral accommodation of a range of interests which influence the flow of undocumented aliens into the United States. A linkage of divergent interests is essential, fully consonant with the mutual recognition that the problem of undocumented aliens is fundamentally a matter of the "push" factor of economic conditions in Mexico and ultimately must be solved there. Mexico's share of the problem seems to have two com-

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68. Id. § 1101(a)(15)(H)(2), in conjunction with § 1182(a)(14), provides that visas may be given temporarily to aliens "if unemployed persons capable of performing such labor cannot be found in the United States."
71. See Cornelius, supra note 2, at 36; address to the U.S. Congress by President López Portillo, Wash. Post, Feb. 18, 1977, at A-9, col. 1; remarks by Leonel Castillo, Immigration and Naturalization Service, quoted in Excelsior, Nov. 22, 1977, at 5-A, col. 1; Excelsior, Mar. 18, 1977, at 20-A, col. 1; id. Apr. 7, 1978, at 1-A, col. 5; Christian Sci. Mon., July 8, 1977, at 31, col. 4 (remarks of Charles W. Yost, formerly U.S. Ambassador to the United Nations); Fagen, *The Carter Administration and Latin America: Business As Usual?*, supra note 6, at 689, (note the author's skeptical observation on the same page that "what is perhaps most important [from the perspective of the Mexican elite] is that the migration annually draws off hundreds of thousands of persons who would otherwise swell the ranks of the unemployed.")
complementary facets: a structural one of chronic socio-economic debility and a geographical one of adjacency to the United States. With respect (or not) to the U.S.-Mexican border, "[t]here is no frontier in the world quite like it. It is as if Algeria were to border directly upon the South of France, or West Germany upon Zaire." That may be an exaggeration, but the truth remains that the U.S.-Mexican frontier is a rare instance of pronounced economic and world power contrasts demarcated by a single national boundary.

What can be done? As the Mexican Government acknowledges, that country desperately needs "very large scale and carefully designed programs of rural development and job creation." First and foremost, the "bad foot" of the Mexican economy, its agrarian economy, must be treated. Supplementary efforts toward population control will be helpful, although the Mexican economy may suffer no more from excessive manpower than from economic and social disorganization. The prospects of success in this developmental effort are uncertain: given the logic of Mexican politics, it may be that Mexicans


72. Lyons, note 12 supra.
73. Fagen, The Carter Administration and Latin America: Business As Usual? supra note 6, at 689.
74. Laviada, Injusta Miseria en el Campo, Excelsior, Aug. 8, 1977, at 7-A, col. 3; and El Informador (Guadalajara, Mexico), July 13, 1978, at 4-A, col. 1.
75. See Excelsior, Apr. 7, 1978, at 1-A, col. 3. On the Mexican Government's commitment to lower that country's annual birth rate from its current 3.2% to 2.5% or 2.6%, note the following:

One important difference between the mid-1970s and the mid-1950s is in the attitude toward population among Mexico's leaders... Now the advantages of a lower birth rate are widely perceived. In 1974 a constitutional provision was adopted asserting that 'Every person has the right to decide in a free, responsible, and informed manner the number and spacing of his or her children.' There is now a National Council of Population in the Ministry of the Interior, and governmental as well as private programs for the promotion of family planning.

76. See Aguilar, Plan Carter Para Braceros, Excelsior, Apr. 7, 1978, at 7-A, col. 1. "The Mexican Experience is a very useful counter to the over-simplified attribution to excess fertility of every impediment to social and economic development." Coale, supra note 75, at 423. "We find that the Mexican experience in the last 20 years in short [does not support] the simplistic view that population growth is the principal source of all difficulties in any low-income country." Id. at 425.
will continue to be the "cannon fodder rather than the beneficiaries of Mexican development." 77 In the long term, Mexico's anticipated oil boom and further energy sales to the United States may help, 78 not only in real economic terms but also in terms of correcting an imbalance of international trade which abates economic progress.

What role can the United States play? First, by special concessions to Mexican producers and exporters, it can encourage a healthier trade balance with Mexico. Although Mexico's trade deficit with the United States may at times be overemphasized by the Mexican Government as a primary factor contributing to the northward migration, 79 it is nevertheless a factor. 80 In undertaking major negotiations, such as those involving the sale of petroleum and natural gas, both countries should take a realistic account of the linkage between economic and energy issues and the migration of undocumented aliens, and both countries should negotiate accordingly. 81 Second, without weakening its new commitment to bring people to the resources, the United States should continue to offer further economic assistance, particularly to develop small-scale, labor-intensive industry in those target areas which provide the largest number of undocumented aliens. Whenever it is feasible, such assistance should be channeled through multilateral lend-

77. Fagen, The Carter Administration and Latin America: Business As Usual?, supra note 6, at 700.


80. See Williams, supra note 7, at 213; El Sol de Mexico, Aug. 7, 1977, at 4-A, col. 3. On congressional support for special trade concessions to Mexico, see Excelsior, May 4, 1978, at 1-A, col. 2.

ing agencies, to avoid rejection by the Mexican Government for longstanding, understandable reasons of national pride and fear of dependencia.\footnote{82} For its part, Mexico may need to submit to certain economic requirements imposed by those agencies.

IV. Conclusion

Bilateral and multilateral developmental efforts focus almost exclusively on extending resources abroad.\footnote{83} If, however, charity begins at home, not only are the United States and other people-importing countries justified in taking care of even their undocumented own, but they would promote the global welfare by doing so. Rather than relying almost entirely on the distribution of foreign assistance abroad, developmental efforts should help bring people to the resources. This will involve some shift in the emphasis of immigration law, including its enforcement; cooperation with and by immigrant-source countries; and close coordination with programs of foreign assistance.

Although the international legal duty to do so is scant,\footnote{84} the United States and other developed countries have at least a moral obligation to assume greater responsibility in encouraging the rational process of migration for individual betterment. In regard to Mexican migration, the United States has more than a moral obligation. Despite its firm normative basis, there is little evidence that the World Population Plan of Action,\footnote{85} to which both the United States and Mexico are parties,

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\footnote{82}{On Mexico's rejection of a recent offer of economic assistance by the United States, see Excelsior, Apr. 7, 1978, at 1-A, col. 5. See also Williams, supra note 7, at 214. On the U.S. Government's willingness to channel assistance through international development agencies, see Excelsior, May 11, 1978, at 1, col. 5; and id. Feb. 18, 1978, at 1-A, col. 3.}

\footnote{83}{See, e.g., the Charter of Economic Rights and Duties of States, a nonbinding but important global instrument of the "new international economic order," which, as a United Nations General Assembly Resolution, was adopted by a vote of 120 in favor, and 6 against, with 10 abstentions. Article 17 defines the duties of international economic cooperation in terms of a duty of states to provide "favourable external conditions" and to extend "active assistance" to developing countries. U.N. Doc. A/RES/32/81 (XXIX) (1975).}


has been, as it should have been, in the forefront of policy planning. The implications of international migratory labor legislation also warrant serious attention.\(^8\)

Even aside from broad humanitarian considerations within the framework of world order, the United States national interest would be served by new policy and laws which encourage immigration, rather than stifle it. The issue of undocumented aliens can be resolved in large measure if the United States and other people-importing countries commit

\(^8\) in the classical sense of an international agreement, it has much the same juridical weight as, for example, the Final Act of the Conference on Security and Cooperation in Europe. These “Helsinki Accords,” upon which the United States Government has put such great emphasis, particularly in its program of advancing human rights, also establishes at least a moral obligation, in a number of its provisions, for the United States and other signatories to accord greater hospitality to immigration. For example: “The participating States will deal in a positive and humanitarian spirit with applications of persons who wish to be reunited with members of their family . . . . They will deal with applications in this field as expeditiously as possible.” Even though the Helsinki Accords apply primarily within a European context, it little behooves the United States, for example, to complain about Soviet emigration policy if it itself fails to assume a greater global commitment to the same provisions. The World Population Plan of Action recommends, *inter alia*, that governments facilitate migration, protect the rights and welfare of migrants, help prevent discrimination and prejudice against them, help reunite families, and provide proper and adequate welfare services for them in conformity with relevant conventions of the International Labor Organization. Where immigration has proved to be of a long term nature, countries are invited to extend national civil rights to immigrants. The document further urges countries affected by significant numbers of migrant workers to conduct bilateral or multilateral consultations with a view to harmonizing policies which affect these movements, and to conclude bilateral or multilateral agreements. The more developed countries are encouraged to cooperate through bilateral or regional organizations in creating favorable employment opportunities at the national level in countries concerned with the outflow of migrant workers.

\(^8\) E.g., a recent resolution of the United Nations General Assembly:

1. *Calls upon* all States, taking into account the provisions of the relevant instruments adopted by the International Labour Organisation and of the International Convention on the Elimination of All Forms of Racial Discrimination, to take measures to prevent and put an end to all discrimination against migrant workers and to ensure the implementation of such measures; . . . .

3. *Also invites* the Governments of host countries to adopt the necessary measures to prevent any activity that might be prejudicial to the interests of migrant workers;

4. *Again invites* the Governments of host countries to give consideration to adopting definitive measures to promote in their territories a normal family life for migrant workers by reuniting families.

themselves to more realistic, equitable levels of immigration. Three considerations are especially important: Significantly larger numbers of immigrants would contribute to the national well-being, undocumented aliens are in part the unnecessary creation of current policy and laws and their implementation, and helping to bring people to the resources would unquestionably resolve some of the nettlesome perplexity of economic development undertaken in the national interest. A constructive response to the issue of undocumented aliens will require a more generous and yet more realistic definition of the national interest, and the accommodation, unilaterally and bilaterally, of this interest to those of immigrant-source countries and global order.