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Obstacles to Building Cross-Border Solidarity**

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**Working Paper No. 79**

**June, 2003**

**University of California-San Diego**

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# **Mexico-U.S. Migration and Labor Unions: Obstacles to Building Cross-Border Solidarity**

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*Abstract.* Despite persistent Mexican migration, deepening North American economic integration, and the recent predominance of migration on the U.S.-Mexico bi-national agenda, cross-border labor union efforts to collaborate on immigration policy and migrant worker rights have been sporadic, reactive, and lacking in concerted action. Based on recent interviews conducted with U.S. and Mexican labor union representatives, migration scholars, immigrant advocacy groups, and government officials, Watts examines the historical, political, and institutional obstacles to cross-border labor union solidarity on migration issues.

Over the last decade, the North American Free Trade Agreement (NAFTA) has deepened economic integration between the U.S. and Mexico by lowering barriers to trade and investment. Since 1993, the value of trade between the U.S. and Mexico has almost tripled from \$81 billion to \$232 billion and Mexico is now the second largest trading partner for the U.S. after Canada.<sup>1</sup> Although not facilitated by NAFTA,<sup>2</sup> Mexico-U.S. migration also has increased and is equally vital to the region. Between 1994 and 2001, annual legal and illegal Mexico-U.S. migration increased from 300,000 to 500,000.<sup>3</sup> Over a 10-year period, the Mexican-born population in the U.S. increased by 53% to reach 20.6 million in 2000. Of these Mexican-born, those who are immigrants totaled just over 9 million.<sup>4</sup> Finally, an estimated 4.8 million undocumented Mexicans are in the U.S., a 58% increase from 1990.<sup>5</sup>

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<sup>1</sup> Griswold, D. (2002) "NAFTA at 10: An Economic and Foreign Policy Success." CATO Institute Free Trade Bulletin.

<sup>2</sup> One exception is the temporary entry of business people, such as traders, investors, inter-company transfers and other professionals, which is facilitated by Chapter 16 of the NAFTA Treaty.

<sup>3</sup> *Migration News*. "Mexico: NAFTA and Migration." January 2003, Volume 10, Number 1. [http://migration.ucdavis.edu/mn/Archive\\_MN/jan\\_2003-04mn.html](http://migration.ucdavis.edu/mn/Archive_MN/jan_2003-04mn.html)

<sup>4</sup> Guzman, B. (2001) "The Hispanic Population." *Census 2000 Brief*. U.S. Census Bureau.

<sup>5</sup> Immigration and Naturalization Service. "Estimates of Unauthorized Population Living in the United States: 1999-2000." [http://www.immigration.gov/graphics/shared/aboutus/statistics/III\\_Report\\_1211.pdf](http://www.immigration.gov/graphics/shared/aboutus/statistics/III_Report_1211.pdf)

The increasingly profound economic, social and political impact of this regional migrant labor market on the U.S. and Mexico has made the need for a bi-national migration framework apparent to many Mexican and U.S. policy-makers, migration scholars and non-governmental organizations. According to a 2001 Carnegie Endowment report, *Mexico-U.S. Migration: A Shared Responsibility*, “the special economic relationship institutionalized by NAFTA, based in large part on interdependence and geographic contiguity, warrants a broader and more special immigration relationship.”<sup>6</sup> In 2000 and 2001, a convergence of economic and political factors put migration at the top of the bilateral agenda:

The recent election of President Fox in Mexico, who has made migration a priority on the bilateral agenda, and of President Bush in the United States, who believes that immigration should be viewed as an opportunity rather than a problem, present both countries with an historic opportunity to initiate a fundamental review of the migration relationship.<sup>7</sup>

Despite persistent Mexican migration, deepening North American economic integration and the recent predominance of migration on the U.S.-Mexico bi-national agenda, cross-border labor union efforts to collaborate on regional migration issues have been sporadic, reactive and lacking in concerted action. This paper investigates why U.S. and Mexican unions have not developed a consistent strategy for cross-border cooperation around the issues of labor migration and migrant workers’ rights.

One explanation for the lack of cross-border labor union solidarity is the economic disparity in wages and labor supply between the U.S. and Mexico, which theoretically should create conflicts of interest on migration among U.S. and Mexican unions. One would expect unions in Mexico, a low-wage, labor abundant country, to support emigration as a means to

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<sup>6</sup> Carnegie Endowment for International Peace, “Mexico-U.S. Migration: A Shared Responsibility,” Washington, D.C., February 14, 2001, p.6

<sup>7</sup> *ibid*, p.1

reduce pressures on employment and increase wages. On the other hand, unions in the U.S., a high-wage, labor scarce country, would favor restrictive immigration policies that keep out migrant workers who put downward pressure on wages and compete with unskilled, native-born workers. Neither of these assumptions is completely borne out in practice.

In a de facto regional labor market, with high levels of illegal immigration, it is in the interest of U.S. unions to support policies that promote legal migration and upward wage convergence. In the last three years, immigration and immigrants have become a domestic political and organizational priority for the AFL-CIO, and labor has become an important domestic lobby in efforts to reform U.S. immigration policy.<sup>8</sup> According to the AFL-CIO, the current system of immigration enforcement is ‘broken’ and efforts to improve enforcement have not only failed to stop the flow of undocumented, they also deny labor rights for all workers.<sup>9</sup> In February 2000, the AFL-CIO reversed its restrictive stance on asylum and employer sanctions, calling for a broad amnesty for undocumented workers and their families and a repeal of current employer sanctions legislation. However, U.S. unions are not calling for open borders with Mexico. In fact, the AFL-CIO opposes new guestworker programs without reforms to current guestworker programs. At the same time, the AFL-CIO recognizes the potential need for immigrant workers and concedes that “labor and business together should design mechanisms to meet legitimate needs for new workers without compromising the rights and opportunities of workers already here.”<sup>10</sup>

For Mexican unions migration is a low priority. Most labor union leaders view Mexican migrants in the U.S. as *los ajenos* – too far away and foreign to concern a weak and divided

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<sup>8</sup> In the early 1990s, labor leaders in immigrant-dominated regions and sectors began talking about the need for immigration reform. By the late 1990s, this bottom-up initiative had reached the leadership of the AFL-CIO, and at the October 1999 AFL-CIO National Convention in Los Angeles immigration reform became a union priority.

<sup>9</sup> AFL-CIO (2000) “Executive Council Actions: Immigration.” New Orleans, February 2000.

union movement that is facing crucial domestic challenges, such as labor law reform by an employer-friendly government. Although some labor leaders within Mexico's official and independent unions are concerned about the effects of restrictive immigration policies on Mexican migrants' rights, such as Benedicto Martinez of the *Frente Auténtico de Trabajo* (FAT), Francisco Hernández Juárez of the *Sindicato Telefonistas* and Jose Luis Hernandez of the *Central Independiente de Obreros Agrícolas y Campesinos* (CIOAC), Mexican unions lack an official agenda or program with regard to migration.

In the face of economic disparity, U.S. and Mexican labor leaders actually share some common ground with regard to immigration policy and protecting migrant workers' rights such as support for a broad amnesty for migrant workers and their families and opposition to the current system of employer sanctions. Differences of opinion would most likely emerge on guestworker programs, if Mexican unions voiced their opinions. According to Benedicto Martinez of the FAT, a new guestworker program would be better than no migration deal at all because it would open a legal avenue for migration, alleviating some of the pressure for illegal migration and the attendant risks.<sup>11</sup> Rather, the lack of sustained cross-border labor union solidarity on migration issues can be attributed to collective action problems that are complicated by historical animosities, divergent union structures, domestic political concerns and weak North American institutionalization of labor relations.

Collective action between U.S. and Mexican unions to organize around the issue of migration and lobby for more favorable immigration policies is problematic for several reasons. First, in this asymmetrical relationship, U.S. unions would bear a disproportionate share of the cost of collective action. Although the benefit of immigration reform would be great for U.S.

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<sup>10</sup> AFL-CIO (2001) "Executive Council Actions: Immigration." Chicago, July 31, 2001.

unions the cost of achieving this reform through collective action with Mexican unions is unknown and there are few selective incentives for U.S. unions to collaborate with their weaker Mexican counterparts beyond a greater sense of regional labor solidarity. Second, despite the bi-national attention given to immigration reform in 2001, immigration policy, especially after 9/11, remains firmly entrenched in U.S. domestic politics. With no regional policy-making framework for migration, U.S. unions have little reason to partner with Mexican unions in their efforts to reform U.S. immigration policy. Third, for Mexican unions, the benefits of collective action to reform U.S. immigration policy are marginal, especially when Mexican unions can free ride off the lobbying efforts of U.S. unions and the Fox government to reform U.S. immigration policy. Lastly, a long history of conflict between the AFL-CIO and Mexican independent and official unions has bred mutual mistrust, misinformation and misunderstanding, which impedes collective action.

Interestingly, during periods of strong U.S. unilateralism on immigration policy, such as the early to mid-1990s, some cross-border collaboration on migration issues took place among the more progressive, independent Mexican unions and progressive U.S. unions. For example, in the run-up to the passage of the Immigration Reform and Control Act in 1986 and the wave of restrictive immigration legislation in the mid-1990s, a handful U.S. and Mexican labor unions jointly protested the negative consequences these policies would have on migrant workers. However, these intermittent efforts were confined to the leaders of the most progressive unions in the U.S. and Mexico, were unsuccessful in blocking restrictive immigration policy outcomes, and ultimately were not sustained.

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<sup>11</sup> Author interview, Benedicto Martínez Orozco, Coordinación Nacional, Frente Autentico de Trabajo, Mexico City, March 2003.

In the first part of this paper, I examine the shift from U.S. unilateralism on migration issues in the 1980s and 1990s to strong bilateralism in 2000 and 2001 and the reaction from U.S. and Mexican labor. I then examine obstacles to collective action that U.S. and Mexican unions face to build and sustain cross-border collaboration. Finally, I offer suggestions for how labor unions might overcome collective action problems to foster cross-border labor union solidarity on migration issues.

### **From U.S. Unilateralism to Binational Solidarity and Back Again**

In a February 2000 meeting of the Mexico-U.S. Advocates Network, a binational, non-governmental migration advocacy group, leading immigrant advocates and academics agreed that “migration continues to be a marginal topic rarely addressed in the political agendas of both countries despite its profound impact on these societies. This invisibility of migration or migrants is common to political parties in both countries.” They also concluded that “Mexico-U.S. migration policy is determined almost entirely by the U.S. in a unilateral fashion, depending on domestic trends.”<sup>12</sup>

Just a year later, during an eight-month period in 2001, U.S. unilateralism turned to intense bilateralism when the U.S. and Mexico experienced a migration “honeymoon” with the Bush and Fox administrations engaging in frequent, bilateral discussions over what was termed the “grand bargain” in immigration circles.<sup>13</sup> These negotiations included payoffs for both Mexico and the U.S. For Mexico, the political and economic benefits were a regularization of

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<sup>12</sup> Mexico-U.S. Advocates Network. “Binational Roundtable: Rethinking Mexico-U.S. Migration.” Mexico City, February 18-19, 2000.

status for undocumented Mexican immigrants, a visa or guestworker program for Mexican migrants, and economic aid directed to Mexico's largest sending regions. In return, the U.S. would get Mexico's help in improving border security, as well as a legal source of immigrant labor in sectors facing shortages such as agriculture and the service sector. Concurrent with intergovernmental talks, U.S. and Mexican academics, human rights organizations, immigrant organizations and business leaders were active in a series of bi-national non-governmental and quasi-governmental meetings on migration. To a lesser extent, U.S. labor leaders participated in these binational meetings, but Mexican unions were absent. This period of strong bilateralism ended abruptly with the terrorist attacks of September 11, 2001. Since then, the U.S. has initiated a new phase of unilateralism on migration issues.

In the following account of U.S.-Mexico migration relations, a pattern begins to emerge in which periods of strong U.S. unilateralism on immigration are marked by progressive labor unions in Mexico and the U.S. exhibiting a propensity for cross-border collaboration in reaction to threats posed by U.S. immigration policy. Whereas during the brief period of strong bilateralism in 2001, cross-border labor union collaboration was almost entirely absent. This was particularly pronounced in the non-participation of Mexican labor unions in governmental and non-governmental binational immigration meetings.

### *Weak Bilateralism in the 1980s*

Bi-national governmental meetings on migration have taken place since the early 1980s, when the Mexico-U.S. Bi-National Commission was created. Through the Commission, cabinet-level officials met annually to discuss a wide range of bilateral issues, including immigration.

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<sup>13</sup> These intensive discussions also were made possible by a sustained period of economic growth and low unemployment in the U.S. and a tacit alliance between U.S. labor unions and employers for immigration policy



However, until the late 1980s the Mexican government's position on U.S. immigration policy was a "no-policy." In other words, the Mexican government deliberately refrained from commenting on or reacting to U.S. immigration policy, which it considered to be an internal, sovereign concern of the U.S., except to defend the rights of Mexican nationals in the U.S. At the same time, the Mexican government did not discourage emigration under the auspices of the Mexican constitution, which guarantees free movement.<sup>14</sup>

Leading up to the passage of 1987 Immigration Reform and Control Act (IRCA), some U.S. and Mexican unions joined in bi-national opposition to the Simpson-Mazzoli and Simpson-Rodino bills. Although the AFL-CIO ultimately backed IRCA, some segments of the U.S. labor movement recognized the flaws in the employer sanctions component of the legislation, including progressive leaders of local unions of the SEIU and UAW as well as the United Electrical Workers (UE), a union not affiliated with the AFL-CIO. On the Mexican side, several unions including *Sindicato Unico de Trabajadores de la Universidad Nacional Autónoma de México* (STUNAM), *Sindicato Unico de Trabajadores de la Industria Nuclear* (SUTIN), *Central Independiente de Obreros Agrícolas y Campesinos* (CIOAC), *Sindicato Nacional de Técnicos y Trabajadores de Aeronaves de México* (SNTTAM), were concerned about potential negative effects the law would have on the labor rights of undocumented workers. Bi-national meetings among unions and non-governmental organizations were convened in May 1983 and September 1984 to demonstrate opposition to the immigration bills. Although these meetings had little effect over the passage of IRCA, the experience may have helped shape later labor campaigns

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reform.

<sup>14</sup> U.S. Commission for Immigration Reform (1998) "Migration Between Mexico and the United States – A Binational Study," p. 448.

related to immigrant workers' rights and organizing such as SEIU's "Justice for Janitors" in California.<sup>15</sup>

Also in the early 1980s, non-governmental actors convened the first International Conference for the Rights of Undocumented Workers in Mexico City. The conference was convened by a diverse set of U.S. and Mexican actors that included unions, lawyers, non-governmental organizations and religious organizations.<sup>16</sup> The conference participants resolved to ally against discrimination, racism, persecution and deportations suffered by migrant workers, and to oppose anti-union, anti-worker guestworker programs that are made without input from unions. The conference developed a plan of action that included a second international conference that was to meet in no more than a year. However, 15 years passed before the second conference was convened in reaction to a wave of restrictive immigration policies in the mid-1990s.<sup>17</sup>

### *U.S. Unilateralism and the Mexican Response in the 1990s*

In the mid-1990s, the U.S. exhibited growing anti-immigrant sentiment and passed new, restrictive immigration legislation that threatened the rights of Mexican migrants. As a result, the Mexican government and Mexican society at large became increasingly concerned with U.S. immigration policy and xenophobia. In 1994, the passage of California's Proposition 187, which

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<sup>15</sup> Sandoval, J.M. (1997) "El Sindicalismo en Estados Unidos y en México Frente a los Trabajadores Inmigrantes Mexicanos." *Cuadernos del Seminario*. No. 6, 1997, p. 19.

<sup>16</sup> U.S. labor unions in attendance included: United Steel Workers of America, Local 65, Chicago; United Mine Workers of America Union, District 17, West Virginia; Ironworkers Union, Local 627, San Diego; United Farm Workers of Texas and Arizona; and United Auto Workers, Local 645, Van Nuys, CA. Mexican labor unions in attendance included: *Sindicato Telefonistas de la Republica México* (STRM); *Sindicato Unico de Trabajadores de la Industria Nuclear* (SUTIN); *Sindicato Unico Nacional de Trabajadores Universitarios* (SUNTU); *Confederación Nacional de Transporte*; *Frente Autentico de Trabajo* (FAT); *Central Independiente de Obreros Agrícolas y Campesinos* (CIOAC); *Unión General de Obreros y Campesinos de México* (UGOCM); *Congreso de Trabajo* (CT). Sandoval, J.M. (1997), p.12.

threatened immigrants' access to social welfare programs, and the televised beating of illegal immigrants in Riverside County set off an anti-U.S. reaction in Mexico. Adding fuel to the fire was the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which increased criminal penalties for immigration-related offenses, authorized increases in enforcement personnel and enhanced enforcement authority. Finally, the 1996 welfare reform law barred many immigrants from accessing federally funded benefits such as Medicaid and food stamps. At the 1997 meeting of the Working Group on Migration and Consular Affairs, the Mexican government "reiterated its deep concern over the impact on Mexican nationals of recently enacted U.S. welfare reform and immigration legislation." Spurred in large part by increasing violence and death among Mexican migrants at the border, Presidents Clinton and Zedillo issued a joint statement in May 1997 that migration "is a priority on the bilateral agenda."

Although some labor leaders in Mexico and the U.S. mobilized against the restrictive immigration legislation of the mid-1990s, they were unable to sustain the momentum. In the U.S., a committee called *Coordinadora 96* was created by immigrant rights organizations and labor unions to help mobilize various groups nationally and in Mexico against Proposition 187. Jaime Martinez, Secretary-Treasurer of the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (IUE), was a key leader of this movement and helped organize a march on Washington, D.C. on October 12, 1996. During the march, Linda Chavez Thompson, Executive Vice President of the AFL-CIO, addressed an unexpectedly large crowd of approximately 80,000 protestors, signaling labor's support for immigrant rights.<sup>18</sup> In Mexico, the leader of the *Sindicato Nacional de Trabajadores de la Educación* (SNTE), Elba Ester Gordillo,

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<sup>17</sup> Ibid, p. 13.

called for a commercial boycott against California and protests among teachers in border-states. The leader of the *Sindicato de Teléfonistas de la República Mexicana* (STRM), Francisco Hernández Juárez, proposed creating an International Union for Migrant Workers. And, the *Congreso de Trabajo* (CT) formally denounced Proposition 187 before the United Nations and the International Labor Organization as a violation of human and union rights against 5 million Mexicans working in the U.S.<sup>19</sup> Although U.S. and Mexican labor unions reacted strongly to anti-immigrant legislation in the mid-1990s, cross-border union dialogue on immigration was largely at an elite level among the most progressive unions. And although the *Coordinadora 96* had helped mobilize the large protest against Proposition 187, its visionary leaders were unable to organize and sustain the movement.<sup>20</sup>

The episodic and reactive nature of the *Coordinadora 96* was typical of cross-border labor union solidarity in the 1980s and 1990s. Because cross-border dialogue was confined to the most progressive unions, sustained bi-national collaboration was untenable once the moment of crisis had passed. Lacking an established bi-national foundation for cooperation, U.S. and Mexican labor unions did not put forth a common migration agenda during the Bush-Fox migration honeymoon in 2001.

### *A New Bilateralism?*

Just a month after the Mexican elections of July 2, 2000, newly elected Mexican President Vicente Fox made his first trip to the U.S. and initiated an intensive phase in intergovernmental bilateral relations on migration. Fox boldly suggested that the U.S. and

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<sup>18</sup> Author interview, Susan Gzesh, former Director of the Mexico-U.S. Advocates Network, April 2003.

Mexico address their migration problems through a North American Common Market. According to Fox, “building up walls, putting up arms, and dedicating billions of dollars like every [U.S.] border state is doing to avoid migration is not the way to go.”<sup>21</sup> Presidential candidate George Bush responded to Fox’s overtures by calling for a “special relationship with Mexico” equal to America’s friendship with Canada and Great Britain.<sup>22</sup> In February 2001, just a month after Bush was inaugurated, he met with Fox in Guanajuato, Mexico. At the meeting, the two presidents set forth several goals and principles to guide bilateral relations. Included in the Guanajuato Proposal was an understanding that:

Migration is one of the major ties that bind our societies. It is important that our policies reflect our values and needs, and that we achieve progress in dealing with this phenomenon. Mexico should make the most of the skills and productivity of its workers at home, but we both believe there should be an orderly framework for migration that ensures humane treatment, legal security, and dignified labor conditions.<sup>23</sup>

To this end the Guanajuato Proposal instructs the U.S. and Mexican governments to “engage, in a brief period of time, in formal high-level negotiations aimed at achieving short-and long-term agreements that will allow us to constructively address migration and labor issues between our two countries.”<sup>24</sup> These efforts have been chaired by the Secretary of State and the Attorney General of the United States, and by the Secretary of Foreign Affairs and the Secretary of the Interior of Mexico.

From February to September 2001, U.S. and Mexican government officials, migration scholars, employers and immigrant rights advocates debated what became known in migration

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<sup>19</sup> Sandoval, J.M. (1997) pp. 23-24.

<sup>20</sup> Author interview, Susan Gzesh, former Director of the Mexico-U.S. Advocates Network, April 2003.

<sup>21</sup> “Fox Seeks New Cooperative Era For N. America; Mexican Condemns Border Walls.” *Washington Post*, August 13, 2000.

<sup>22</sup> Hakim, P. “A historic opportunity to build US-Mexican ties.” *Christian Science Monitor*, January 8, 2001

<sup>23</sup> Joint Statement by President George Bush and President Vicente Fox Towards a Partnership for Prosperity. The Guanajuato Proposal. <http://www.whitehouse.gov/news/releases/2001/02/20010220-2.html>

circles as the “grand bargain” on immigration policy in a series of intergovernmental, non-governmental and quasi-governmental meetings. Labor union representatives from U.S. unions participated in some of these meetings. For example, at a February 2001 meeting convened by the Carnegie Endowment for International Peace and the Instituto Tecnológico Autónomo de México, participants included government officials such as Jorge Castañeda, Mexico’s Foreign Minister; employer representatives such as Randy Johnson, Vice President of the U.S. Chamber of Commerce; and labor union leader Eliseo Medina, Executive Vice President of SEIU. Mexican labor unions were absent from these bilateral meetings.

At about the same time that the AFL-CIO was revising its stance toward immigration, the Fox administration was looking for allies in its efforts to influence U.S. immigration policy. As a result, the AFL-CIO became an important ally of the Fox administration during the “honeymoon” of bilateral migration negotiations in 2000-2001. Mexico’s Foreign Minister, Jorge Castañeda, spearheaded Mexico’s effort to build relations with U.S. unions because “he recognized that organized labor is one of the strongest voices to advance President Vicente Fox’s goal of winning legal status for Mexican illegal immigrants.”<sup>25</sup> In 2001, President Fox met with several U.S. labor leaders including John Sweeney, president of the AFL-CIO, James P. Hoffa, the Teamsters president, and Stephen Yokich, president of the United Auto Workers. Not only did the Mexican government reach out to union leadership, it also made a plea to the rank-in-file. At the 2001 Hotel Employees and Restaurant Employees (HERE) National Convention in Los Angeles, Castañeda drew cheers from union members when he vowed to fight for the “whole

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<sup>24</sup> *ibid*

<sup>25</sup> Greenhouse, S. (2001) “In U.S. Unions, Mexico Finds Unlikely Ally on Immigration.” *New York Times*. July 18, 2001.

enchilada” of immigration reform, insisting that an employer-backed guestworker program be tied to an amnesty for illegal workers.<sup>26</sup>

After the events of September 11, the AFL-CIO did not back down in its support for legalization. In a resolution passed at the October 2001 AFL-CIO National Convention in Las Vegas, labor reaffirmed “its commitment to stand with and to stand up for immigrants in our workplaces, in our society and our movement” and called for “legalization of the undocumented who are working hard, paying taxes and contributing to their communities and the nation.” In a display of solidarity with U.S. labor on immigration reform, President Fox called John Sweeney to commend him on the resolution.<sup>27</sup>

The Mexican government also invited a delegation of U.S. labor leaders, including the presidents of HERE, SEIU and the UFW, to Mexico to meet with members of Congress to discuss an amnesty and concerns about an expansion of guestworker programs. Notably, the U.S. labor delegation did not meet with Mexican unions. In fact, during the most intense period of binational migration discussions in 2001, there was virtually no proactive cross-border labor union activity, in contrast to prior cross-border solidarity among unions opposed to restrictive immigration legislation in the 1980s and 1990s.

During a state visit to the U.S. on September 5, 2001, Vicente Fox urged the U.S. and Mexico to reach an agreement on migration before the end of the year. President Bush, however, cautioned that migration talks had slowed down because of resistance from Congress. Many Republican Congressmen were opposed to an amnesty for undocumented immigrants, much to the disappointment of Democrats and labor unions. In addition, labor’s Democratic allies were

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<sup>26</sup> Cleeland, N. (2001) “Labor Enlists Mexico as Amnesty Ally.” *Los Angeles Times*. July 19, 2001. <http://www.latimes.com/business/la-000058874jul19.story>

<sup>27</sup> Author interview, Tim Beaty, Deputy Director, International Affairs Department, AFL-CIO, Washington, D.C., December 2002.

skeptical of new guestworker programs, to the chagrin of many employers and their Republican allies. According to one Congressional aide who followed the immigration debate in 2001, there was a disconnect between progress that Bush and Fox made in bilateral talks and Congressional policy-making on immigration. During the state visit, Bush made no promises of a migration deal by year's end to Fox, and cautioned that getting legislation through Congress would be difficult.<sup>28</sup>

Six days later the terrorist attacks on the U.S. brought bilateral discussions on migration to a standstill. However, the issue of Mexico-U.S. migration did not disappear. In the post-September 11 dialogue, legalization of undocumented migrants, guestworker programs and border control have been viewed through a security lens. For example, legalization is seen as a way to “register” a population that is outside the law and therefore make America more secure. The tone of bilateral negotiations also changed significantly. To the disappointment of Mexican negotiators, who continued to pursue the “grand bargain,” their U.S. counterparts became much more focused on enlisting the support of the Mexican government in securing and protecting the border. For U.S. negotiators, discussions of amnesty and new guestworker programs were no longer on the bilateral agenda. The January 2003 resignation of Mexico's Foreign Minister, Jorge Castañeda, who had championed the bilateral migration agenda, and Mexico's reticence to support the U.S. war in Iraq have dealt further blows to the regional migration agenda.

### **Stumbling blocks to cross-border labor union solidarity**

When the U.S. has unilaterally imposed restrictive immigration policies that threaten the rights of migrant workers, progressive labor unions in the U.S. and Mexico have managed to work together to oppose such policies. These unions had the benefit of visionary leadership with

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<sup>28</sup> “Bush, Fox vow to better treatment of illegal immigrants.” *The Houston Chronicle*. September 7, 2001.



shared interests. However, once the restrictive legislation was passed collective action among these progressive unions was not sustained. The failure of collective action in these case can be attributed in part to divergent union structures and an over-reliance on personal relationships that were never institutionalized. On the other hand, as bi-nationalism on migration was on the rise, collaboration among U.S. and Mexican unions was almost entirely absent.<sup>29</sup> This can be explained in part to Mexican unions' lack of interest in an issue of relative low priority compared to daunting domestic political and organizational challenges, and their ability to free-ride off the efforts of the Fox government and U.S. unions. Perhaps more important is the uncertain relationship between the AFL-CIO and Mexico's official and independent unions that is in flux as a result of historical animosities and recent changes in the politics of Mexican labor union organization. Finally, the institutionalization of labor relations in North American is weak and there are no "political entrepreneurs"<sup>30</sup> willing to provide the collective framework for labor unions to organize on a regional basis. In this section, I examine historical, organizational and institutional problems that have hindered cross-border labor union solidarity.

### *Historical Animosities from the Cold War to NAFTA*

During the Cold War and up to the NAFTA negotiations in the early 1990s, the AFL-CIO financially and logistically backed the Confederation of Mexican Workers (CTM) and its affiliates, which are closely tied to the governing Institutional Revolutionary Party (PRI). The U.S. government, with the support of the AFL-CIO, proactively opposed economic nationalism

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<sup>29</sup> AFL-CIO signed joint declarations with Mexico's two peak labor organizations, the PRI-affiliated *Confederación de Trabajadores Mexicanos* (CTM) in 1998, and the new, independent *Union Nacional de Trabajadores* (UNT) in 1999. These joint declarations address a number of bilateral concerns including the "necessity" of coordinating efforts to support and organize migrant workers.

<sup>30</sup> According to Russell Hardin, political entrepreneurs are people who for their own career reasons find it in their interest to work to provide collective benefits to relevant groups. Through political entrepreneurship groups may

and independent unionism in Mexico, which was seen as a threat to the U.S. anti-communist, Cold War agenda. By the 1980s, with assistance from U.S. unions, efforts by official, government-sponsored unions to crush independent unions were largely successful.<sup>31</sup> The AFL-CIO's intervention in Mexican labor relations created considerable resentment among independent Mexican labor leaders.

The NAFTA agreement was a watershed in U.S.-Mexico labor relations, as it transformed the relationship between the AFL-CIO and the CTM. The CTM backed the PRI in its support of NAFTA, with assurances that NAFTA would bring much needed jobs and economic development to Mexico. Opposed to NAFTA, the AFL-CIO was disappointed and at odds with the CTM's position. Instead, the AFL-CIO found itself agreeing with the remnants of independent unions that it had previously alienated, such as the FAT, which also voiced strong opposition to NAFTA. In 1999, the AFL-CIO signed a bi-national agreement with the CTM's biggest challenger, the UNT, a new confederation of independent unions. The declaration calls for labor union collaboration in overhauling NAFTA and negotiating the FTAA to include a social charter, the creation of cross-border sectoral union alliances among affiliates, joint programs in training union organizers and coordinated efforts to support migrant workers.

Since the mid-1990s, the AFL-CIO has been revamping its international agenda, opening opportunities for cross-border collaboration. In a 1996 speech Richard Trumka, the new Secretary Treasurer of the AFL-CIO said, "We've made sweeping changes in our international affairs structure and programming. For too many years, ideology has been the chief export of the AFL-CIO. We've changed that and now the chief export and import of the department will be a

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obtain collective benefits despite collective action problems (Hardin, R. 1982. *Collective Action*. Baltimore: Johns Hopkins University Press, p. 35.)

<sup>31</sup> Caulfield, N. (1998) *Mexican Workers and the State: From the Porfiriato to NAFTA*. Fort Worth: Texas Christian University Press.

far more precious and relevant commodity, one called "international solidarity."<sup>32</sup> One of John Sweeney's first steps as president of the AFL-CIO was to dissolve the American Institute for Free Labor Development (AIFLD), which was infamous in Latin America as being an arm of the U.S. government's efforts to dismantle leftist organizations. In its place, the AFL-CIO formed a new Solidarity Center, which has an office in Mexico, as well as other countries in Latin America, Africa, Asia and Europe. The Solidarity Center is a non-profit agency that provides training in organizing, workers' rights, advocacy, occupational safety and health, economic literacy and civic and voter education for workers, unions and community groups. In Mexico, the Solidarity Center is seen as a potential source of support for new, independent unions that are trying to navigate Mexico's labor laws and labor courts. The Solidarity Center has developed a network of democratic labor lawyers to assist union legal efforts. It also is trying to build organizing capacity at the grassroots level among non-governmental worker associations.

Still, U.S. union involvement in Mexico is viewed with skepticism and suspicion by Mexico's "official unions," such as the CTM. The official unions fear that the AFL-CIO is trying to deter foreign investment and jobs from Mexico by creating independent labor organizations and destabilizing the labor movement.<sup>33</sup> Therefore, Solidarity Center field representatives are faced with the difficult task of simultaneously building and balancing relations with Mexico's "official unions," independent unions and grassroots worker organizations. Despite recent efforts to improve relations with all Mexican unions, U.S. unions have a long way to go to overcome mistrust and negative stereotypes bred by over 50 years of

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<sup>32</sup> Richard L. Trumka, speech given at the "Labor and the Global Economy Conference." November 21, 1996 <http://www.aflcio.org/mediacenter/prsptm/sp11211996.cfm>

<sup>33</sup> Author interview, Claudia Franco, Coordinadora General de Asuntos Internacionales, Secretaria del Trabajo y Prevision Social, Mexico City, March 2003.

working against independent union movements, and to bridge the deep divide with the CTM created by NAFTA.

### *Organizational and Political Obstacles to Cross-border Solidarity*

Opportunities to work through historical animosities are few and far between given the many political and organizational challenges faced by Mexican unions that take priority over bi-national solidarity. In Mexico, the PRI-affiliated CTM is facing a crisis of legitimacy and is being challenged by independent unions such as the UNT and its affiliates, who are trying to build union democracy in an unfriendly labor environment. The upheaval in the labor movement is part of a larger transformation in civil society that was brought about by the defeat of the PRI in recent congressional and presidential elections. Under the corporatist system of government developed by the PRI over 70 years, the CTM and other official unions had become politically compromised as the labor arm of the PRI. Workers who wished to affiliate with one of the official unions also had to become members of the PRI, and many labor leaders were also PRI government officials or members of Congress. In the late 1990s, the official labor movement began to fragment as some unions opposed the neo-liberal economic policies of the Salinas and Zedillo governments. In 1997, several unions officially split from the CTM to form the UNT, a more democratic, independent labor organization. However, the UNT is a fragile amalgam of several labor unions and is headed by multiple leaders, who are held together by their opposition to the current labor law reform.

In addition to institutional instability, the membership base of the unions is weak – the CTM claims to have 5-6 million members, but government estimates are closer to 1 million and the UNT, for its part, represents about 500,000 to 1.5 million workers. In addition, both official

and independent unions have staked their organizational futures on Mexico's current labor law reform. Many Mexican labor leaders believe that new organizing efforts are pointless under the current system. However, labor unions are unlikely to make gains in labor law reform with the current pro-business government, which wants to increase labor flexibility. Hence, not only do Mexican unions put labor law reform ahead of any bi-national agenda, they also have postponed any new organizing efforts that might add to their weak membership base.<sup>34</sup>

The divergent structures of unions in the U.S. and Mexico also hinder cross-border solidarity. As noted by Jonathan Fox in a paper on U.S.-Mexico civil society coalitions, "counterpart productive sectors often have very different union structures. Sectors may be unionized in one country but not in the other, or unions may be centralized in one country but decentralized in the other – creating asymmetries that make it difficult to find counterparts."<sup>35</sup> Eliseo Medina, Executive Vice President of SEIU, concurs that divergent union structures often make it unclear where U.S. unions can develop links with Mexican unions.<sup>36</sup> Because institutional linkages have been difficult to forge, bi-national relations often are based on personal relationships among labor leaders who share common interests. For example, the 1994 and 1995 organizing campaigns among strawberry workers in Baja California and California, Benedicto Martinez of the FAT developed a friendship with Ron Carey of the Teamsters. This relationship led to the Teamsters working with the FAT on a 1998 North American Agreement on Labor Cooperation (NAALC) complaint concerning migrant workers rights in Yakima,

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<sup>34</sup> Author interview, Jeff Hermanson, field representative, Solidarity Center, March 2003.

<sup>35</sup> Fox, J. (2000) "Assessing Binational Civil Society Coalitions: Lessons from the Mexico-US Experience." Chicano/Latino Research Center, Working Paper No. 26. University of California, Santa Cruz, p. 7.

<sup>36</sup> Author interview, Eliseo Medina, Executive Vice President, SEIU, San Diego, CA, December 9, 2002.

Washington. However, when Carey left the Teamsters during the NAALC proceedings, ties between the FAT and the Teamsters disintegrated.<sup>37</sup>

*Institutional Failures: Disappointment with the NAALC*

Institutionally, labor relations in North America could be facilitated by the North American Agreement on Labor Cooperation (NAALC), a tri-national agreement created in 1993 that seeks to improve labor conditions in all three countries by promoting compliance and enforcement of domestic labor laws. In the pact, the U.S., Mexican and Canadian governments pledged to work toward improving labor rights in their respective countries, including the rights of migrant workers. The NAALC does not seek to harmonize labor standards in the three countries. Rather, it relies on third parties, such as labor unions, employers and non-governmental associations, to signal violations of national labor laws, and government officials to address violations and ensure compliance.<sup>38</sup>

As originally negotiated, the NAFTA agreement did not include protection of labor rights. During the 1992 presidential campaign, candidate Bill Clinton strongly criticized NAFTA for not prohibiting Mexico from violating labor rights in an effort to attract U.S. companies to the detriment of U.S. workers. As a presidential candidate, Bill Clinton provided the “political entrepreneurship” necessary to get the Canadian and Mexican governments to negotiate a labor side agreement to NAFTA. To the chagrin of the Mexican government and the

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<sup>37</sup> Author interview, Benedicto Martínez Orozco, Coordinación Nacional, FAT, Mexico City, March 2003.

<sup>38</sup> It is instructive to contrast the lack the cross-border labor union collaboration between the U.S. and Mexico to the development of labor union solidarity in the European Union under the auspices of the European Trade Union Confederation (ETUC), where national labor unions regularly consult and cooperate with each other on a variety of issues including immigration and migrant workers’ rights. European unions faced similar barriers to cross-border solidarity; however, unlike U.S. and Mexican unions, unions in Europe have an important institutional ally in the European Commission. The Commission gave financial backing to the ETUC in exchange for labor’s support in moving forward with integrationist policies such as monetary union. U.S. and Mexican unions have come up

CTM, a supplemental labor pact called the North American Agreement on Labor Cooperation (NAALC) was signed by all three countries in 1993.

Once implemented the U.S. and Mexican governments have lacked the political will to implement the NAALC effectively. The Mexican government opposed the creation of NAALC from the outset and remains a reluctant participant. The Mexican Secretary of Labor views the NAALC as a means for promoting government-to-government cooperation and consultation on labor issues, not as an avenue to change labor laws.<sup>39</sup> The Mexican NAO has avoided any interpretation of the NAALC and does not encourage participation by labor unions or other non-governmental organizations in ministerial consultations. As a result, the NAALC is even more underused in Mexico than in the U.S. as a mechanism for unions to improve labor conditions.

In the U.S., the Clinton administration did not use the NAALC to its full potential because NAFTA had become such a divisive issue within the Democratic Party. In its first two years, the Bush administration has shown that the NAALC is not a priority by failing to name a new director for the U.S. NAO. In addition to problems of political leadership, the NAALC suffers from institutional, procedural and political shortcomings. Consequently, there is a strong disincentive for labor unions to participate in the NAALC process.

Although the NAALC is not an organization for labor unions, through its complaint mechanism it provides an avenue for bi-national labor union activities. Of the 25 public submissions filed to the NAALC between 1993 and 2002, about half were filed jointly by labor unions and/or non-governmental organizations from the U.S., Mexico and Canada. Only one

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against institutional intransigence in their efforts to foster cross-border collaboration under the auspices of the North American Agreement on Labor Cooperation (NAALC).

<sup>39</sup> Author interview, Claudia Franco, Coordinadora General de Asuntos Internacionales, Secretaria del Trabajo y Prevision Social, Mexico City, March 2003.

petition has been undertaken jointly by U.S. and Mexican labor unions concerning violations of migrant workers rights in the U.S.<sup>40</sup>

In 1997, the Teamsters and the United Farm Workers agreed to develop a petition to submit to the NAALC alleging employer violations in the Washington State apple industry against migrant workers' rights to organize, bargain collectively, have job health and work safety, and work without discrimination. The Washington state apple industry, the largest in the U.S., employs more than 50,000 Mexican workers in orchards and processing plants.<sup>41</sup> The Teamsters and the UFW reached out for support from several Mexican unions, including UNT, FAT, the Metal, Steel, Iron and Allied Industrial Workers Union (STIMAHCS) and Democratic Farm Workers' Front (FDC). These Mexican organizations filed the petition to the Mexican NAO on May 27, 1998. In August 1999, the Mexican labor department issued a report requiring consultations between U.S. and Mexican labor secretaries, who in turn called for bi-national public outreach and public hearings with government, employer, union and employer participation. The forums took place in 2001 in the apple-growing region of Washington. Since then, there has been almost no discussion or follow-up among the unions that participated in the public forum. According to a representative of the FAT, this failure resulted from a lack of shared interests and the failure to develop personal relationships among union leaders into more institutionalized relations.<sup>42</sup>

Although the NAALC offers opportunities for cross-border labor union collaboration, its implementation has disappointed most labor union leaders as a result of structural, procedural

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<sup>40</sup> Of 25 public submissions sixteen were filed with the U.S. NAO involving fourteen allegations against Mexico and two against Canada; six with the Mexican NAO all against the U.S.; and three with the Canadian NAO, two against the U.S. and one against Mexico. U.S. Department of Labor, National Administrative Office (2002) "Status of Submissions Under the NAALC" July 17, 2002.

<sup>41</sup> Compa, L. (2001) "NAFTA's Labor Side Agreement and International Labor Solidarity" in Waterman and Wills, eds. *Place, Space and the New Labour Internationalisms*. Oxford: Blackwell Publishers, p. 158.

<sup>42</sup> Author interview, Benedicto Martínez Orozco, Coordinación Nacional, FAT, Mexico City, March 2003.



and political weaknesses. In Congressional testimony, Thea Lee, Assistant Director for International Economics at the AFL-CIO, expressed the following criticism of the NAALC:

The NAFTA labor side agreement has not protected workers' rights. In Canada, Mexico and the United States, fundamental workers' rights continue to be abused with impunity. The NAALC has very limited enforcement powers, especially when contrasted to the commercial provisions of NAFTA. Although NAALC cases have led to many hearings and reports on labor issues, virtually no concrete changes have been made to countries' laws or practices to improve workers' rights.<sup>43</sup>

The NAALC is weak structurally because its U.S., Mexican and Canadian creators decided not to establish an independent oversight committee. Instead, the NAALC has a trilateral system of enforcement. This system makes it less likely that Mexico, for instance, would push hard for changes in U.S. labor law with regard to migrant workers' rights for fear of retribution on a linked bilateral issue such as agricultural guestworker programs. As a result, the NAALC's potential for improving labor rights is undermined and underused.

Procedurally, although the NAALC has provided a venue for cross-border labor collaboration, the payoffs of such collaboration are low and the costs of filing a petition are high. It can take years for a petition to move from the filing stage to ministerial consultations to obtaining a ministerial agreement. In a review of the NAALC, Thea Lee of the AFL-CIO points out, "consultation and dispute resolution procedures are so lengthy and tortuous as to discourage complaints and petitions."<sup>44</sup> No petition has gone beyond intergovernmental ministerial consultations and there has been no enforcement of ministerial recommendations. According to a report on the NAALC by the United Electrical Workers, "Unfortunately, despite relatively strong decisions in the U.S. and Canada, the ministerial consultations resulted in an extremely

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<sup>43</sup> AFL-CIO (2002) Congressional Testimony of Thea Lee, Assistant Director for International Economics. December 12, 2002. <http://www.aflcio.org/mediacenter/prspmt/tm092002.cfm>

weak agreement between the U.S. and Mexican governments. This has led the U.S. and Canadian participants to question the value of ever filing such cases.<sup>745</sup>

### **Conclusions: Overcoming Collective Action Problems**

First and foremost, successful and sustained collective action among U.S. and Mexican unions on migration issues requires U.S. unions, who have greater resources available and more strategic interest in migration, to take the initiative and bear a disproportionate share of the cost. It is important for U.S. labor unions to find sympathetic allies in Mexico. For example, U.S. labor unions are more likely to find active, supportive partners at the local and state levels in migrant-sending regions, such as Michoacan, than at the federal level. Ultimately, U.S. and Mexican unions will have to overcome historical animosities that breed mistrust. Time may eventually heal wounds created by the Cold War and the NAFTA negotiations. However, binational solidarity programs such as worker-to-worker exchanges would help.

U.S. unions will have to provide selective incentives to Mexican unions to participate in collective action efforts such as educational campaigns for workers in Mexico – both those who intend to stay in Mexico and potential migrants. Educating Mexican workers about their labor rights, including the right to organize, bargain collectively and strike, would ultimately serve the interests of U.S. and Mexican unions and workers. For example, Mexican migrant workers who are aware of their labor rights may be less prone to employer abuse in the U.S., which undercuts the wages and working conditions of all workers. Likewise, in Mexico, an educated workforce may be more apt to demand their labor rights, which are guaranteed by the Mexican constitution

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<sup>44</sup> Human Rights Watch (2001) *Trading Away Rights: The Unfulfilled Promise of NAFTA's Labor Side Agreement*.

<sup>45</sup> Alexander, R. (2000) "Experience and Reflections on the Use of NAALC." Paper presented at Wellesley College, November 4, 2000. This statement is based on the outcome of the Echlin case (COMM/NAO/USNAO Public Submission 9703).

but seldom enforced. According to Anaelsa Aviles, a field representative for the Solidarity Center in Mexico, the United Food and Commercial Workers Union (UFCW) had expressed interest in educational seminars in Mexico's migrant sending regions for workers employed in meat-packing plants in the U.S. After making an initial proposal to the UNT, it took over a year to determine where the immigrants were coming from. During this time the project lost momentum and there was no follow-up.<sup>46</sup> Fully implemented, grassroots educational programs could affect 45,000 Mexican migrant workers in the H-2A program, as well as close to 40,000 Mexicans employed under the H-2B program in forestry, hotels, poultry processing and other jobs.<sup>47</sup>

Finally, a more comprehensive, stronger institutionalization of migration policy and labor relations at the regional level would help resolve collective action problems. Under the current political circumstances, such a vision is highly unlikely. However, labor unions could make some headway by taking a more regional public policy approach to migration recognizing the negative social and economic effects of migration in Mexico, so that migration is not perceived exclusively as a U.S. problem. A regional migration perspective would not only improve relations with Mexican unions, it would also strengthen legal arguments concerning labor violations of migrant workers related to free trade under the NAALC.

A concrete and novel example of this approach is illustrated by a joint Public Communication filed to the Mexican NAO under the NAALC in early 2003 by the Farmworker Justice Fund and the *Central Independiente de Obreros Agrícolas y Campesinos* (CIOAC), a small, independent labor union in Mexico that represents farmworkers and small farmers.<sup>48</sup> The

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<sup>46</sup> Author interview, Anaelsa Aviles, Solidarity Center, Mexico City, March 2003.

<sup>47</sup> Farmworker Justice Fund. Information on the Guestworker Rights Education Project, January 2003.

<sup>48</sup> The public submission is under initial review by the Mexican NAO. To date, the Mexican NAO has not made a decision as to whether or not it will accept the petition.

petition concerns the use of the H-2A temporary agricultural visa program in North Carolina, and the alleged failure of the U.S. government to enforce labor laws with respect to freedom of association, protection of the right to organize, minimum employment standards and protection of migrant workers.<sup>49</sup> The petition is noteworthy for two reasons. It is the first petition to be filed *jointly* by U.S. and Mexican organizations specifically to defend the rights of Mexican migrant workers in the U.S.<sup>50</sup> And, it is the only petition that makes explicit reference to the implications of migration for the U.S. *and* Mexico. Unlike other public submissions concerning abuses of migrant workers' rights in the U.S., the petitioners in the North Carolina case tie labor violations to interstate trade between the U.S. and Mexico, as well as to mutually recognized labor laws. For example, both the U.S. and Mexico have laws concerning the recruitment, hiring, transport and housing of migrant workers. According to Article 28 of the Mexican Federal Labor Law, employers are responsible for paying migrants' round-trip transportation costs between Mexico and the U.S. Likewise, the U.S. Department of Labor is obligated by its own regulations to require H-2A employers to pay transportation costs for migrant workers. In practice, however, the North Carolina employers retain recruitment firms that hire and transport workers. Employers claim that the recruitment firms bear all the responsibility for compliance with laws regarding recruitment, but in reality workers end up bearing the transportation costs. This effectively means that H-2A workers earn less than the minimum wage of \$5.15 per hour, when in fact they are entitled to receive \$7.06 per hour.<sup>51</sup> By linking the effects of migration to the U.S. and Mexican economies, the petitioners make a much stronger case to the NAALC than any previous public submission.

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<sup>49</sup> Public Communication to the NAO of Mexico Regarding the failure by the United States to implement and effectively enforce the labor laws applicable to agricultural workers under the H-2A program in the State of North Carolina. February 2003

Unions also should continue to experiment with different institutional avenues for cross-border collaboration, such as the Inter-American Court of Justice, the International Labor Organization and the NAALC. For example, the AFL-CIO and the CTM filed individual complaints to the International Labor Organization concerning the March 2002 U.S. Supreme Court decision in the Hoffman Plastic v. NLRB case. In the Hoffman case, an undocumented Mexican worker was fired for participating in a union organizing drive, which is in violation of the National Labor Relations Act. The Supreme Court was deciding on whether the worker could receive the usual remedy of back-pay for the time he was not working because he was illegally fired. The Supreme Court decided that the worker could not be awarded back-pay because he is undocumented.<sup>52</sup> In essence, the decision signaled that immigration law trumps labor law. After the decision, the AFL-CIO and the CTM discussed joint language that was used in filing separate complaints to the International Labor Organization concerning how the Hoffman decision violates universal worker rights.<sup>53</sup>

To sustain collective action, U.S. and Mexican unions need to institutionalize cross-border solidarity beyond top leadership to include the rank-in-file. In the U.S., this means continuing and strengthening the transformation from business unionism, the dominant paradigm in the U.S that focuses on leaders providing concrete benefits to their members in return for members' dues, to social movement unionism. The aim of social movement unionism is to

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<sup>50</sup> Three other cases specifically cite violations of migrant workers rights, Mexican NAO 9802, 9803 and 9804. However, these cases were not filed jointly by U.S. and Mexican organizations.

<sup>51</sup> *ibid*, p. 18.

<sup>52</sup> National Employment Law Project. "Supreme Court Decision in Hoffman Plastic Compounds v. NLRB." Fact Sheet for Workers. May 2002.

<sup>53</sup> According to ILO Convention 87 all workers "without distinction whatsoever" enjoy the right to join organizations of their own choosing. The Hoffman decision creates a distinction based on immigration status in violation of Convention 87. And ILO Convention 98 requires "adequate protection against acts of anti-union discrimination." The Hoffman decision nullifies such protection for millions of workers based on their immigration status. (Complaint presented by the AFL-CIO to the Congress of Industrial Organizations to the ILO Committee on Freedom of Association against the Government of the United States of America for violation of fundamental rights

serve the economic interests of members and encourage membership engagement in social justice and economic equality. While still in the minority, social movement unionism is growing from the bottom-up and the top-down. Social movement unionism has been facilitated by the 1995 election of John Sweeney and his “New Voices” leadership team that has shaken up the AFL-CIO bureaucracy and is redefining its program through involvement in the campaigns for global justice, the living wage, the anti-sweatshop movements, and organizing immigrant workers. And some local unions are transforming themselves in an effort to energize members who have been disappointed by failed strikes and organizing campaigns and poor collective bargaining contracts.<sup>54</sup>

On the Mexican side, labor leaders need to find a strategic reason to devote resources to migration when the unions face other critical problems. The impetus for Mexican unions to take on migration issues and participate in sustained cross-border labor union collaboration must come from U.S. unions, who demonstrate a willingness to work with Mexican unions as equals and to commit substantial resources to migrant worker outreach in Mexico.

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of freedom of association and protection of the right to organize and bargain collectively concerning migrant workers in the United States.)

<sup>54</sup> Levi, M. (2003) “Organizing Power: The Prospects for an American Labor Movement.” *Perspectives on Politics*. 1:1, p. 53.

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