Change and continuity in Mexico's immigration policy: how civil society organizations influence the policy process

Laura Valeria Gonzalez-Murphy

University at Albany, State University of New York, lg2549@albany.edu

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CHANGE AND CONTINUITY IN MEXICO’S IMMIGRATION POLICY: HOW CIVIL SOCIETY ORGANIZATIONS INFLUENCE THE POLICY PROCESS

by

Laura Valeria González-Murphy

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CHANGE AND CONTINUITY IN MEXICO’S IMMIGRATION POLICY: HOW CIVIL SOCIETY ORGANIZATIONS INFLUENCE THE POLICY PROCESS

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DEDICATION

I would like to not only thank but dedicate this dissertation to my husband Tim and my two sons, Brendan and Julian, who were instrumental in my desire to pursue my doctoral degree. To them, a special thank you for their unconditional love and patience throughout this lengthy process—but especially during the many hours I spent away from home on research and/or hiding in the library.

This dissertation is also dedicated to my brother Victor, my sister Victoria, my mother Valerie, and my father Victor. They share with me a special understanding of the benefits and complications of migration.
ABSTRACT

This dissertation focuses on state-civil society relations and immigration policy in Mexico, a country with a complex history of immigration, emigration, transit migration, and return migration. The Mexican case illustrates how immigration policy is formulated and implemented in a state transitioning to a more democratic form of government and in a civil society gaining more influence in the policy process. Mexico has recently undergone significant change, having held its first free multiparty elections in 2001 and having pledged in 1994 to accelerate democratic, economic, and social growth as a member of the Organization for Economic Co-operation and Development (OECD).

Through document analysis and interviews of key government officials and civil society actors, this dissertation describes and explains the evolution of Mexico’s immigration policies and policymaking. An important finding is that civil society organizations, while continuing to provide operational assistance to state agencies and local communities, are increasingly engaged in policy advocacy. Not only are a greater number of civil society organizations attempting to shape immigration policy, but these organizations are having greater influence in the dialogue leading to the formulation of legislative reforms and decrees. As Mexico reevaluates policy outcomes, redefines its priorities, and develops a comprehensive immigration policy, civil society organizations are having greater opportunities to influence policy. True, these opportunities face significant obstacles in Mexico’s culture of political accommodation, disrespect for the law, and payoffs, cronyism, and corruption. But Mexican civil society is having a
growing influence on immigration policy, and this influence is greater in Mexico than in Spain and Italy, two other countries with much immigration and emigration.
Scholarship on immigration policy has primarily focused on immigration in “receiving” countries in the developed world, such as the U.S., Germany, France etc., while offering explanations centered on the push and pull of economic factors. Attention to immigration policy in developing countries is small but growing. Even less attention has been given to the influence of political factors of immigration policy making in developing countries, such as the participation and influence of civil society. In the field of migration, civil society has mainly focused its activities to the offering of operational assistance, but advocacy on migration policy has been growing. Assessing this growth has thus been also limited but it remains important in order to provide a fuller understanding of the complexities of international migration and the challenges it presents to governing and infrastructural capacity building. This dissertation focuses on the state-civil society relationship on migration policy in Mexico, a country that by its complex position as a country not only of emigration, but of immigration, transit migration and of refuge, adds to its relevance.

But also Mexico is a significant case for furthering our understanding of how immigration policy is formulated, not only in traditionally sending/developing countries, but also in countries transitioning to a more democratic form of government, a process in which civil society is thought by some, to have a significant influence (Putnam, 1993; Edwards, Foley, & Daini, 2001). Mexico has recently undergone this change, having held its first multiparty elections in 2001 and since 1994 pledged to work towards democratic,
economic and social growth, as a member of the Organization for Economic Co-
operation and Development (OECD).

Mexico is currently a country of net emigration, however its domestic policies
mainly reflect its historical experiences as a country of immigration (Fitzgerald, 2005b)
similar to all other countries of the western hemisphere and although immigration to
Mexico has been small in numbers, immigration has been a constant in its legislation, the
General Law of Population and its many amendments, since the country’s independence
and immigrants have also left an indelible mark in Mexico’s economic, social and
cultural tapestry. Currently Mexico’s immigration policy—legislation, statements and
procedures—has been the subject of deliberation as it tends to stand in contrast to how
the Mexican government is asking the U.S. to treat its own emigrant population in the
U.S. For the most part Mexican policies reflect a combination of its revolutionary history
(1910-1917) as it continues to uphold restrictive measures while at the same time it
attempts to open its borders to foreign investment and highly skilled foreign labor.

As a result, Mexico’s policy towards its own emigrants, particularly those
residing in the U.S. stands in stark contrast to how it relates to immigrants in its
territory. While Mexico demands openness from the United States, not only does it limit
the rights of foreigners on its soil, but immigrants have been often subject to human
rights violations on behalf of the criminal element and of Mexico’s own immigration
officials. This contrast has become more and more salient as immigration reform was
debated in the U.S. in 2007. Interestingly this debate reverberated in changes of Mexico’s
own migration policies, such as reforms to articles that criminalized illegal entry which,
although not always enforced, served as a tool in the hands of immigration officials.
The complexity of the migration issue—as it encompasses issues of social networks, poverty, health, education, human rights, etc.—makes it difficult for civil society to focus its advocacy on the whole migration policy field. As a result only a few issues receive civil society’s advocacy attention. As such, the area of human rights is the one that so far that has gained the most attention worldwide and as this dissertation shows, also in Mexico. The Mexican government, however has recently voiced and recognized the need for a comprehensive, multidimensional and contemporary migration policy, and as it has started to deliberate on this very need. The function of civil society in the process has been significant, not only as a provider of data and information on the issue but as a contributor in the formulation of proposals at all levels of government.

Given the limited scholarly research on the state-civil society relationship, a major portion of the information gathered for this dissertation relied on original research such as interviews that were mainly conducted in Mexico with key immigration government officials as well as members of civil society organizations. Assessing this relationship was based on the identification not only of spaces of dialogue and exchange of information between both actors, but of additional legal and institutional mechanisms to enhance this relationship, as well as on the assessment of the actual outcomes of such deliberations and on the obstacles faced by these actors for the adequate functioning of this relationship.

The legislative and historical scope of this dissertation is extensive and, therefore, it is broken down into three sections of several chapters. Within Section I, Background Overview, Chapter 1 presents an introduction to the question at hand placing it in perspective with current scholarly literature, current theories of migration and of civil
society as well as the contribution that this dissertation makes to the field. As this
dissertation presents Mexico as not only a country of emigration but also of immigration,
Chapter 2 (Who are Mexico’s Immigrants?) provides an brief account of Mexico’s
immigration history going back to its birth as a nation. A numerical picture as well as one
based on the characteristics of this population is presented, a picture that is inclusive of
the nature of its authorized and unauthorized immigration and the regions of the country
most affected. Time series data is provided to highlight demographic trends.

Section II, The Mexican Policy Process provides a perspective on immigration
policy and within it Chapter 3 (How the Mexican System Works with Regards to
Immigration Policy) describes the relevant government institutions and how they work
and relate to each other. Thus a description of the country’s policy making venues,
responsible agencies and actors is analyzed. The purpose of such description is to provide
an understanding of how policy is developed and implemented in Mexico. Chapter 4 (The
First Three Phases of Mexico’s Immigration Policy (1821-1973): A Historical Overview)
provides a historical comparative analysis of migration policy in Mexico so as to assess
the changes that have taken place and what the role of the state has been in shaping
Mexico’s demographic realities. This chapter reviews policies on nationalization,
citizenship, and immigration within the context of Mexico not only being a country of
emigrants but of immigrants, refugees and of transit. The phases of migration policy
identified by Buchenau (2001) serve as guides for the overall review: 1821-76, 1876-
1910 and 1910-73, with a fourth phase added and being that of 1974-2008 which focuses
on contemporary events.
This fourth time phase is the most instructive for purposes of this dissertation and as such it is the focus of a separate chapter, Chapter 5 (*The Fourth Phase of Immigration Policy (1973-2008) - Contemporary Mexico*). During this period, 1974-2008, dual nationality is granted and debates regarding the biased nature (in favor of emigrants versus its immigrants) of Mexico’s immigration policy are being held.

Section III *An Analysis of Civil Society* focuses on non-governmental organizations (NGOs), the church etc., in Mexico. Thus Chapter 6 (*Civil Society in Perspective*) reviews the growth of civil society in Mexico in general within the context of Mexico’s democratic liberalization process, earmarked as having officially taken place during the election of 2001. This chapter highlights the most significant key events and policies that have influenced and promoted the general growth of civil society in Mexico. Chapter 7 (*The State-Civil Society Relationship on Immigration Policy*) analyses the findings not only from the various official documents, web sites, news articles etc. analyses but from the interviews conducted with key members of government and civil society. It delineates an existing relationship that has flourished in the last 10 years and that although limited to a few actors, it is growing. The interviews took place in January of 2008, summer of 2008 and in January of 2009, mostly in Mexico.

Section IV, *A Comparison and Final Reflections* provides the last section to this research. Within it Chapter 8 (*Immigration and Civil Society in Spain and Italy: A Comparative Perspective with Mexico*) provides a comparative perspective between Mexico and Spain and Italy, two recent countries of immigration that historically have been considered countries of emigration. Although there are some important differences between Mexico and these countries (such as their degree of economic development), the
similarities allow for a fruitful comparison between them. Some of these similarities highlighted are: status as countries of immigration, regime change (Spain in 1970s); the change in the nature of immigration—from educated retirees to a generally non-educated labor force (Spain), and the influence of external forces on policy: In Spain these are influences from the European Union, and with regards to Mexico, these are also border security pressures from in the U.S. This chapter is mainly based on a review of the finding from secondary literature.

Chapter 9 (Conclusion) concludes with a review of the findings from the historical analysis and from the interviews and highlights the key finding that civil society has influenced migration policy development in Mexico to a degree; that a state civil society relationship albeit nascent is evident and has been somewhat effective. However this relationship is under stress, given that Mexico continues to face obstacles as a result of its entrenched culture of corruption and limited respect for the law. This chapter deliberates on how the Mexican case contributes to our understanding of the actors involved in migration policy and how it is formulated, and posits some recommendations.
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SECTION I – BACKGROUND OVERVIEW

CHAPTER 1: INTRODUCTION

Migration\(^1\), or the mobility of people across territorial boundaries, has been taking place on a global basis for centuries. Over the last 30 years, however, world migration has doubled and increased in complexity, capturing the attention not only of government officials, but also that of political scientists, international relations scholars and society in general. Interest in migration has grown even more over the past decade in response to public concerns—particularly the events of September 11, 2001—with an emphasis on the need to understand how population movement influences the way states relate to each other. The focus of this interest has been limited largely to the analysis of migration to destination countries in the developed world and explanations centered on the push and pull of economic factors. Moreover, it is the manner in which the United States (U.S.) addresses migration which has gained significant attention.

In order to better understand the why and how of migration and migration policy, it is important to study the process not only in destination and developed countries, but also in countries of origin and in developing countries. Although it is growing, this area of study remains small. Little attention has been given to the analysis of other factors affecting migration policy making in these countries, notably the participation and influence of civil society. In light of this, the selection of Mexico—a country of origin and a developing country—as a case study for this dissertation gains relevance.

\(^1\) For the purposes of this dissertation the term “emigration” denotes migration from Mexico; “transit migration” refers to that migration which makes use of Mexico as a stepping stone in the journey to reach the United States. The primary focus of the research is “immigration,” i.e., migration into Mexico. The term “migration” is used generally to encompass all forms.
With approximately 11 million Mexican nationals currently living in America, Mexico is the primary source of migrants in the U.S. It is appropriate, therefore, to consider Mexico a country of emigration. Mexico is also one of the world’s principal countries of transit migration, especially for the hundreds of thousands of Central Americans who travel through with the intent to reach the U.S. Given the small number of immigrants it has received, however, Mexico is not generally regarded as a country of immigrants.

This dissertation argues the opposite based on the historical revenues of Mexican institutions and on the recent impact immigrants have had on Mexico’s legislation, as well as on the migration-related activities the country engages in as it copes with both documented and non-documentated immigrants. Consider, for example, that Mexico registers a daily average of over 1 million documented entries and exits through its northern border, adding up to almost 400 million territorial crossings per year, while on its southern border it registers an average of 1.5 million documented crossings per year. Approximately half a million permanent immigrants are living in its territory. The country also hosts 40,000 Guatemalan temporary workers a year and—though the number of deportations is declining having registered 120,414 cases in 2007—the Mexican government documented over 200,000 in 2004 and in 2005 unauthorized border crossings (INM Comunicación Social, 2008c). Although this will be discussed in greater detail in Chapter 3, these preliminary data clearly indicate that Mexico is not merely a country of “origin and transit.” It must also be considered a country of immigration. In the words of the Secretaría de Gobernación’s (SEGOB) Undersecretary for Population, Migration and Religious Affairs, Lauro López Sanchez Acevedo, spoken at the United

Mexico’s case also contributes to our understanding of the policy process involved when transitioning to a more democratic form of government—a transition in which civil society is deemed by some to play a significant role (Putnam, 1993; Edwards, Foley, & Daini, 2001; Aguilar Villanueva, 2007). Mexico has recently undertaken such a transition, having held its first multiparty elections in 2001 and, since 1994, pledged to work towards democratic, economic and social growth, as a member of the Organization for Economic Co-operation and Development (OECD). As this process continues, an assessment of the participation of civil society in migration policy is both necessary and timely. It is with this in mind that this dissertation posits the following question for analysis: What impact, if any, is civil society having on migration policy in Mexico, a developing country transitioning from a state-centered and closed society to a more democratic society?

Although Mexico is currently a country of net emigration, its domestic policies reflect chiefly its historical experiences as a country of immigration (González Navarro, 1993; Fitzgerald, 2005b). Mexico is in this regard similar to all other countries of the western hemisphere. Despite the fact that immigration to Mexico has been historically small in numbers (See Table #2.1 and other demographic data in Chapter 2), it has affected life in Mexico on many levels. One obvious effect is a very restrictive immigration policy, which stands in contrast to Mexico’s policy towards its own emigrants—particularly those residing in the U.S. While Mexico demands openness from
the U.S. and respect towards its nationals, it limits the rights of foreigners on its soil and is often accused of allowing human rights abuses against illegal immigrants entering its Southern border\(^2\). This contrast has become more salient with increased debate of immigration policies in the U.S. Interestingly this debate has encouraged Mexico to change some of its own migration policies. Official documents addressing the need for a new policy, which would address today’s political and demographic realities, emphasize that such a policy would help solidify Mexico’s position towards the U.S. For example, Mexico’s *Instituto Nacional de Migración* (INM) (National Migration Institute), i.e., the government unit responsible for enforcing Mexico’s immigration laws and securing the country’s borders, stated in its 2005 policy proposal report, *Integral Migration Policy Proposal* (2005) that

> the proposal allows for the combination of high impact political and social actions with long term tasks in one single project that substantially contributes to the building of a State migratory policy and *helps create a more solid Mexican position towards the USA in migratory matters* [italics added for emphasis].

With regard to specific objectives, the proposal emphasizes the need to “respect and protect the rights of migrants entering Mexico through its Southern border, and as such follow its national laws and international conventions of which Mexico is a signatory” (2005, pp. 5, 14). The same line of thinking can be seen in Mexican Congressman Edmundo Ramirez Martinez’ statement regarding recent (April, 2007) immigration reforms to the *Ley General de la Población* (General Law of Population): “With the

\(^2\) Although the southern border technically refers to the 238,904 square kilometers which incorporate the five states of Campeche, Chiapas, Quintana Roo, Tabasco and Yucatán, our focus here is largely on its most visible “cross-border space,” namely the state of Chiapas. Chiapas functions as the link between Mexico and Central America (Villafuerte Solis, 2005).
reforms to the articles in the law that penalize illegal migration, Mexico is in a better position to demand from the U.S. better treatment of its nationals that work in that nation” (Teherán, 2007). These significant reforms have been approved by the legislature and were published in the *Diario Federal de la Nación* (National Federal Diary) by the President in July 2008, when they became law. They will be discussed in detail in Chapter 5.

This dissertation aims to assess the participation of civil society in current immigration debates, particularly as it effects change to migration policy, by examining the relationship between state and civil society actors. In order to accomplish this objective, this research seeks to better understand those mechanisms in place which would facilitate cooperation and dialogue between state and civil actors as well as the by-products of such a relationship. Because this topic has not been well researched, the current study is based on government documents and policy documents as well as direct interviews with government and civil society representatives well acquainted with the issues. On the basis of these interviews, the researcher maintains that as Mexico reforms its migration policy, demands for a more comprehensive, actualized and humanitarian policy are being articulated and promoted. Alongside these demands one sees significant advancements within the context of democratic progress. Noteworthy here is the Federal Law of Transparency and Access to Public Information of 2002 (hereafter referred to as the Law of Transparency) (Crespo, 2007, p. 216), as well as a general increase in civil society activity with regard to policy development. Civil society’s participation has been encouraged and reinforced by such new laws as the Law to Enhance the Social Development Activities Performed by Civil Organizations (hereafter referred to as the
Law of Enhancement) (Aguilar Villanueva, 2007, p. 197). There remains a significant “gap” (Cornelius, Tsuda, Martin, & Hollifield, 1994), however, between Mexico’s official immigration policy and actual practices, particularly where unauthorized crossing of Mexico’s Southern border is concerned. Even as the government articulates democratic values of transparency and human rights protection, immigration policies generally remain very restrictive and human rights violations are an everyday occurrence. By way of example, consider such Constitutional articles as Article 33, which limits the rights of immigrants to peacefully associate for political purposes and Article 27, which prohibits immigrants from owning property in border and coastal regions. Consider also that according to a study conducted in the Tenosique area of the Southern border region, 30% of the cited cases of mistreatment of Central American immigrants are attributed to the Public Security police and migration officials (Grayson, 2002). These discrepancies provide further impetus for the assessment of civil society vis-à-vis the gap between policy and policy implementation in a transitioning country.

Given the complexity of migration, it is important to clarify the understanding of migration policy and civil society, their definitions, as well as the current scholarly literature on these concepts. A review of the current political science and migration literature in the English language supports the aforementioned argument that the bulk of migration research has focused on the developed world and that the study of relationship between civil society and migration policy is only just beginning. An analysis of the migration literature by Mexican scholars highlights the extensive attention given to foreigners within the historic, social and economic fields and the significantly less attention within the field of political science. This study, therefore, contributes to the
political science literature by addressing an area of limited focus—the relationship between civil society and migration policy development.

1.1 CONCEPTUAL UNDERSTANDING OF MIGRATION:

While government officials may prefer to discuss policies as resulting from the straightforward application of legal mandates, there are many factors which both influence and reflect migration policy, not the least of which are its implementation practices. These practices are particularly important when analyzing how a State conducts itself. It is with this in mind that the researcher sets forth the definition of migration policy provided by Mitchell: “A set of concerns and actions about what persons from abroad should enter and/or remain [in a country] and about the terms under which they will be permitted to do so” (1992, p. 7). It should be noted that formulating goals is an important part of the day-to-day function of many policymakers. Often these goals will result in either maintaining or changing policy behavior. Thus, as Mitchell (1992) asserts, official statements and proposals must be considered part of policy. This is particularly relevant in Mexico’s case, as official proposals and discussions to restructure migration policy have recently been presented and are currently being reformulated throughout the country. The importance of tracing migration policies to legislation cannot be minimized, however (see Briggs, 1984), as the Mexican case also demonstrates by virtue of its many constitutional provisions focusing specifically on immigrants.

In Mexican migration policy discussions, the word extranjero is used alternately to mean both “immigrant” and “foreigner,” suggesting an interrelationship between the two. As the study progressed, the need to specify the interchangeability of these terms
became more and more evident despite their rather clear contextual differences. The term “foreigner” seems to take precedence over “immigrant,” which seems to be relegated to addressing the issue of Mexicans emigrating to the U.S., a clear reflection of the country’s general understanding of the issue. Foreigners, however, can be either “non-immigrants” or “immigrants”; immigrants are those who wish to reside in the country for a longer period of time (five years) or intend to become citizens. According to the Mexican mindset, once a “foreigner” becomes naturalized, he or she is a Mexican national\(^3\) rather than an immigrant, although this is not the case in legal terms.

Interestingly, neither of Mexico’s key federal statutes—the Nationality Law (*Ley de Nacionalización*) and the Immigration Law (*Ley General de la Población*)—provides a definition of “foreigner,” although it is a concept both use. It is given a *contrario sensu*, however, in Article 33 of Mexico’s Federal Constitution, the apex of the country’s legal system:

> Foreigners are those who do not possess the qualifications set forth in Article 30. They are entitled to the individual guarantees (*Guarantías individuales*) granted by Chapter I, Title I, of the present Constitution; but the Federal Executive shall have the exclusive power to compel any foreigner whose presence may deem inconvenient to abandon the national territory immediately and without the necessity of previous legal action. *Foreigners may not in any way become involved in the political affairs of the country.* (Vargas, 2007a, p. 8)

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\(^3\) In an interview with Fabienne Venet, until early 2008 the Director of Without Borders (*Sin Fronteras*), one of the main civil society organizations addressing migration issues in Mexico, she stated that although born in France, she was now a nationalized Mexican and she appreciated being thought of as Mexican (personal communication, January 31, 2008).
In general, Article 30 of the Federal Constitution stipulates that Mexican nationals are those who acquired Mexican nationality by birth or by naturalization.

The rights and obligations of immigrants in Mexico are not codified in a single federal act, code or statute. Instead, they are found in several legislative enactments, among them: (a) Mexico’s Federal Constitution; (b) specific federal statutes (and their regulations), most of which are derived from the aforementioned Constitution; and (c) Federal and state codes, and special decrees (Vargas, 2007b). Nationality, citizenship and naturalization come under the oversight of the Foreign Ministry (Secretaría de Relaciones Exteriores) regulated by the Law of Nationality. Immigration, in turn, falls under the direction of the Secretary of the Interior (Secretaría de Gobernación) (SEGOB), but it is the National Institute of Immigration (Instituto Nacional de Migración) (INM), which provides direct oversight as it reviews migration policy implementation and any changes to the key documents affecting such Mexican immigration laws as The General Population Law (Ley General de Población) (GLP), the Regulations of the General Population Law (Reglamentos de la Ley General de la Población), and the Immigration Procedures Manual (Manual de Trámites Migratorios). These institutions and laws are discussed in greater detail in Chapters 3 and 5.

1.2 CONCEPTUAL UNDERSTANDING OF CIVIL SOCIETY IN MEXICO:

Because the scope and nature of civil society is subject to a variety of interpretations, it is important to establish what is meant by civil society and what actors comprise it, particularly as it relates to immigration policy. Despite their undeniable interaction with government, for instance, some actors, such as businesses and
corporations, do not necessarily fit within the scope of civil society actors this research 
deems relevant. Thus for the reasons outlined below, civil society is seen here as a 
counterbalance to political and economic interests although functioning with and in 
relation to both state and market. Financial entities have interests in migration and thus 
articulate interests in the policy process however they are part of what is generally 
considered the second sector of the larger society, the state being the first and civil 
society the third.

Empirically “civil society” is used to describe a sphere of society, while 
normatively it is promoted as a type of association believed to improve the wellbeing of 
human beings. In its broadest sense, civil society refers to that social space between 
individuals and primary groups—the family—and the political authority—the state. For 
many civil society theorists, autonomous associations and institutions fill this space 
meaning that civil society is characterized by the independence of these groups from the 
sphere of state activity. Alternatively, there are those sociological interpretations which, 
in criticism of the Western model based on autonomy from the state, argue that we should 
“understand civil society to refer more loosely to the moral community, to the problems 
of accountability, trust and cooperation that all groups face. In this sense all human 
communities are concerned with establishing their own version of a civil society” (Hann, 
as cited in Lane, 2004).

In order to assess whether or not civil society has had some influence in the 
formulation and implementation of its migration policy, this research has had to 
conceptualize civil society as independent from the state (James, 1989; McCarthy et al., 
1992; Salamon & Anheir, 1997; Brinkerhoff, 1999). This concept allows for the
consideration of autonomy in the decision making process and ultimately assess its
degree of influence in real terms. Given that Mexico is actively encouraging the
participation of civil society and promoting its image as a democratic country, as
reflected in official government documents, press releases, and conferences, this
separation between state and civil society gains relevance. Note, however, that such a
separation does not preclude civil society as interacting with the state. It is specifically on
this interaction that this analysis focuses in its assessment of the impact of civil society
on migration policy. Although a relationship must exist and is subject to external
influences, the interaction is not dominated by one or the other sector. Instead, it is a
process of complex interdependence (Tarrow, 1996; Fox, 1996, Ruggie, 1995; Hollifield,
1992; Edwards et al., 2001) and mutual transformation (Migdal, 2001). If the state were
to dominate, the assessment of influence would be nullified.

With this in mind this dissertation has adopted the following definition of civil
society to guide the research undertaken: “the sphere of institutions, organizations,
networks, and individuals located between the confines of the family, the state, and the
market, in which people associate voluntarily, to advance common interests” (“The
Future of Civil Society in Mexico,” 2002, p. 6). This definition offers a framework that
facilitates analysis within the Mexican historical, social and cultural context, as it allows
for the inclusion of organizations which have played an important role in assisting
immigrants in Mexico. Such organizations would include, for example, the Catholic

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4 According to Ilan Semo, editor of the journal Fractal and professor of history at the Iberoamerican
University in Mexico City, one reason Alianza Cívica—a once powerful civic organization involved in
reforming the electoral process—lost influence after the national elections of 1994 was that it became an
asociación política—a political association—“receiving financing from the state itself, and thus its
autonomy diminished” (Thelen, 1999).
Church and the American Society (AmSoc), an organization formed in the early 1900s to provide information, services and socialization to foreign residents and visitors in Mexico.

The participation of civil society in migration policy is only beginning to establish itself at the global level (Thouez, 2004; Lindau, 1998). It is for this reason that a comprehensive understanding of who and what makes civil society in Mexico is important. An understanding of civil society which allows for the inclusion of associations that may only just be forming is vital. Such an understanding allows the researcher to view civil society as more than that sector which provides what the state and/or the market cannot provide, but as an arena within which to work towards the satisfaction of a people’s needs and/or interests. In Mexico—a country transitioning from an authoritarian to a democratic government after 71 years of leadership by one political party, the *Partido Revolucionario Institucional* - PRI—civil society has been documented as playing a major role in the provision of services even while under a dictatorial party regime. The researcher’s definition thus makes room for the understanding that civil society existed even during Mexico’s authoritarian regime.

Significantly, this was not always a civil society created from above (Fox, 1996), since private businesses, private educational, religious and social organizations were part of the country’s everyday life, albeit with restrictions in some cases.

Although civil society has become part of the legitimating rhetoric of democracy\(^5\) and, in this sense, is seen as significant social support to and a component of a democratic

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\(^5\) Democracy is understood as a system of rule characterized by competing elites, of which the governing political elite is legitimated from time to time by voters through elections (Dahl, as cited in Lane, 2003). Opinion polls have shown that Mexicans identify democracy in terms of equality, not so much or only in terms of freedom as U.S. respondents do (O’Neill, 2006, p. 380).
society, the researcher does not claim that civil society has come about as the result of the
democratic process in México. This can hardly be the case when civil society has been
documented to be a part of authoritarian México (Fox, 1996). The assessment of civil
society here is not so much in terms of its function as a participating actor in the
provision of services as in its participation in the formulation of policy and, hence, as an
influential component of a developing and transitioning society: a participation that is
recent and only now being analyzed by scholars as evidenced by the following literature
review.

1.3 MIGRATION, CIVIL SOCIETY AND THEIR RELATIONSHIP:

1.3.1 Migration

Scholarly studies on migration tend to focus on receiving countries, or countries
of destination, which are generally the more developed countries. Not surprisingly then,
explanations largely emphasize the significance of push pull economic factors in
migration, although explanations focused on transnationalism (Massey et al., 1993;
Meyers, 1995), client politics (Koslowski, 2005), efficacy of restriction and foreign
policy have also been provided (Freeman, 1995; Joppke, 1988; Cornelius et al., 1994;
Mitchell, 1992; Garcia, 2006). At present there is no single coherent migration theory.
Instead there are several fragmented theories separated from one another and developed
along disciplinary boundaries.

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6 According to push pull explanations of migration, individuals migrate because a cost-benefit calculation
leads them to expect positive net returns from international movement. For example the lack of
employment opportunities (push) drive individuals to move to areas where opportunities are available
(pull).
Migration in developed and developing, origin or destination countries should be understood as a process in which many variables are engaged in a “self-feeding process with a strong internal momentum that over times reinforces itself” (Hammar, Brochmann, Tamas, & Faist, 1997). Multi-level domestic struggles over vying interests in the political, social, cultural and ideological arenas of a given state have a significant influence on immigration and immigration policy. Recognizing its complexity does not diminish the influence of interest-based politics, but brings to light the need to incorporate institutional and cultural factors (Keohane, 1988; Krasner, 1988; Ruggie, as cited in Czempiel and Rosenau, 1989; Hartigan, 1992; Massey et al., 1993).

The multiplicity of variables affecting migration is unmistakable in Mexico, which is not only a country of emigration—with 11 million of its people living in the U.S.—but also a country that receives immigrants. Immigrants have arrived in Mexico for many reasons. Most of the legal immigrants have arrived for economic and/or work-related reasons. Many, such as executives, professionals, scientists, artists, or athletes working either for Mexican or foreign companies, arrive with secure jobs. Although a common characteristic of this group is a limited stay, there are those among them who choose or have chosen to stay. Among those immigrants who tend to be more permanent, the main motivation for resettlement in Mexico is retirement. This is particularly true of Americans and Canadians in pursuit of a lower cost of living and a milder climate (Palma Mora, 2006, p. 36).

We also find immigrants in Mexico who have arrived for political reasons after being forced to leave their home countries as a result of severe and, in some cases, life-threatening political and ideological strife. Among these immigrants we find the Spanish
(fleeing its Civil War) and German Jewish refugees of the early and mid-1900s and later—in the 1970s and ’80s—Latin Americans, particularly from Central America. In the early 1900s, Asians became Mexico’s fastest growing immigrant population as a result of the U.S. government’s increasing strictures on Asian immigration (Buchenau, 2001, p. 35). Today the bulk of arriving immigrants are Central Americans, but we also find Chinese, African, Indians, South Koreans, and Eastern Europeans crossing Mexico’s border—often illegally—on their way to the U.S. As a result of the U.S. tightening its borders, many of these recent immigrants remain in Mexico permanently (Palma Mora, 2006, p. 38)7.

The interdependence of the various factors involved in the migration process can be put into perspective by building on Freeman and Birrell’s (2001) comparative categorizations of scholarly work. This approach facilitates an understanding of the various theoretical explanations of migration in terms of three simple varieties of logic. Freeman and Birrell’s first framework—the “logic of the markets”—explores the way this particular logic shapes interest groups active in immigration politics. Their second framework—the “logic of rights”—examines the expansion of rights in democracies, while the third focuses on the “state and its capacity” to manage population flows. Interestingly, Hollifield’s (1992) characterization of immigration as a phenomenon governed by four factors—sovereignty, citizenship, labor and humanitarian issues—is compatible with Freeman and Birrell’s scholarly perspectives. The first two factors—sovereignty and citizenship—clearly imply state involvement in establishing control, suggesting it is the “legal right of the state to regulate not only the entry of individuals

7 The demographics of Mexico’s immigrants are examined in greater detail in Chapter 2.
into its territory” (Hollifield, 1992, p. 10), but also to determine which individuals may or may not be citizens. Labor falls within the area of study of those concerned with the logic of the market, and humanitarian issues within that of those who focus on the logic of rights.

In order to explain why developed countries attract immigrants, the “logic of the market” perspective offers such theories as neoclassical economics, labor market theory, dependency theory and world systems theory. Neoclassical economic theory posits that rational actors migrate because of a cost-benefit calculation which leads them to expect positive net returns from international movement. Thus, “differentials between wages and employment opportunities between countries of origin (poor) and countries of destination (wealthier) is the major dynamic driving migration decisions” (Adolino & Blake, 2000, p. 141). By eliminating wage differentials between countries, immigration is reduced. According to labor market theory, it is pull factors, namely the intrinsic demand for labor in modern industrial societies, that stimulates the flow of immigrants rather than push factors—unemployment, for example—in nations of origin. World systems theorists view international migration as a response to the expansion of the capitalist economies to peripheral regions of the world. Market penetration today is seen as brought about by multinational firms driven by the desire for higher profits and wealth. Accordingly, migration is the result of disruptions that occur in the process of capitalist development.

Within the context of these disruptions, the new economics of labor migration theory explains migration as a way of coping with market imperfections: members of a household are sent abroad to “diversify their labor portfolios” and save cash for larger purchases or productive investments, for example (Massey, 1999, p. 305). Meanwhile, in
keeping with the segmented labor market theory, employers in developed areas, when unable to find local labor, turn to immigrants, directly participating in their recruitment and even facilitating or initiating their movement. Word of possible employment tends to spread and, according to social network theory, creates networks of assistance for migrants. Thus, according to the theory of cumulative causations migration “self-perpetuate[s],” given that the “act of migration causes social and economic changes” leading to more migrations (Massey, 1999, p. 305).

Within the framework of the logic of the market we can include Freeman’s single model of immigration politics, which accommodates the fundamental features of all receiving states (1995, p. 896). This model is relevant here, as Mexico, despite small immigration numbers, is framed as a longtime receiving state. Freeman maintains that the politics of immigration in liberal democracies exhibits strong similarities, these being largely expansionist and inclusive. This convergence is a result of those features of liberal democracy which affect the way such regimes process migration issues. Clearly they display distinct modes of immigration politics as a result of their peculiar immigration histories. In other words, “in keeping with the timing and circumstances of their first major immigration the experience and degree to which immigration flows, politics and policies have been institutionalized” (Freeman, 1995, p. 881). According to Freeman and Birrell, the most common mode of immigration politics in liberal democracies is “client politics,” whereby “policymakers interact intensively and often out of public view with groups directly standing to gain from immigration” (2001, p. 527).

According to the “logic of rights” best developed by Hollifield (1992, 1994), two institutional features of modern democratic politics affect immigration. First, they are
influenced at the international level by “embedded liberalism” (Ruggie, 1982), which posits that the postwar order has embedded within it certain liberal notions of rights, norms and principles already partially institutionalized (Hollifield, 1992, p. 31). In many countries, national policymakers are constrained by the universal human rights norms embodied in United Nations conventions and other treaties and agreements. Second, at the state level, liberalism and the international order it has created “protects migrants against arbitrary treatment and constrains the ability of states to regulate their behavior in ways dictated by the outcome of interest group conflicts on the issue” (Freeman & Birrell, 2001, p. 528; see also Rawls, 1971). Cornelius et al. refer to this relationship as a “confluence of markets [push-pull factors] and rights” or a “political-economic dynamic” (1994, p. 10). If viewed in terms of implementation, Mexico defies this perspective. Although its policies would suggest otherwise, accusations of arbitrary treatment of immigrants in Mexico remains a constant, particularly with regard to those illegally entering its Southern border and despite continued appeals from the United Nations High Commissioner for Refugees (UNHCR).

Based on the “state and its capacity” logic, it follows that “state actions have a major impact on the size, direction and effects of migration flows” and “theories of migration that neglect the state role are necessarily incomplete” (Freeman & Birrell, 2001, p. 526; see also Massey et al., 1998; Zolberg, 1999; Portes, 1998; Hollifield, 2000; Fitzgerald, 2005b). Like other theories of immigration, this theoretical perspective focuses mainly on developed countries, but can also be applied to the developing world. From the 1800s to today, the Mexican government has engaged in various efforts to manage immigration. It has implemented policies to control not only who entered the
country, but how many and from what countries (González Navarro, 1994; Knight, 1990; Fitzgerald, 2005a; Kimball, 2007). For example, there was the often referred to “whitening of Mexico” during the Porfirio Díaz administration of 1884-1911, when Europeans were promised land in exchange for cultural and educational contributions which helped modernize native Mexicans. By increasing the number of border officials and detention centers, Mexico is currently establishing more enforcement mechanisms to further close its Southern border. In the year 2000 there were 25 centers and by December 2007, there were 48 with more under construction (Calleros Alarcón, 2007, p. 13). Scholars (Villafuerte Solis, 2005; Castillo, 2003) argue that this recent governmental restrictive phase is due to geo-political, i.e., national security issues and geo-economic issues. Growing evidence of drug trafficking, organized crime, gun traffic, illegal migrations, corruption⁸, and extreme poverty coupled with the nation’s intent to establish and reinforce economic integration schemes such as NAFTA have led to the reinforcement of Mexico’s southern border.

In her 2007 comparative study on migration policy, The Transit State: A Comparative Analysis of Mexican and Moroccan Immigration Policies, Kimball argues that Mexico’s restrictive immigration policies are rooted in its experiences as a country of transit migration. Kimball underscores the influence of geopolitical factors on state policy in general and the influence of U.S. policies on Mexican policy in particular. According to Kimball, Mexico chose to militarize its southern border as a result of financial pressures emanating from the U.S. such that “immigration restrictions have become a chip in the bargaining game” (2007, p. 44). Kimball’s study makes an important

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⁸ Corruption is here understood as defiance against the law, human rights violations and practices of accommodation and payoff.
contribution to migration literature by broadening it to include contemporary migration flows and the challenges they present to state sovereignty in the developed world. On the other hand, because her study is conceptually limited to Mexico as a transit state and does not take into account Mexico’s long history as a country of immigration, it is missing an important piece of the picture of migration in Mexico and of the country’s migration policy. By focusing on the Southern border and its recent restrictive actions and policies, Kimball does not address several constitutional provisions affecting all immigrants to Mexico which are and have been restrictive since 1917.

Some scholars have demonstrated that even though immigration to Mexico is “small in numbers” it has been “great in impact”. They demonstrate that Mexico’s immigration and nationality policy has been influenced by a series of humiliations that the Mexican state has suffered at the hands of foreign states, from the U.S. to France (Bazant, 1991; González Navarro, 1993; Burgoa, 2000; Romero Castilla, 2006; Yankelevich, 2006; Vargas, 2007a). This “Legacies of Nationhood” perspective specifies that Mexican law differentiates between foreigners, naturalized Mexicans, native Mexicans of native parents, and native Mexicans of foreign born parents because Mexico sees itself as vulnerable to international forces. The 1917 Constitution tried to moderate the influence of mostly European and U.S. capitalists who “isolated themselves in urban colonies or dominated the Mexican economy from abroad” (Fitzgerald, 2005b, p. 5). As then-federal deputy Martinez Epigmenio argued in a failed attempt to restrict even further the rights of naturalized Mexicans, “Practice has taught us that those of foreign blood always take care of their own blood, and not that of the others” (as cited in Fitzgerald, 2005b, p. 5). According to legal scholar Jorge Vargas, Mexico’s “constitutional
peculiarity” with regard to the “prohibitions and restrictions imposed on foreigners” is explained by the long history of the sometimes prickly but always roller-coaster type of ride in the conduct of the bilateral relations between both countries, paying special attention to the U.S.-Mexico war of 1846-48 and the tragic and long lasting consequences whose effects continue to be felt today. (2007a, p. 7)

Other scholars contend that the above Mexican “hierarchy of citizenship,” as evidenced in the placement of secondary restrictions on immigrant citizenship, is a result of elite interests (Fitzgerald, 2005b, p. 12), a result of “their attempts to manage a precarious balance between promoting certain kinds of immigration and emigration while preventing international migrants from becoming a vehicle for the intervention of foreign affairs” (Fitzgerald, 2005a, p. 5) by restricting their ability to be represented politically and hold dual nationality, for example. Elite issues also express themselves in terms of Mexico’s emigration policy. Since the 1990s, newly competitive opposition parties vied for the favor of the Mexican population living in the United States, while emigrant rights groups formed to demand the right to vote in the Mexican elections from abroad—a right for which enabling legislation has been subject to continued negotiation despite legislative groundwork laid in 1996. Moreover, the Mexican Congress, making a major change in policy, passed a dual nationality law in 1997, and in 2000 then President Fox extolled migrants as heroes. Much attention has been given to this side of Mexico’s migration issue (see for example Smith, 2006), while less has been devoted to policies affecting foreigners on its soil.
1.3.2 Civil Society

Most governments today are interested in the relationship between state and civil society actors. For approximately two decades this interest has been growing and civil society has gained acceptance as the third sector in the process of economic growth and stability. Some scholars (Castells, 1979; Zermeño, 1990) argue that the economic restructuring that eroded Mexico’s political hegemony of authoritarianism has failed to generate new space for autonomous associations. Other scholars (Monsiváis, 1987; Pérez Arce, 1990; Bilello, 1996) however, have chronicled the emergence of various independent organizations of workers, peasants and the urban poor (Wada, 2005, p. 87). According to the latter, Mexico’s authoritarian regime tried to channel popular dissatisfaction into the institutionalized political arena through a series of electoral reforms. In the context of these reforms economic and civil society was awakened, spurring the creation of many new organizations. It is important to note, however, that most of these associations play a minor part in policy formulation and have concerned themselves largely with local community projects thanks to incentives provided by the government. For example, “the Salinas and Zedillo administrations opened the government’s anti-poverty programs to independent grassroots organizations, under the condition that these organizations would act in concert with the state on local-level, technical problems, directly affecting the poor” (Wada, 2005, p. 89).

As with migration, the civil society concept has an extensive literature addressing a diversity of foci, among them the contribution of social capital to democratization, development, security, and human rights (see, respectively, Lindau, 1998; Kleinberg & Clarke, 2000; Howell & Pearce, 2001; Weiner, 1992; Drachman & Paulino, 2004;
Garcia, 2006). In general, civil society has been understood to refer to the “realm of private voluntary association, from neighboring committees to interest groups to philanthropic enterprises of all sorts, and has come to be seen as an essential ingredient in democratization and the health of established democracies” (Edwards et al., 2001, p. 1). Some scholars emphasize the capacity of associational life in general and the habits of association in particular to foster patterns of civility in the actions of citizens in a democratic polity (Ferguson, 1773; Hutcheson, 1776; de Tocqueville, 1904; Almond & Verba, 1963; Putnam, 1993) and in development processes (Putnam, 1988; Fukuyama, 1995; Salamon, & Anheier, 1992). Among development scholars, we find those who, in their attempt to correct the devastating effects of neo-liberalism, have discovered civil society as a solution to the incapacity of the state and the market to generate economic development. Civic associations remove the financial burdens on the state by functioning as alternative deliverers of social services. In this sense they are de-politicized. (Wada, 2005, p. 89)

Others, however, emphasize civil society as a sphere of action that is independent of the state and, therefore, capable of generating resistance to a tyrannical regime (Foley & Edwards, 1996), allowing civil society to “appear as an arena of challenge and contestation rather than harmony and consensus” (Gramsci, as cited in Wada, 2005, p. 85). Alternatively, some argue for the need to understand civil society as “inclusive of political associations that play important roles in any society and the work of political compromise, restraint and accommodation necessary for reconciling competing interests in a peaceful and more or less orderly way” (Foley & Edwards, 1996, p. 6). In such cases, social movements and political opportunity structures (Tarrow, 1996; Fox, 1996;
Rueschemeyer, Stephens & Stephens, 1992) are vital since they take up neglected
demands and push the political system to engage forgotten sectors and issues (Foley &

Wada’s findings of a “critical vision” of civil society amidst Mexico’s economic
and political liberalization lend relevance to this study in that a “critical vision” of civil
society verifies its existence and its participation within the political sphere. Wada states
that the mere presence of autonomous organizations reveals little about the capacity for
critical challenge (2005, p. 90). Consequently, alternative measures must be considered.
Wada opted to use public protests as a measure of manifestations of civil society. She
concludes that protesting in Mexico has been politicized as a result of economic
restructuring. In other words, popular groups have been shifting the focus of their protest.
Economic material claims have diminished relative to civil political claims, of which
elections claims—representing a 50.8% increase—and political participation claims—
with a 30.3% increase—are the most important categories. Although immigrants’ rights
fall within the category of these civil political rights, they are also considered
“fundamental rights” and, as such, demonstrated only a 6.5% rise in claims (Wada, 2005,
p. 101). Nevertheless, Wada demonstrates that a general shift from defending economic
material issues to fighting for rights, transparency, representation and participation has
taken place.

Fox’s “political construction” approach to civil society in rural Mexico shows that
the building blocks of civic society in authoritarian regimes include political
opportunities, social energy and ideas, and the process of “scaling up” local
representation and bargaining power (1996, p. 1090). These components represent the
“political capital”—attitudes and behavior that influence regimes—which are the mechanisms that link group association and regime performance (Booth & Richard as cited in Edwards et al., 2001, p. 45). In Mexico, Fox identified “an uneven map of social organizations, ranging from enclaves of local democracy to large and entrenched redoubts of authoritarian rule, with complex grey areas of semi-clientalism in between” (Fox, 1996, p. 1098). Fox points out, however, that this map is “thickening,” and within it social capital has been “co-produced” by state and local societal actors or by the interaction of local societal actors and external actors in civil society. Fox’s approach contrasts with Putnam’s predetermined explanation of social capital, and, as such, allows for the perspective motivating this research in its analysis of a thickening of civil society as democratic measures are undertaken in Mexico.

In Mexico, as in many countries where the market and/or the state falls short of providing for all their citizens, the third sector has taken on the responsibility of satisfying the provision of services. This undertaking continues to be an important part, if not the main focus, of their agenda and the reason behind the current deficit of literature addressing the relationship between civil society and migration policy. However, civil society is shifting its focus toward a greater influence on migration policy making (Thouez, 2004; Zincone & Caponio, 2004). The current research is aimed at shedding light on this important shift in an attempt to attract the well deserved attention of more scholars.
1.3.3 The Migration Policy and Civil Society Relationship

The review of the literature in both fields reveals that indeed little attention has been devoted to understanding the relationship between migration and civil society. This lacuna applies to all states: developed and developing states as well as states of origin, states of transit and of destination. The literature with regard to immigration to developing nations or through developing nations—referred to as South-to-South migration—is even smaller and focuses largely on the transfer, i.e., cost and ease, of remittances. We are only now beginning to consider how sectors other than the state and the market—outlined above as the logics of the state, markets and rights—shape immigration policy. According to Thouez, this deficit in the literature is due, in part, to the fact that civil society had focused chiefly on offering operational assistance (2004, p. 2). Other reasons Thouez cites are: (a) the very nature of international migration and (b) the nature of policy networks in the field. Concerns with regard to the first include sensitivities and controversies of a comprehensive approach, migration’s broad scope and inter-linkages, and funding challenges for policy and advocacy related activities. Among the factors accounting for the limited exchange between civil society and the state are the following: States, like civil society, are only beginning to define their priorities in this field; civil society is largely viewed as being chiefly operational; and states are reticent to include civil society in the decision making process despite statements to the contrary (Thouez, 2004, p. 3).

The work that perhaps best addresses the referencing of civil society to immigration is that of Mexican historian Mónica Palma Mora (2006) who has taken a close look at the history and activities of various immigrant associations in Mexico. Her
research offers first hand information on the internal structure of these organizations and the ways in which they maintain the cultural norms of the societies of origin. It also provides sketches of the mechanisms used by immigrants to adapt to the receiving society. Not surprisingly, Palma Mora concludes that although not all immigrants have expressed the same desire to gather, the organizations they have formed can be classified as providers of social services and benefits addressing educational, religious, commercial, cultural, and entertainment needs. The primary objective of these associations was identified as mutual assistance.

Palma Mora’s work underscores the argument that the participation of immigrant associations in the political process is virtually non-existent. Only a few, such as the American Society and the Mexican Japanese Association, have shown an interest in engaging in a diplomatic role. This interest, however, has not gone much further (2006, p. 343). Thus far, government officials and documents make no mention of the participation of immigrant associations in policy making. This is not surprising, since Articles 33 and 125 (the General Law of the Population) of the Constitution preclude immigrants from political participation in Mexico. Although immigrants have the constitutional right to associate, such associations must not deal with political issues. If these associations opt to participate, it is safe to assume that they are either largely integrated by naturalized immigrants and/or descendents of foreigners, or they are Mexicans with interests in human rights. A foreigner or non-naturalized immigrant who opts to participate politically risks immediate deportation without due process.
Palma Mora (2006) demonstrates that immigrants have had a significant economic and cultural influence despite their limited numbers in Mexico. She identifies several associations which have played a major role in the internal organization of various communities of foreign origin in the country. Historically, Mexico City was the first site of concentration for these populations. The intensity of economic activity and diversity characteristic of urban life—the greater availability of services and the attraction of the city as the locus of political power—are just a few of the reasons why immigrants have concentrated in Mexico City, particularly since 1950. Today, the number of immigrant associations in Mexico City is quite high. Seven of the communities identified as those with the greatest historical and numerical continuity since 1895)—representing German, Cuban, Spanish, American, French, Italian and Japanese immigrants—together boast an estimated total of 122 organizations. Sixty-three percent of these, however, were formed by Americans and 22% by Spanish (Palma Mora, 2006, p. 30). Other groups of immigrants demonstrating numeric continuity—for instance, Guatemalans and Canadians—have shown no significant interest in associating. Palma Mora notes, however, that with the passing of time, many of these organizations have dissolved. The descendents of immigrants have integrated into Mexican society while preserving their cultural identities (Palma Mora, 2006).

In the initial research visit to Mexico for this dissertation, a review of the literature on migration and civil society contributed by Mexican scholars was conducted. This review revealed that the main body of research in Mexico does not address civil society’s role in immigration and belongs to the field of history. This research has been mainly conducted by members of academia and in many cases in conjunction with the
Mexican government’s National Institute of Migration (INM). Most of the studies are monographic and case and period specific. For example, de la Peña (1950) analyzes the demographic and agricultural dynamics of the colonization by foreigners from 1821 to 1950. Berninger (1976) examines the controversies of 1821 to 1854 regarding the issue of populating the country with foreigners. Meyer & Salazar (2003) focus on the impact immigrants have had on the business world during the 1800s and 1900s, while Martínez Montiel (1988) analyzes immigrants’ cultural impact. Salazar Anaya (2006) presents an interesting account of xenophobic and xenophilic reactions toward immigrants and the reasons behind these reactions.

The topic of refugees and exiles accounts for a variety of works documenting their demographics and cultural impact, as well as Mexico’s politics of asylum. Such is the case, for instance, with the work of Meyer and Salgado, *A Refuge in Memory: the Experience of the Latin American Exiles in Mexico* (2002). It is González Navarro, however, who provides the most extensive historical review of foreigners and government policies from the early 1800s to 1970s in three volumes entitled *Foreigners in Mexico and Mexicans in Foreign Lands* (1993). His work is of great value as it provides a detailed account of immigration policies and programs for nearly two centuries and highlights the significant impact that this demographic group has had on all aspects of Mexican life. Another significant scholarly source is the previously mentioned work by Palma Mora (2006), which focuses on associations formed by foreigners. Last, but certainly not least, is Kimball’s (2007) study, in which she indirectly concludes that civil society organizations, especially *Sin Fronteras*, have “successfully brought human rights violations to light” (p. 95). Although her study is not focused on civil society, Kimball
adds, “Yet there has been no public outcry to pressure the Mexican government to change their practices to protect the (non-Mexican) migrants” (p. 95). Aside from these studies, there is little if anything else by way of analysis of contemporary migration policy in developing countries or of the relationship between immigration policy and civil society in Mexico.

1.4 CONTRIBUTIONS OF THIS RESEARCH TO THE FIELD:

This analysis does not purport to determine whether civil society’s influence in immigration is beneficial or not, or even if it is necessary for the economic development of Mexico. Rather, it explores the interaction of civil society with states in the shaping of immigration policy in the developing world. As noted, little attention has been given to this issue. The process of answering questions and untangling puzzles needs to start somewhere, however, and that is where this research comes into play. By looking at the immigration issue from the perspective of a developing and receiving state, this study contributes to a fuller understanding of how migration policies are shaped, both in terms of formal regulations and as actual local practices. The study demonstrates that countries can function simultaneously as countries of emigration and of immigration, as detailed in Table #1.1.
### Table #1.1

**Country Categorization: Developed or Developing**

<table>
<thead>
<tr>
<th>COUNTRIES OF DESTINATION</th>
<th>DEVELOPED</th>
<th>DEVELOPING</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>U.S., Canada, Germany, France</td>
<td>India, Malaysia, Thailand</td>
</tr>
<tr>
<td></td>
<td>Most scholarship</td>
<td>Not much available</td>
</tr>
<tr>
<td></td>
<td></td>
<td>scholarship (Sadiq, 2008)</td>
</tr>
<tr>
<td>COUNTRIES OF ORIGIN</td>
<td>U.S. emigrants (i.e. retirees):</td>
<td>Mexico, India, Morocco,</td>
</tr>
<tr>
<td></td>
<td>3,142,849 (Private American Citizens Residing Abroad, 1998); Israel 650,000 (“Absorption Ministry,” 2007)</td>
<td>Turkey, Egypt, Philippines</td>
</tr>
<tr>
<td></td>
<td>Not much scholarship available</td>
<td>Growing literature:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Kimball (2007), Fitzgerald</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2005a, 2005b, 2005c), de</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hass (2005)</td>
</tr>
</tbody>
</table>

In *Controlling Immigration: A Global Perspective* (1994), Cornelius et al. argue according to the convergence hypothesis that there is a growing similarity among industrialized, labor-importing countries in terms of their policy instruments chosen, the efficacy of their control measures, social integration policies and public reactions to immigration flows and governmental efforts. They likewise demonstrate by means of the gap hypothesis that there is a wide gap between immigration policies—laws, regulations, executive actions—and actual outcomes of these policies. The difficulties experienced by industrialized democracies arise out of a “confluence of markets”—the “push-pull” factors—and “rights”-based politics, as in the case of human rights regimes. One of their case studies is Spain—a newly democratic country—which by 1985-86 was receiving a substantial number of immigrants and had transitioned from a labor exporting to a labor importing nation. Spain is now one of the top 10 immigration countries in the world. In
the 1970s, Spain underwent a transition from an authoritarian to a democratic regime. Because Mexico and Spain share similarities, the current analysis supplements/strengthens/solidifies the argument of Cornelius et al. (1994) and represents an important addition to this strand of comparative politics and migration studies literature. Mexico’s immigrant population, like Spain’s, is shifting from highly educated Europeans to largely poor and uneducated Latin Americans. In the 1980s, Mexico also embarked on a continuous path of economic liberalization and, in 2001, in its first “free elections,” Mexico elected President Vicente Fox in 2001 of the National Action Party (Partido Acción Nacional) (PAN). This election marked the first time the Mexican people were free to elect someone other than a candidate selected by the Institutional Revolutionary Party (Partido Revolucionario Institutional) (PRI).

As the literature review demonstrates, there is limited availability of data pertaining to the influence of civil society on immigration policies in newly democratizing developing countries. Although some studies do exist (Brinkerhoff, 1999), they tend to general in nature, and, more importantly, they do not include an analysis of the Mexican case. Hence the findings of the current study provide valuable information regarding what is taking place in Mexico today. The study also sheds light on what factors are conducive to establishing a state-society relationship in a “developing/transitioning” state and what factors act as stumbling blocks. In other words, this analysis contributes to the understanding of how civil society “thickens” and “how citizens overcome obstacles of collective action” (Fox, 1996, p. 1089) in societies transitioning from authoritarian to democratic government.
It is important to mention the relevance of the Mexico case to a global perspective. Given its focus on broad concepts—immigration and civil society—concepts which have been developed in comparative studies, the current study has application to other cases (Ragin, 1994; Lijphart, 1971; Landman, 2006). Its conclusions may be comparable or applicable to other countries with similar historical experience—Latin American countries, for example—or countries experiencing similar immigration and political dynamics, i.e., countries of recent immigration and/or countries experiencing regime change—such as Italy and Spain. This comparative perspective is expanded in Chapter 6.

1.5 METHODOLOGY:

This dissertation is based on an extensive analysis of the literature and demographic information obtained from governmental materials, web sites, general documents and printed books, as well as a review of important theoretical works on migration and civil society. In light of the limited availability of information and literature on the “state-civil society” migration policy relationship, however, relevant information could be obtained through conducting field research in Mexico, which meant soliciting the direct participation of relevant government and civil society representatives. To that end, two field trips to Mexico were conducted, one in 2008 and another in 2009. During the first stay, the researcher conducted eight interviews: five in Mexico City—the locus of power—and three in the state of Oaxaca—a significant area both of permanent residence and of transit for many migrants making their way to the U.S. Prior to conducting the second field trip another interview took place in New York City as Father
Rigoni Director of the Casa del Migrante (Migrant House) of Tapachula, Chiapas happened to be attending a migration event. During the second field trip three more interviews were conducted, two in Mexico City and one in Ciudad Ixtepec, Oaxaca.

Initial contact with most interviewees was established via electronic correspondence and was facilitated by snowball sampling. Although guided by a set of specific questions, interviews followed an open format, allowing the researcher to ask questions pertinent to an organization’s activities as perceived by the interviewee. It was then possible to probe according to individualized responses to gain further insight into their activities, something that a closed format would have precluded. Although all interviewees were given the option of remaining anonymous, none seemed concerned about anonymity and only one requested any limitations. This approach afforded the interviewees the opportunity to freely express their feelings about their success or lack thereof with regard to developing and/or influencing policy.

The significant contributions offered by field work are exemplified by the researcher’s interview with Lucía Cruz Vázquez of the state government’s Instituto de Atención al Migrante Oaxaqueño (State Coordination for the Attention to the Oaxacan Migrant) (personal communication, February 1, 2008). Cruz Vázquez revealed how her visits to the Mexico-Guatemala border broadened the agency’s original focus. Although her agency deals primarily with Mexican emigrants returning to Oaxaca, she and State Coordinator Aída Ruiz García have made it their aim to draw attention to the conditions suffered by migrants from Central America as they attempt to enter Mexico. One result of this effort was the book Migrants through the Southern Door authored by Cruz Vázquez and Ruiz García (2003) with an introduction by then State Governor José Murat. This
study documents human rights violations suffered by immigrants not only from everyday criminals but also at the hands of government officials. It is my understanding that this was one of only three remaining copies of this report. This valuable resource would have been unavailable were it not for the direct interview. It is interesting to note that because Cruz Vázquez’ agency concerns itself largely with emigrant issues the researcher had initially assumed that the office was of no relevance to the study. It was only thanks to an earlier interview with Father Fernando Cruz Montes of the Centro de Orientación del Migrante de Oaxaca (Orientation Center for the Migrant of Oaxaca, COMI) (personal communication, February 1, 2008)—that I learned of Cruz’s activities on behalf of illegal immigrants and benefited from his helpful referral. Although COMI opened its doors in February 2003 under the auspices of the Oaxaca Catholic Archdiocese, it networks with other migrant houses across Mexico, namely with the Scalabrinian safe houses mentioned below. COMI offers a place to stay for three days and three nights at its Casa del Buen Samaritano (House of the Good Samaritan) and informs migrants of the risks they may face as well as of their rights and obligations. It offers medical assistance, clothing, assistance with wire transfers and a phone call. At COMI one observes not only Mexicans helping Central Americans, but other foreigners, particularly Westerners, providing support to the less fortunate.

The interview format also lent itself well to the discovery and exploration of those factors in which are conducive to an effective state-civil society partnership (Brinkerhoff, 1999). The researcher was able to identify the existence of established mechanisms for communication and cooperation between the relevant state agencies—SEGOb, INM—and the most prominent civil society organizations in the field, Sin Fronteras (Without
Borders) and Casa del Migrante (Migrant House) headed by Father Rigoni. Sin Fronteras is considered one of the most powerful civil society organizations in Mexico as it influences both public opinion and politicians. An organization of the Catholic Church, Casa del Migrante is part of the network of migrant safe houses headed by San Carlos Scalabrinian Missionaries and scattered throughout Mexico and Guatemala. Thus, the interview format uncovered the ease of communication and flow of information among and between state and civil society organizations which federal websites inadvertently conceal. These websites were helpful, however, in that they identified the official networking mechanisms whereby programs and services to migrants are developed. The interviews highlighted the existing network, however, since nearly all of the interviewed officials had knowledge of and regular contact with civil society representatives and their activities and vice versa. This familiarity and contact was also evident from the referrals. Significantly, it was often thanks to government officials that the researcher gained important contacts with civil society representatives.

With respect to resource capacity—another factor necessary for an effective partnership—conducting interviews at the offices of the representatives of civil society organizations allowed the researcher to directly observe activities, resources and limitations. It was the researcher’s visit to the Brothers on the Path Shelter run by Father Solalinde Guerra and to the COMI offices that particularly highlighted the challenges Mexico’s civil society faces due to a lack of resources. The Shelter is practically run in the outdoors with hammocks for beds. COMI works out of a small office equipped with a

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9 For more information on this network see http://www.migrante.com.mx/index.php. Migrant safe houses are located throughout Guatemala and Mexico. They offer room and board to migrants for three days. Those seeking asylum are permitted to stay in the houses until such time as their status is determined by the INM.
phone and computer. Limited resources provide one explanation as to why COMI and other organizations focus much of their effort on providing services rather than influencing policy.

It became apparent early on that interview-based field research offered many advantages\(^{10}\), not the least of which was those significant insights into the state and civil society relationship which could not have been gained otherwise. Nevertheless, important information was also gathered from the analysis of government documents, proposals, press releases and official publications. These sources provided the necessary background information on the legislative and institutional reforms undertaken by the Mexican government and helped reinforced the interview findings.

\begin{figure}[h]
\centering
\includegraphics[width=0.5\textwidth]{Casa_del_Migrante.jpg}
\caption{Casa del Migrante: Father Rigoni’s Migrant Shelter, Tapachula, Chiapas. Source: Tapachula – Red Casas del Migrante Scalabrini (n.d.). Image used with permission of Father Rigoni.}
\end{figure}

\(^{10}\) As stated these onsite interviews also afforded the researcher the opportunity to observe that a number of immigrants—particularly American immigrants—were volunteering/offering their time and expertise to help other immigrants in distress. This observation served to reinforce the trend in Mexican immigration whereby Western immigrants relocate to Mexico out of desire whereas non-Western immigrants do so out of need.
1.5.1 The Subjects Interviewed

An initial literature search on Mexican immigration quickly brought to light those obvious federal and state organizations with migration jurisdiction within which interviews had to be arranged. These included the Ministry of the Interior (SEGOB), the National Institute for Migration (INM) and National Commission for Refugee Aid (COMAR). As part of the Executive Branch, the Ministry of the Interior is responsible for the political development of the country and for fostering and coordinating the relationship between the Executive and other powers of the Mexican Union, as well as with other levels of government. It is its Registro Nacional de Población e Identificación Personal (National Population Registry and Personal Identification) (RENAPO) that is in charge of the registration and identification procedures of Mexico’s population demographics. Mexico’s newest registration program, called CURP for Clave Unica de Registro de Población (Single Registry Code), aims to provide an identity to everyone within the Mexican population, which is understood to be all residents of Mexico—Mexicans and foreigners alike—and Mexicans living abroad. The INM, also an independent but surrogate entity of SEGOB, is the leading agency in terms of the planning, implementation, control, supervision and evaluation of Mexico’s migration services as delineated by the General Law of Population and the Mexican Constitution of 1917. The agency is responsible for the coordination of the various federal entities in the country that address migration issues in one way or another. Preliminary contacts with

\[\text{\textsuperscript{11}}\text{See Appendix for list of interviewees. Although most of these interviews took place in Mexico, Father Rigoni was interviewed in the U.S. during a visit to the Center for Migration Studies in the summer of 2008, and Mari Carmen del Rio Yelni was interviewed in Washington, D.C. in the fall of 2008 while serving as a discussant at a workshop on global motility. All interviews took place between January 2008 and January 2009.}\]
individuals at INM and SEGOB led to the identification of other important government players in the field such as the National Commission for Refugee Aid (COMAR). COMAR has as its mission the determination of who is a refugee as well as the provision of assistance to these refugees through partnerships with other agencies according to national and international law.\footnote{These government institutions are discussed further in Chapter 3.}

Specifically, the government officials interviewed included Carlos Anaya Moreno, Director of SEGOB’s National Population Registry, his Legal Director, Ana Guadalupe Correa Torres; INM’s Center for Migration Studies Director Ernesto Rodríguez Chávez and Director General for Legal Affairs María del Carmen del Río Yelni; COMAR’s General Coordinator Katia Somohano Silva and Assistant Director María Luisa García Hernández. At the local level, Lucía Cruz Vásquez, Chief of Information, Diagnostics and Research of the Oaxacan Coordination on Attention to Migrants was interviewed.

The Coordination was created in 2004 to help improve the quality of life for migrants, migrant families and migrant communities in the state by means of public participatory policies such that migration would no longer be seen as a necessity, but an option. Its services include offering legal advice, labor training and workshops, locating family members in the U.S., filling out the necessary paperwork for sick family members returning from the U.S., assisting individuals looking for lost family members and retrieving the bodies of those who have passed away in the U.S. As previously mentioned although the Coordination’s services are mainly geared to Mexican migrants, it was
deemed relevant to this dissertation as some of its resources have been redirected to investigate the plight of Central American migrants in Mexico.

Because some of the most significant amendments to the General Law of Population were introduced by Mexico’s Congressional Committee on Population, Borders and Migration Issues at the Sixtieth Legislature Chamber of Deputies, Congressman Edmundo Ramírez Martínez, Committee Secretary and Coordinator of Migrant Issues for his party, the Partido Revolucionario Institucional (PRI) was identified as a key actor. It was Congressman Ramírez Martínez, along with other members of Congress—Andrés Bermúdez, José Nicolás Morales Ramos, and José Jaques y Medina—who submitted the initiative to decriminalize illegal entry to Mexico in the General Law of Population, thereby reducing illegal entry to an administrative infraction no longer punishable by jail time (see Chapters 5 and 7). This initiative was unanimously approved by both the Congress and the Senate in 2007, and signed into law by President Calderón when he published it in the Diario Oficial de la Federación (Official Diary of the Federation) in July of 2008.

As for civil society organizations, it soon became evident that Sin Fronteras and a few organizations within the Catholic Church were particularly significant. Then Director of Sin Fronteras Fabienne Venet was interviewed, as were Father Cruz Montes of COMI, Father Flor María Rigoni of the Scalabrini network of shelters (Casas del Migrante) and Father Solalinde, who is Coordinator of the Pastoral de Movilidad Humana Pacifico Sur del Espicopado Mexicano (Catholic Pastoral Care Center for Migrants) and Director of the shelter Hermanos en el Camino (Brothers on the Path) in Ixtepec, Oaxaca.
*Sin Fronteras* was founded in 1995 by a group of social activists led by Fabienne Venet. It provides services to the migration population and encourages participation in the establishment of appropriate policies, legislation, and migration programs. As for the provision of services, *Sin Fronteras* offers migrants guidance and conducts educational workshops to educate them on their rights. It also arms them with information on naturalization and work eligibility, and assists them with the necessary paperwork relative to their status as migrants. *Sin Fronteras* coordinates a legal community clinic on migration services. It provides direct services and guidance to refugees and migrants in need of special attention in terms of food, housing, medical, educational, and training services with the intent of facilitating their assimilation into Mexican society. It also oversees and monitors migration centers to ensure that migrants are well treated. In a collaborative effort with the state, it offers workshops aimed at educating immigration officials on human rights issues. Finally, it conducts research and disseminates its findings through an established network, as well as at conferences and meetings with other state and social organizations concerned about migration issues (See http://sinfronteras.org.mx).

The three Catholic organizations interviewed, *COMI, Casas del Migrante,* and *Pastoral de Movilidad Humana* (Catholic Pastoral Center) and its *Hermanos en el Camino Shelter* (Brothers in the Path) share a common mission of provision of aid to any

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13 Although Mexican official policy views the Church as an entity of its own falling under the category of religious organizations as opposed to civil society organizations, this research defines civil society as inclusive of them (see SEGOB, 2008). As stated previously the definition used here is: “the sphere of institutions, organizations, networks, and individuals located between the confines of the family, the state, and the market, in which people associate voluntarily, to advance common interests” (CIVICUS as cited in “Future of Civil Society,” 2002, p. 6). This definition allows the researcher to capture more broadly the participatory and associational activities taking place in Mexico while maintaining their independence from the state and the market. It is because of this “independence” that the CNDH was considered not a part of civil society, but under the purview of the state since its members are appointed by the Senate.
migrant in need. As previously mentioned this provision includes such basics as housing, food, medical assistance, clothing, legal assistance, and even the use of a phone. Although part of a larger network, each shelter is independently administered. These shelters willingly share information about the migrants and are in regular contact as the migrants travel through their network. The *Pastoral de Movilidad Humana* operates 35 shelters across the country. *Casas del Migrante* is actually a network of five shelters—two in Guatemala (Guatemala and Tecún Umán) and three in Mexico (Nuevo Laredo, Tijuana and Thapachula). These shelters gather and document information on the migrants, particularly in cases of human rights violations, which they then submit to the state to encourage collaboration.

More than 30 Mexican organizations, many of which fall under the purview of the Catholic Church, have been identified as making migration issues part of their agenda. Although some of them are, in fact, crossing the divide between service provider and policy maker a review of the literature referencing these organizations—pamphlets, web sites, newspaper articles, government reports, and so forth—confirmed, however, that most of them lean toward a greater focus on emigrant issues. Nevertheless, In 2001 these organizations, together with academics and activists interested in migration set up a forum, *Foro Migraciones*, to meet and exchange ideas and information. According to this forum’s “Statement of Activities,” their main objective is to advance a mutual learning of the issues emphasizing joint analysis and exchange of experiences in order to develop a common vision of improving the rights of migrants in Mexico. Several of the organizations make reference to influencing policy within the context of a general interest in promoting human rights. However, *Sin Fronteras* alone directly states a policy
mission: “[to] address…the issue of migration and refuge…It does so through promotion, defense, social and legal support, education, diffusion of information, relationship building and participation in the development of legislation, policy and migration programs” (see http://www/derechoshumanoenmexico.org/foromigrationes/integrantes.htm).

Because his center was identified by the INM Regional Commissioner as an organization where “foreigners” gathered to address social and political issues of concern, Gustavo Esteva Figeroa, Director of the Centro de Encuentros y Diálogos Interculturales A.C. (Center for Intercultural Meetings and Dialogue) in Oaxaca was also interviewed. Figeroa outlined one of the center’s functions as that of promoting the rights of indigenous people, particularly the right to learn. His center is part of the Universidad de la Tierra (University of the Earth), which hosts students, professors, researchers and others from different cultures and countries, and promotes the idea that learning is best accomplished by doing what one wants to learn. Part of the learning process includes participating in and initiating public activities and political campaigns on such issues as cultural regeneration, technological and socio-political innovation—like organic farming and waste disposal, for example—and social struggles.

As discussed earlier there are various organizations in Mexico that are formed by immigrants themselves. Created with the purpose of providing a meeting space to gather with other “expatriates” —as the immigrants often refer to themselves—these organizations serve largely social, cultural and educational milieus.\footnote{These organizations are discussed in greater detail in Chapter 2.} Some of the organizations—the American Society, the Dante Alighieri Society, the Italians on
Foreign Soil Committee and the Japanese Association for example—may have interest in diplomatic involvement which would represent the interests of their members and influence political, legal and economic decisions affecting them (Palma Mora, 2006). Such may be the case, for example, with the implementation of Article 33 of the Constitution, impacting on their inability to elect representatives in government and participate in public positions. Their involvement is linked, however, to funding from home countries and is, therefore, negligible, at best. These organizations were not cited in any relevant immigration documents reviewed by the researcher. Nor were they said to be part of the process by any of the interviewees. In addition, their mission statement, goals and list of events, as presented on their respective web sites, make reference only to cultural, educational and charitable commitments. Nevertheless, American Society Vice President Cynthia Kaplan was interviewed to verify this information or, perhaps, on the other hand, to identify a pending change in the agenda of these organizations. The interview (2009) did confirm their non-political stance with Kaplan’s clear reference to the associations’ by laws.

1.6 THE ARGUMENT: ONE STEP FORWARD, TWO STEPS BACK:

Historically, immigration has affected Mexican life not only culturally and economically, but also politically. It has had a significant effect on government policies. The awareness of the threat of another country interfering in Mexico’s domestic affairs has been evident since the drafting of its Constitution in 1917. But despite its nationalistic rhetoric, Mexico has welcomed the benefits provided by well educated and financially solvent foreigners. In order to do so, government officials have found ways to maneuver
around Constitutional and regulatory restrictions or simply ignore them. Less fortunate immigrants, on the other hand, who either attempt to use Mexico as a trampoline to the U.S. or decide to reside in Mexico, have not received the same welcome. This discrepancy has been particularly evident in the case of immigrants who are neither solvent nor well educated. Civil society organizations concerned with the issues of immigration have taken notice of a disparity which has created the impetus for their mobilization in the policy arena.

While Mexico is making significant strides towards a more democratic government and the relationship between government and civil society is improving with regard to immigration policy, the waters are still murky. There has not as yet been sufficient public outcry regarding the injustices suffered by immigrants, to prevent the Mexican government from merely adjusting its policies to suit the demands of the U.S. government. At this point in time, the government’s attention remains fixed on measures aimed at tightening its Southern border—boosting law enforcement efforts, for instance, and building more detention facilities. Very few civil society organizations are involved at present in migration policy reform; most focus on the direct provision of services to migrants. Those that choose to get involved, such as Without Borders (Sin Fronteras), see things getting worse rather than better for Mexico’s immigrants, particularly for undocumented immigrants. In light of this perception, these organizations have begun to think that they must change their strategy and focus on human rights in order to make a difference (Venet, personal communication, 2008). They view the potential alignment with international human rights organizations and conventions as a force of change (Hollifield, 1992), particularly since Mexico remains heavily influenced by “client
politics,” i.e., the politics of international forces and elites, which, of course, would include emigrant groups (Fitzgerald, 2005b) and business organizations.

In their 2006 book mentioned above, Cruz Vásquez and Ruiz García of the Oaxacan Coordination on Attention to Migrants stated with some optimism the following in reference to Central American immigrants making their way through Mexico’s Southern border:

Fortunately voices of protest have been able to turn our sight around, so that an invisible population gets to be increasingly recognized…. Voices of protest have risen stating their inconformity and asking why do we ask for a humane treatment of our nationals migrating when that type of treatment is not afforded those who enter the country? [researcher’s translation]. (p. v)

Two years later, however, during my interview with her, Cruz Vásquez expressed no such optimism: “Nothing has changed with regard to policy/law or with the behavior of border officials” (personal communication, February 1, 2008). According to Cruz Vásquez, the Southern border is a little known reality. Many are able to cross it, go through Chiapas and, with some luck, reach Oaxaca, but only a few reach the Northern border without being subjected to one kind of violence or another. In her opinion, the contradiction between the way Mexicans see their emigrant nationals as individuals with rights and the way they see immigrants as criminals has not sunk in enough for them to realize that they are treating non-Mexicans the same way Mexicans are treated in the U.S. Although Cruz Vásquez initially expressed hope—a hope based largely on President Fox’s and Calderón’s expressions of commitment to a new immigration policy—her hope is now gone.
While an administrative relationship has been established between government and civil society, this relationship has not yet been cemented. According to Brinkerhoff (1999), the government tends to have the upper hand in a state-civil society relationship, and in order for the relationship to flourish, certain mechanisms need to be in place to provide civil society with adequate space. Some of these mechanisms are in place, such as civil society liaisons and divisions established within key government agencies, as in INM.

Along with the previously mentioned gap hypothesis (Cornelius et al., 1994) which states that in developed and labor importing countries a significant gap persists between official immigration policies and actual policy outcomes, despite major democratic changes, this gap is evident in Mexico. This can be said to be in some cases a result of “client politics” (Meyers, 1995; Joppke, 1998; Freeman, 1995; Massey, 1999; Calavita, 2005; Fitzgerald, 2005). Also client politics refers to the tendency for immigration policy making to be hijacked or dominated by special interest groups in liberal democratic countries like the U.S., Canada and Australia. This is especially true in countries like the U.S. with its very active civil society (Cornelius et al., 1994, p. 13; Hollifield, 1992). Although there is no global enforcement mechanism which would guarantee the rights conferred on migrants by international conventions, in Mexico’s client politics—business interests, for example—together with other international political pressures are contributing to this gap. There are two perspectives on this gap: (a) policy as “statements and plans” aimed at restricting the flow of illegal immigrants is implemented despite expressions of humanitarian violations taking place during their
implementation process, and (b) restrictive regulations applying to legal immigrants—particularly the educated and wealthy—are often ignored or circumvented.

Although the right policies and regulations may be in place, they are often ignored. This problem can “benefit” foreigners who need not concern themselves with what the laws states regarding an extension of time, employment, or even purchase of property in a given country. People and/or government officials merely look the other way. However, there is also the case as with the decriminalization of illegal entry when despite the law’s intent to protect the well being of immigrants, human rights violations persist. The key to lasting change may not lie solely in the modernization of legal statutes or in the strengthening of administrative mechanisms. It is clear that there is also a need for a cultural change in terms of respect for the law. Such an attitude change, however, is not easily achieved and goes beyond the purview of this study although the dilemma has not gone unnoticed. When asked about reforming Article 33 of the Constitution, which both prohibits foreigners from participating in political issues and gives the President the right to extradite a foreigner without due process whenever he/she is considered “inconvenient,” a government representative aptly responded, “Why change the law when we really do not implement it?”

In keeping with Cornelius’ et al. (1994) argument, the restrictiveness of Mexico’s policies results in part from international pressures, most notably from the U.S. Since the influence of civil society is limited as yet, the Mexican government has gotten away with tough border and internal control measures (Kimball, 2007). By contrast, with regard to emigrants in the U.S., the Mexican government has not only taken advantage of the significant role played by civil society organizations in the U.S., but has made strong
demands for a humane and dignified treatment of its nationals. Numerous references to U.S. Congressional debates, as well as to the actions of U.S. civil society can be found in government documents, particularly those promoting the need for changes in Mexico’s policy (INM, 2006).15

Since little public opposition has been generated, civil society organizations attempting to change immigration policy in Mexico face many stumbling blocks. Nonetheless, they have no intention of giving up. They have achieved a significant degree of influence16, as expressed in their participation in high level meetings where they freely present their position. The groundwork has been laid and backed by such legal mandates as the 2002 Federal Law of Transparency and the 2003 Law of Enhancement. What remains to be seen is whether or not civil society can advance without any more setbacks.

1.7 CONCLUSION:

Although our knowledge of migration, and of how governments deal with it, has increased over the years, scholarly analysis remains overwhelmingly focused on destination and developed countries, a limitation to our understanding of the phenomenon as a global one. By focusing on Mexico, this dissertation extends this focus to the developing world. Furthermore, given the complexity of Mexico’s migration experience—evolving during a period of regime transition—this dissertation also adds to

15 “Hacia una Política Migratoria del Estado Mexicano (Towards a Migration Policy for the Mexican State),” Instituto Nacional de Migración (National Institute of Migration) (INM), 2006, p. 11.
our understanding of the actors and processes involved in migration policy formation during such transitions.

Since Mexico is rightly considered a country of emigration, its reality as a country of immigration, transit, refuge and return migration, is not readily understood outside of Mexico itself. Immigrants have had, and continue to have, a significant impact on the country’s economy, culture and especially on its politics and legislation. This impact has reflected itself in a restrictive migration policy, one that limits the activities and rights of foreigners on its soil—a reflection of Mexico’s struggle with its need to attract highly skilled labor but guard its national sovereignty against foreign intrusions. However, today, Mexico has come to terms with the complexity of its migration reality and is aware of its need to enhance its image as a democracy that upholds the human rights of all individuals. This realization has led the Mexican government to embark on a comprehensive process of institutional and policy reforms on migration, and while doing so it has encouraged the participation of civil society in the process, providing this dissertation research with a significant opportunity to assess the development of a state-civil society relationship on migration.

Civil society in Mexico has begun to participate in the formulation of key policy proposals and reforms. The state civil society relationship has been somewhat fruitful, however, it continues to face significant stumbling blocks, a result of Mexico’s entrenched culture of corruption—here understood as defiance against the law, human rights violations, practices of accommodation and payoff—cultivated during its authoritarian past. Nevertheless civil society has been mobilized and today it has the regulatory tools to extend its participation.
To better understand how the state-civil society relationship on migration policy moves forward in Mexico, a picture of who are Mexico’s immigrants is necessarily relevant as it sheds light on the claim of Mexico as a country of complex migration. This is the focus of the following chapter.
CHAPTER 2: WHO ARE MEXICO’S IMMIGRANTS?

Throughout Mexico’s history, immigrants have left an indelible mark on its political, social and cultural fabric. Going back to the time when Mexico fought for its independence from Spain (1810-1821), immigration was very much a part of the debates as to how the newly-independent country should be built and populated (Berninger, 1974; González Navarro, 1993; Palma Mora, 2006; Alanís Enciso, 1996, p. 539). By the mid-1850s, British and Americans were dominating Mexican mining and oil industries, as well as its cash crop agriculture; European and Chinese immigrants had taken control of banking and commerce; and French and Spanish families had pioneered the industrialization of Mexico. In general, immigrants from a variety of countries have played, and continue to play, significant roles in national politics, the arts and academia. Immigrants have brought to Mexico their specific needs, interests, ideas, and social and cultural behaviors, which in turn, intersect in some way with those of their host society. A demographic analysis highlights that the intersection between immigrants and Mexican nationals has created a mosaic, or as Buchenau (2001) has depicted it, “a salad bowl” in which different cultures retain their customs and language while seeking accommodation within the one state (Thelen, 1999, pp. 4-5). Furthermore, as Mexico has become more urbanized and industrialized, this mosaic has become more multi-chromatic. Immigrants have not only learned Spanish and come to terms with their host culture on an everyday basis, but have confronted a combination of xenophilia and xenophobia characteristic of Mexican attitudes toward foreigners. The children of immigrants have assimilated into a vital Westernized elite influenced by today’s modern technology—particularly the
internet, TV and mass popular culture (Buchenau, 2001, pp. 24, 45). Central American immigrants, however, are facing a renewed xenophobia. Oriented toward those with limited resources, this renewed xenophobia poses an obstacle to their integration, should they desire to stay in the country.

Immigrant groups which have registered a historical continuity in Mexico include those from the U.S., Cuba, Guatemala, Spain, France, Germany, Italy and Japan. Although other groups, such as British, Lebanese and Chinese immigrants, are also of significance to our analysis, they have more recently registered decreased numbers. Meanwhile, groups from Latin America, mainly Guatemala, are currently gaining numerical significance as they attempt to make their way to the U.S. In the process, some decide to remain in Mexico.

Given the significant impact immigrants have had and continue to have on Mexico’s social, cultural and economic development, as well as on its policy orientations, this chapter is devoted to a numerical and demographic overview of Mexico’s migration flows. This overview will highlight the researchers argument of Mexico as a country of immigrants, complementing the common perception of Mexico as a country of emigration and transit.

2.1 A NUMERICAL PORTRAIT:

Immigration in Mexico presents a complex portrait. Although the overall number of immigrants to Mexico has steadily increased since 1895—the year of the first national census—intermittent decreases have occurred, particularly during the periods of 1910 to the 1920s and 1960 to the 1970s (see Tables #2.1 and 2.2 at the end of this section).
Interestingly, the total number has yet to reach even a full 1% of the total population, remaining at just .5%. It is important to note here that numbers and estimates vary, sometimes significantly, among sources—be they official estimates or estimates made by private organizations. These variations are relevant, particularly when attempting to assess the illegal portion of this population. All things considered, the number of migrants residing in Mexico is and continues to be minimal compared with the 38.4 million immigrants residing in the U.S. or the 12.1 million in Russia—the top two counties of immigration, according to a United Nations report (2006). According to this same report, Mexico does not rank even among the top 20 destination countries. This, however, does not diminish the impact which immigrants have had on Mexico. This undeniable reality is pertinent to the current study.

Many of the numerical ups and downs reflected in the census data can be linked to the effects of such worldwide events as the first and second world wars, the rebuilding of the European economy—which carried a high demand for labor in the rebuilding process—the development of capitalism after the second world wars (Palma Mora, 2006, p. 214), and, perhaps most importantly, national events and policies in Mexico. Significant in this regard are the revolution of 1910 and the economic crisis of the 1980s. Clearly, the Mexican state itself has played a significant role in these demographic realities. Although this role is examined in detail in Chapters 1 and 4, it is sufficient to note at this point that when Mexico faces times of economic or political crisis, immigration drops. Along the “logic of the market” perspective, the main pull factors for immigration—available land and jobs for lower-class immigrants—are not sufficiently attractive. Most recently, Mexico’s strategic position as neighbor to the U.S. has thrust it
into the role of a country of transit immigration. Because not all transit migrants make it
to the U.S., Mexico has become the recipient of unintended immigrants who decide to
make their home in Mexico while en route to the U.S. Additionally, the North American
Free Trade Agreement (NAFTA) of 1994 encouraged the migration of professionals and
technologically qualified individuals from Canada and the U.S. That same year, Mexico
registered the entrance of only 30,422 business visits, but by the following year, 1995,
that figure doubled to 63,583. In the year 2007, there were 421,018 business visitors from
the U.S. and Canada alone with 390,955 coming from the U.S. and 30,063 from Canada
(INM website, 2009). Another key motivator from the latter part of the 20th century
onward has been what Mexico has to offer by way of culture and climate. These features
attract retirees, also known as “lifestyle migrants,” who generally, are economically
stable individuals coming from the middle class of wealthier countries.

Although sending countries change from time to time, those countries with the
most continuous representation since 1895 include the U.S., Canada, Cuba, Guatemala,
Spain, Germany, France, Italy, and Japan. Interestingly, the U.S. has remained the
country with the greatest representation, beginning with 13,000 immigrants from the U.S.
in 1895 and increasing to 342,591 in 2000. The U.S. is followed by Spain and Guatemala
until after the 1980s, at which point Guatemalans became second as a result of the
country’s internal war and an increased presence of refugees (see Tables #2.1 and #2.3,
and Figure #2.1). Since 1895 these three countries have represented 48% of the total
foreign population, but since 1950 they represent over 70%. It is important to note the
possible link of today’s increase in the number of immigrants from the U.S. to recent
U.S. efforts to repatriate illegal Mexican immigrants. As these nationals return from the
U.S., they do so with their American citizen spouses and, in some cases, with their American-born children who, although legally considered Mexican nationals, are documented as foreign-born. This assessment is supported by the 2000 Census, according to which 45% of immigrants to Mexico are between 5 and 19 years old (Consejo Nacional de Población [CONAPO], 2001) and the median age of those born in the U.S. is 11. Meanwhile, immigrants born in Europe have a median age of 49, while those from Africa and Asia average 39 years of age (Instituto Nacional de Estadística Geografía e Informática [INEGI], 2001, p. 26).

Accurate record keeping of the number of illegal immigrants is as difficult for Mexico as it is for any other nation given the very nature of this type of migration. It is made even more difficult by the cultural, language and economic ties between the two neighboring regions. Although there are 10 official entry points (garitas migratorias) at the border between Chiapas, Guatemala and Belize, the INM recognizes 43 additional informal points of entrance for vehicles and hundreds more for pedestrians (Calleros Alarcón & Rodríguez Chávez, 2009) which illegal immigrants use in pursuit of roads leading to Veracruz, Oaxaca and Mexico City.

Existing estimates on the number of illegal immigrants are based largely on apprehensions made by the authorities. The number of illegal migrants detained has mainly risen each year, increasing 40% from 1997 to 2004; 86,973 illegal migrants were apprehended by officials in 1997, but by 2004 that figure increased to 215,698, of which 211,218 were deported. Given the nature of illegal immigration, it is understandable that these numbers are often inaccurate and sometimes include duplications. Illegal border crossers may be caught, and once deported be caught again during another attempt within
the same year. A look at more recent figures reveals a decline in apprehensions: 
Apprehensions in 2005 totaled 240,269 while they totaled 182,706 and 120,414 in 2006 
and 2007 respectively (see Tables #2.4, #2.5 and #2.6 at the end of this section). 
Although this decline is attributed to the implementation of heightened security measures 
at the border, many question whether or not this reduction actually resulted from 
resourcefulness on the part of migrants attempting to avoid detection, particularly after 
Hurricane Stan hit in 2005. At that point migrants were forced to find new routes—routes 
of which the INM may not yet be aware. Moreover if we assume that their intention is to 
reach the U.S., a look at how many “other than Mexicans” (OTMs) were apprehended at 
the U.S.–Mexico border provides yet another numerical perspective. According to the 
Congressional Research Service, 117,595 OTMs were apprehended in 2005. One way or 
the other, it would appear that the number of Central Americans getting through is being 
reduced. This has also been confirmed by Father Flor Rigoni who founded three of the 
Casas del Migrante (Migrant Houses) in Mexico and now runs the house in Tegucigalpa, 
who has seen a decline in the last few years in the number of migrants that seek refuge in 
his house (personal communication, August 8, 2008).

Despite low volume, the immigrant population has impacted Mexico at all levels 
of life. This is both a result and a reflection of this population’s social, educational and 
economic characteristics. The following section is devoted to a discussion of these 
characteristics.
Table #2.1

**Foreigners in Mexico, Across Time and by Place of Origin (in Thousands)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Spain</th>
<th>Germany</th>
<th>France</th>
<th>Italy</th>
<th>Poland</th>
<th>England</th>
<th>Japan</th>
<th>China</th>
<th>Lebanon</th>
<th>U.S.</th>
<th>Guatemala</th>
<th>Canada</th>
<th>Cuba</th>
<th>Argentina</th>
<th>Nicaragua</th>
<th>Chile</th>
<th>Colombia</th>
<th>Peru</th>
<th>TOTAL</th>
<th>% of Total Mexican Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1895</td>
<td>14657</td>
<td>2582</td>
<td>4016</td>
<td>2207</td>
<td>1</td>
<td>3383</td>
<td>29</td>
<td>1091</td>
<td>4091</td>
<td>13073</td>
<td>19528</td>
<td>88</td>
<td>-</td>
<td>61</td>
<td>29</td>
<td>115</td>
<td>71</td>
<td>93</td>
<td>15849</td>
<td>58497</td>
</tr>
<tr>
<td>1900</td>
<td>16697</td>
<td>2633</td>
<td>4082</td>
<td>2640</td>
<td>-</td>
<td>2922</td>
<td>123</td>
<td>2910</td>
<td>4887</td>
<td>20614</td>
<td>22294</td>
<td>144</td>
<td>3413</td>
<td>91</td>
<td>56</td>
<td>129</td>
<td>75</td>
<td>103</td>
<td>11582</td>
<td>59071</td>
</tr>
<tr>
<td>1910</td>
<td>29505</td>
<td>3822</td>
<td>4599</td>
<td>2592</td>
<td>83</td>
<td>5258</td>
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<td>13187</td>
<td>4873</td>
<td>20603</td>
<td>15127</td>
<td>383</td>
<td>2118</td>
<td>201</td>
<td>83</td>
<td>161</td>
<td>82</td>
<td>127</td>
<td>11582</td>
<td>115824</td>
</tr>
<tr>
<td>1921</td>
<td>31517</td>
<td>4158</td>
<td>4722</td>
<td>1973</td>
<td>-</td>
<td>4280</td>
<td>1973</td>
<td>56655</td>
<td>3820</td>
<td>12003</td>
<td>15127</td>
<td>172</td>
<td>2157</td>
<td>204</td>
<td>172</td>
<td>178</td>
<td>92</td>
<td>107</td>
<td>11582</td>
<td>105631</td>
</tr>
<tr>
<td>1930</td>
<td>48770</td>
<td>6712</td>
<td>5110</td>
<td>4450</td>
<td>-</td>
<td>4783</td>
<td>247</td>
<td>15665</td>
<td>4530</td>
<td>8200</td>
<td>13572</td>
<td>8031</td>
<td>2578</td>
<td>201</td>
<td>274</td>
<td>150</td>
<td>82</td>
<td>116</td>
<td>11582</td>
<td>165039</td>
</tr>
<tr>
<td>1940</td>
<td>45943</td>
<td>6030</td>
<td>4305</td>
<td>3471</td>
<td>85</td>
<td>3820</td>
<td>261</td>
<td>19579</td>
<td>4595</td>
<td>8585</td>
<td>12679</td>
<td>583</td>
<td>2745</td>
<td>204</td>
<td>274</td>
<td>150</td>
<td>282</td>
<td>211</td>
<td>11582</td>
<td>186666</td>
</tr>
<tr>
<td>1950</td>
<td>39458</td>
<td>4801</td>
<td>4041</td>
<td>2051</td>
<td>-</td>
<td>2397</td>
<td>1973</td>
<td>14095</td>
<td>6536</td>
<td>17206</td>
<td>9377</td>
<td>6536</td>
<td>2766</td>
<td>297</td>
<td>1670</td>
<td>254</td>
<td>428</td>
<td>211</td>
<td>11582</td>
<td>233993</td>
</tr>
<tr>
<td>1960</td>
<td>52199</td>
<td>7036</td>
<td>4413</td>
<td>2518</td>
<td>-</td>
<td>2562</td>
<td>1973</td>
<td>14905</td>
<td>6346</td>
<td>2065</td>
<td>11822</td>
<td>5921</td>
<td>4024</td>
<td>297</td>
<td>3227</td>
<td>254</td>
<td>577</td>
<td>212</td>
<td>11582</td>
<td>199519</td>
</tr>
<tr>
<td>1990</td>
<td>24655</td>
<td>396</td>
<td>4158</td>
<td>2963</td>
<td>-</td>
<td>2065</td>
<td>1925</td>
<td>24655</td>
<td>50</td>
<td>3459</td>
<td>11822</td>
<td>2953</td>
<td>3800</td>
<td>2953</td>
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<td>11582</td>
<td>492617</td>
</tr>
<tr>
<td>2000</td>
<td>21024</td>
<td>5595</td>
<td>5723</td>
<td>2686</td>
<td>-</td>
<td>1904</td>
<td>-</td>
<td>21024</td>
<td>5723</td>
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<td>2953</td>
<td>2953</td>
<td>254</td>
<td>527</td>
<td>1982</td>
<td>11582</td>
<td>492617</td>
</tr>
</tbody>
</table>

**Note.** Numbers in thousands. Sources: 1895-1900 from Ota Mishima (1997), *Destino México: Un estudio de las migraciones Asiáticas a México, Siglos XIX y XX*. El colegio de México (A Study of Asian Migration to Mexico, the Nineteenth and Twentieth Centuries), Mexico: College of Mexico. The 2000 data is from Instituto Nacional de Estadística Geografía e Informática (National Institute of Statistics, Geography and Information (INEGI) (2000), Censo General de Población y Vivienda (General Census of Housing and Population); Foreigners in México, Mexico: México City; *Los Extranjeros en México*, 2000, México D.F., México.
Table #2.2

**Foreign-Born Population of Mexico: Rate of Increase and Percentage of Total Population, 1895-2000**

<table>
<thead>
<tr>
<th>Year</th>
<th>National Population</th>
<th>Foreign Born</th>
<th>Rate of Increase: Foreign Born</th>
<th>% of Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1895</td>
<td>13,456,271</td>
<td>58,497</td>
<td></td>
<td>.4</td>
</tr>
<tr>
<td>1900</td>
<td>13,977,578</td>
<td>59,071</td>
<td>.009</td>
<td>.4</td>
</tr>
<tr>
<td>1910</td>
<td>15,070,595</td>
<td>115,824</td>
<td>.960</td>
<td>.7</td>
</tr>
<tr>
<td>1920</td>
<td>15,013,697</td>
<td>105,631</td>
<td>-.088</td>
<td>.7</td>
</tr>
<tr>
<td>1930</td>
<td>17,087,217</td>
<td>165,039</td>
<td>.562</td>
<td>.9</td>
</tr>
<tr>
<td>1940</td>
<td>20,683,349</td>
<td>186,669</td>
<td>.131</td>
<td>.9</td>
</tr>
<tr>
<td>1950</td>
<td>27,004,059</td>
<td>191,301</td>
<td>.024</td>
<td>.7</td>
</tr>
<tr>
<td>1960</td>
<td>36,568,015</td>
<td>233,993</td>
<td>.223</td>
<td>.6</td>
</tr>
<tr>
<td>1970</td>
<td>50,327,787</td>
<td>199,519</td>
<td>-.147</td>
<td>.3</td>
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<tr>
<td>1980</td>
<td>67,295,156</td>
<td>270,761</td>
<td>.357</td>
<td>.4</td>
</tr>
<tr>
<td>1990</td>
<td>84,109,485</td>
<td>352,820</td>
<td>.030</td>
<td>.4</td>
</tr>
<tr>
<td>2000</td>
<td>97,483,412</td>
<td>492,617</td>
<td>.393</td>
<td>.5</td>
</tr>
</tbody>
</table>

*Note. Source: Based on data from Ota Mishima (1997), *Destino México: Un estudio de las migraciones Asiáticas a México. Siglos XIX y XX. El colegio de México (A Study of Asian Migration to Mexico, the Nineteenth and Twentieth Centuries)*, Mexico: College of Mexico. Data for 2000 based on data from Table #2.1. Rates of increase are researcher’s own calculations.*

**Figure #2.1.** Percentage of Mexico’s foreign-born population from 1895 to 2000. Produced from data in Table #2.1.
2.2 CHARACTERISTICS OF MEXICO’S IMMIGRANTS:

Mexico receives both legal and illegal immigrants. Most legal immigrants fall within the category of economic migrants employed in the services, commercial or industrial sectors. This represents a contrast to those migrating in the late 18th and early 19th centuries—particularly during the Porfirio Diaz administration, for whom the primary motivation was finding land to farm in order to better themselves economically. Immigrants from the U.S., however, have always been an exception. Typically, immigrants from the U.S. are and have been professionals or business people and, thus, have been characterized as immigrants of means (Palma Mora, 2006, pp. 231, 235; Lida, 1997; Salazar, 1979). Most legal immigrants from the mid-19th century onward have been executives or employees of transnational corporations, professionals, technicians, scientists, artists and athletes working either for foreign or national companies and bringing along their families. In some cases, this may mean that their stay in Mexico is
not permanent. Others, however, choose to extend their stay or to marry a Mexican
national and stay permanently. It should be pointed out that according to the legal
understanding, diplomats are considered “non-immigrants” and, consequently, are not
figured in the demographics of immigrants: a “non-immigrant” is defined as a foreigner
who enters the country temporarily with SEGOB’s (Ministry of the Interior’s) permission

Immigration by well-qualified individuals has been common throughout the
country’s history, as evidenced in the fact that they have been well accepted and even
sought after by Mexican officials and governmental policies. This will be discussed in
greater detail in chapters 3 and 4. According to historical accounts (Salazar, 1979; Lida,
1997; González Navarro, 1999; Buchenau, 2001; Palma Mora, 2006) immigrants have
been successful, for the most part, with regard to the economic activities they have
pursued, even contributing in some cases to their establishment and development. For
example, immigrants introduced new technologies and cultivating methods to agriculture,
designed and applied new methods of mining production and distribution, and established
the banking system. During Porfirio Diaz’ long-lived administration—from 1876
to 1911—American, British and German immigrants engineers were put in charge of
building Mexico’s extensive railroad system. Japanese immigrants established the
irrigation system in Baja California. French textile manufacturers formed a powerful
conglomerate in Orizaba, Veracruz, and Spanish merchants joined influential Creole
families in the northern city of Monterrey in establishing the beginnings of a steel
industry (Buchenau, 2001, p. 33). Such achievements are not as evident among
Guatemalans and other Central Americans, however, since they have traditionally been
part of the manual labor sector of the economy as opposed to the business, services and industrial sectors.

During the 1950s, a new category of immigrant began to establish itself in the country and has since become a significant part of Mexico’s immigration landscape. *Rentistas* (Renters or Retirees) are persons who do not work in Mexico and are economically self-sufficient. Such individuals must have incomes from investments or pensions of $1,000 a month. Couples in this category must have $1,500 a month (Dixon & Gelatt, 2006). This group of immigrants, therefore, includes primarily retirees and those 65 years of age and older looking for a milder climate where a fixed income will go farther. In 2000, immigrants 65 or older accounted for 8.1% of the total number of immigrants (CONAPO, 2001). It is chiefly Americans, Spanish and Canadians who make up this group. At first, the group consisted largely of artists or intellectuals. Towards the 1960s and 1970s, however, it began to include pensioners of private companies. The obvious significance of this group resides in the fact that they increasingly contribute to Mexico both culturally and economically. Retirees often hire the local people to clean or cook and make repairs, often paying a higher wage than they would otherwise receive. Retirees have also contributed to the urban expansion of the communities where they reside. As they take up residency in areas surrounding towns or cities, they have encouraged the construction of new “fraccionamientos” (housing estates) and the opening of stores and repair shops in their neighborhoods. It is not insignificant that this population also applies pressure with regard to the provision of services which would not exist otherwise, among them paved roads, electricity, and running water. On the other hand, their impact can also be viewed as negative in the sense that they have created a
situation whereby the standard of living has been raised, thus limiting the opportunity for natives to live and, in some cases, make purchases in communities where transactions tend to be made in dollars. An apt example of this is the town of San Miguel de Allende in the state of Guanajuato. Commonly known as a community of expatriates, San Miguel de Allende has taken on a new face as local people have been forced to move to the periphery of the town. Despite this reality, retirees have tended to be welcomed not only by the Mexican people, but also by the government, which has encouraged both their residency and their contributions to local communities. Recent evidence of Mexico’s desire to attract more Americans is the area along the “northwest coast from Tijuana to Ensenada where there are over 57 real estate developments with over 11,000 homes/condos with an inventory value of over 3 billion dollars, all of them geared for the U.S. market” (Davis, 2006, p. 2).

2.3 MEXICO’S REGIONS OF DESTINATION:

Certain regions of Mexico have established themselves as areas receiving high numbers of immigrants. These tend to be regions of higher economic concentration or, in some cases, areas where a specific economic activity—agriculture, commerce or manufacturing, for example—has flourished. As a result, communication and services are more developed. Although the capital district is the area of highest concentration of foreign residents, in the early 1900s immigrants began settling in the north and along the southern border, as well as in the states of Veracruz and Puebla, and later in the States of Mexico, Jalisco and Guanajuato. All of these states are especially appealing to retirees not only on account of their desirable weather, but also because of the natural and
architectural beauty of their towns and cities. According to a newspaper report in 1997, 33 retiree communities were established near touristic centers in the states of Jalisco, Morelos and Chiapas (as cited in Palma Mora, 2006, p. 129) and more are in the making, as portrayed by a promotional article in the *Baja Insider* (“Buying Property,” 2009) stating: “more and more it makes great sense to look south to Mexico for recreation, retirement and investment properties! The future is just beginning!” Nevertheless, Mexico City has been and continues to be the principal destination area given its degree of urbanization and political significance.

Ten areas which are home to three-quarters of Mexico’s immigrant population are located in the Northern border and include the following: Baja California with 12.7%, Chihuahua (7.5%), Nuevo Leon (3.8%) and Tamaulipas (6.9%) in the north; Guanajuato (3.4%), Jalisco (10.9%) and Michoacán (3.8%) in the lower western states; Mexico City (13.5%), State of Mexico (6.2%) in central Mexico; Chiapas (4.6%) in the southeast (CONAPO, 2001) (see Figure #2.3). Bordering Belize and Guatemala and boasting prospering coffee plantations, Chiapas is currently a significant receiving state. Chapter 5 provides a detailed analysis of Chiapas as a pivotal focus both of immigration policy reform and demands made by civil society for a regional migration policy.

In each of the towns along Mexico’s 1,138 km Southern border there is an intense exchange of goods—both legal and illegal—of culture and of personal interactions. Most, though not all, of these exchanges are occurring in the direction from Central America to Mexico. The intensity of this trade is exemplified by the daily crossing of day laborers through the Soconusco River to the coffee plantations in the Soconusco and Sierra Madre regions in the state of Chiapas, and to the banana, mango and sugar cane plantations in
the Chiapas towns of Suchiate and Huixtla. This activity has led many to depict the legal
demarcation of the border as an unnecessary formality, largely ignored and unenforced
until recently (Monteforte Toledo, 1997; Castillo, 2003; Villafuerte Solis, 2005; García,
2006). Actually prior to 1824, Chiapas was part of Guatemala, and until 1882 when the
Mexico-Guatemala border was officially drawn, the border was a disputed boundary
between both countries’ respective governments but not so between their culturally and
ethnically similar people. Despite the official demarcation, many of the Maya people of
the region do “not even identify themselves as members of a nation-state” (García, 2006,
p. 52).

Chiapas has long been an area important to Guatemalan migrants given the above
mentioned historical, ethnic and commercial ties of the border region. In addition,
Chiapas is also a transit region for many illegal immigrants making their way to the U.S.
from various regions of Central and South America, and even from East Europe and
Asian countries. While the initial reason for Guatemalan migration to Mexico was to flee
war, transit migrants now seek to escape the extreme poverty of their home countries—
Guatemala, El Salvador and Honduras, in particular. Central Americans fled the region
after poor living conditions were exacerbated by Hurricane Mitch in 1998, the earthquake
in El Salvador in 2001 and Tropical Storm Stan, which killed 1,500 people and uprooted
another 140,000 in 2005 (Grayson, 2006, p. 54). Today, it is this region that has become a
focal point of discussions about immigration in Mexico. Not only are Guatemalans one of
Mexico’s largest immigrant groups, but the border region they use to enter Mexico has
become an important source of controversy in Mexico-U.S. relations. As will be
discussed in Chapter 5, the U.S. has been pressuring Mexico to bolster its border security
efforts in order to keep illegal immigrants from reaching its territory. The Third Border Initiative (TBI)\(^{17}\), mentioned by Secretary of State Colin Powell after September 11\(^{th}\) as a concern of vital importance to the U.S., highlights the significance of this region (Villafuerte Solis, 2005, p. 5).

As discussed in Chapter 7, this region is of special relevance to many civil society organizations because it is an area of high incidence of human rights violations. By means of a network of *Casas del Migrante* (Migrant Home), for example, the Catholic Church provides migrants with temporary shelter, food, and the use of a phone, advocating for them as necessary, since many of them arrive in the region only after having been subjected to violence. They are often the victims of robberies, beatings or rape perpetrated not only by everyday delinquents, but also by the local police and the border patrol. This is an increasing problem affecting illegal immigrants. In 2003, Gabriela Rodriguez Pizarro, the then-United Nations (U.N.) Human Rights Commissioner’s special rapporteur for migrants, stated that in Mexico there “exists a generalized climate of hostility and of abuse of the migrant’s vulnerability” (researcher’s translation). Rodríguez Pizarro also denounced the many abuses committed by police agencies (as cited in Cruz Vasquez & Ruiz García, 200 p. 171).

According to Karina Arias, coordinator for *Sin Fronteras* (Without Borders)—a migrant rights group—Central American immigrants are taking jobs left by Mexican

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\(^{17}\) On April 21, 2001, during the third Summit of the Americas, U.S. President George W. Bush presented his Third Border Initiative (TBI), which sought to broaden U.S. engagement with the countries of the Caribbean. This initiative promotes economic capacity building and the leveraging of public/private partnerships for development programs, while enhancing U.S. exports in the region. The TBI also has a security component which transforms the Southern Border into a strategic space through the operation of security programs: Through the TBI the U.S. “provides training, interchange programs and technical assistance on the ground in the fields of airport security and aviation security, in order to guarantee that the passengers in the Caribbean region enjoy the highest security norms” (Woolley & Peters, n.d.) (http://www.presidency.ucsb.edu/ws/?pid=78817).
farm workers now working in the U.S. (as cited in Hawley, 2005, p. 2). As previously stated, approximately 40,000 temporary workers from Guatemala are documented as laborers in the agriculture sector of Chiapas as part of Mexico’s own Seasonal Farm Worker Program with Guatemala (INM Comunicación Social, 2008c). Unfortunately, however, it is both legal and illegal Guatemalans who are crossing the border seeking to escape the terrible living conditions they faced in their home country. Guatemala has a per capita gross domestic product (GDP) of $5,400 (est. 2008), and ranks 118 according to the United Nations Development Program (UNDP)’s human development index (HDI) (2007/2008).\(^{18}\) Meanwhile, Mexico has a per capita GDP of $14,200 (est. for 2008) and an HDI ranking of 52 (Central Intelligence Agency [CIA], 2009; UNDP, 2007/2008).

Although clearly not the best, Mexican living conditions are certainly better than those of other Central American countries. In light of the options afforded by the U.S., a Mexican farmer will eagerly take advantage of the availability of Guatemalan men who are ready to accept any salary. To illustrate, consider that the typical Mexican farmer makes about U.S. $4.00\(^{19}\) a day on his Chiapas farm. If he opts to go to the U.S., he can make anywhere from U.S. $8.50 to $12.75 an hour (Porter, 2005)—more than 10 times what he makes at home. When he leaves, he hires a Guatemalan to work his land for the U.S. $4.00 a day he was making. Even after paying the Guatemalan, he has much more than he would have earned had he stayed in Chiapas to farm his own land.

Recently, it is not only Central Americans who are making their way across Mexico’s southern border in search of employment, but also immigrants from China,


\(^{19}\) The official minimum wage in Chiapas is US $5.19 or 51.95 pesos per day (Salerio, 2009: Estado de Mexico Web site: http://www.estadodemexico.com.mx/especiales.item.12/salario-minimo-2009.html).
India, South Korea, and Eastern Europe\textsuperscript{20}. This new immigration flow is characterized by its transitory and illegal nature. Although these migrants are using Mexico as a trampoline to the U.S., it is believed that due to recent restrictions on the U.S. side, they are not reaching their intended destination, but are staying in Mexico. This is reminiscent of the Chinese situation of the early 1800s. At that time Chinese migrants also came up against restrictiveness and acts of discrimination when trying to reach the U.S. They, too, found it, preferable and easier to remain in Mexico.

\textbf{Figure #2.3.} Distribution of Mexico’s foreign-born population (2007). Adapted from “Distribution de la Población Extranjera en México (2007)” map (2008).

\textsuperscript{20} Father Rigoni has been keeping records of this new flow as some have used his shelter (personal communication, 2008).
Table #2.3

*Immigrants Rejected From Mexico by Nationality, January to December 2007*

<table>
<thead>
<tr>
<th>Country of Nationality</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>428</td>
<td>15.4</td>
</tr>
<tr>
<td>Perú</td>
<td>313</td>
<td>11.2</td>
</tr>
<tr>
<td>Cuba</td>
<td>219</td>
<td>7.9</td>
</tr>
<tr>
<td>Colombia</td>
<td>208</td>
<td>7.5</td>
</tr>
<tr>
<td>Ecuador</td>
<td>205</td>
<td>7.4</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>164</td>
<td>5.9</td>
</tr>
<tr>
<td>Other</td>
<td>1,249</td>
<td>44.7</td>
</tr>
<tr>
<td>Total</td>
<td>2,786</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Table #2.4

*Immigrants Secured (Administrative Detention) in Immigration Centers in Mexico by Nationality, January to December 2007*

<table>
<thead>
<tr>
<th>Country of Nationality</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras</td>
<td>22,989</td>
<td>45.4</td>
</tr>
<tr>
<td>Guatemala</td>
<td>15,143</td>
<td>29.9</td>
</tr>
<tr>
<td>El Salvador</td>
<td>5,837</td>
<td>11.5</td>
</tr>
<tr>
<td>Cuba</td>
<td>1,359</td>
<td>2.7</td>
</tr>
<tr>
<td>United States</td>
<td>896</td>
<td>1.8</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>862</td>
<td>1.7</td>
</tr>
<tr>
<td>Other</td>
<td>3,512</td>
<td>7.0</td>
</tr>
<tr>
<td>Total</td>
<td>50,598</td>
<td>100.0</td>
</tr>
</tbody>
</table>
Table 2.5

*Immigrants Expelled From Mexico by Nationality, January to December 2007*

<table>
<thead>
<tr>
<th>Country of Nationality</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras</td>
<td>21,996</td>
<td>48.0</td>
</tr>
<tr>
<td>Guatemala</td>
<td>12,783</td>
<td>27.9</td>
</tr>
<tr>
<td>El Salvador</td>
<td>5,095</td>
<td>11.1</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>1,967</td>
<td>4.3</td>
</tr>
<tr>
<td>Ecuador</td>
<td>921</td>
<td>2.0</td>
</tr>
<tr>
<td>Brazil</td>
<td>684</td>
<td>1.5</td>
</tr>
<tr>
<td>Other</td>
<td>2,339</td>
<td>5.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>45,785</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

*Note.* *This year’s figures differentiate between the number of expulsions and the number of voluntary departures/deportees (69,816). Thus, the total number of expulsions in terms of the calculations of previous years is 115,601.*


2.4 A COUNTRY OF ASYLUM:

Mexico has always considered itself a country that opens its doors to those migrating for political or ideological reasons, or because of natural catastrophes. As early as 1823, the principle of asylum was included in the first convention Mexico signed as an independent country (Meyer & Salgado, 2002, p. 29). The category of asylee was incorporated in its legislation in 1936 and that of refugee in 1990. Because they are supposed to return to their country of origin, asylees and refugees are considered “non-immigrants” by Mexican legislation. They have nevertheless played a significant part in Mexico’s immigration history; some exiles have resided temporarily in Mexico and others, from various countries and for a variety of reasons, have opted to establish permanent residence there. In 1937, more than 21,000 Spanish Republicans fleeing
Francisco Franco’s dictatorship sought refuge in Mexico. During this time Mexico was also host to smaller numbers of Europeans fleeing fascist regimes, among them such intellectuals as Leon Trotsky and José Martí. This group also included German and Australian leftist militants and approximately 5,000 Polish refugees. Australians and Hungarians also made their way to Mexico at this time, along with a number of Italians opposing Mussolini and even Latin Americans, including literary writer Pablo Neruda. Those enumerated in the U.S. congressional “black list” during the McCarthy era also sought and found asylum in Mexico (Meyer & Salgado, 2002, p. 33).

Refugees gained numerical significance in the second half of the century. While many sought temporary refuge only to return home once peace was restored, others opted to stay. In the 1970s, thousands of Nicaraguans, Chileans, Argentineans, Uruguayans, Peruvians and Colombians arrived in Mexico in search of protection from persecution in their home countries. These refugees incorporated themselves largely in the educational and cultural arenas, some becoming professors and researchers, while others became editors, newspaper writers or artists (Palma Mora, 2006, pp. 144-166).

During the 1980s the Guatemala and El Salvador wars propelled an intense migration. Over 40,000 recognized refugees from Guatemala and 5,000 from El Salvador established themselves in camps in the states of Chiapas, Campeche, Tabasco and Quintana Roo. By 1998, about half of these refugees returned to their home countries. The rest either naturalized to Mexico or resided in Mexico under the category of “immigrant” with the intent to naturalize. The former category numbered 2,506 and the

21 In 1954 Guatemala’s democratically elected Juan J. Arbenz was ousted followed by Brazil’s Joao Goulart in 1964 and Bolivia’s Juan J. Torres in 1971 after a coup d’etat. Many Uruguayans fled as a result of the expansion of powers given to the military by President Juan Maria Boredaberry in 1973 (Palma Mora, 2006, p. 150).
latter 8,149. The majority, numbering 11,336, were of “non-immigrant” status, but enjoyed the right to move about and work freely in the country (Palma Mora, 2006, p. 207). Many Guatemalan and Salvadorian refugees had no documentation. In order to find employment, they dispersed throughout the country, unrecognized as they mixed with the Mexican population and learned to speak like them. Those who fled to the cities were generally young males who arrived in Mexico out of a fear of being forced into military service or to join the guerrilla forces. According to Kimball, it was this flow of refugees fleeing violence which established the routes and networks facilitating the movement of transit migrants today (2007, p. 64).

Some refugees stayed in government-established camps and thus became heavily dependent on the Mexican government and the civil society organizations operating in conjunction with the government. In cooperation with the United Nations High Commissioner for Refugees (UNHCR) and the Catholic Church, the government contributed to building projects aimed at improving housing, schooling, medical clinics, roads, and so on. This literally resulted in the establishment of refugee towns. Over 90% of this refugee population was from an indigenous group, generally arrived with their families and sometimes with an entire community (Ferris, 1984; García, 2006; Palma Mora, 2006). Numbers vary drastically. By some accounts, there were more than 150,000 Guatemalan refugees and over 25,000 Salvadorans (Serrano Migallón, 1998; Meyer & Salgado, 2002). To complicate matters, 52% of the refugee population in the camps were born in Mexico and, as a result, are considered dual nationals—Mexican by place of birth (*jus soli*) and Guatemalan by right of blood (*Jus sanguinis*) (Ortiz Monasterio, 2005).
It is important to underline that this was the first time Mexico received large numbers of impoverished exiles without an education. Their lack of education, however, did not stop these exiles from contributing to the Mexican community. In addition to their contribution to the agricultural harvest of the region, this group of exiles made a significant contribution by way of the recovery of the Edzna archeological ruins. As Ortiz Monasterio of the Organization of American States (OAS) pointed out, their help in this regard was based on the principle of recovering “Mayan ruins with Mayan hands” (Ortiz Monasterio, 2005).

The programs of repatriation and naturalization, by which Guatemalans married to a Mexican or parent of one were given preference, have generally been deemed successful. This has added to Mexico’s pride as a country of asylum even though it was only as recently as 2002 that Mexico ratified the United Nations Convention of 1951 and its 1967 Protocol Relating to the Status of Refugees. The Mexican government had previously argued that because its domestic legislation offered sufficient protection for refugees, there was no need to ratify any additional international agreements (Ferris, 1984).

2.5 CONCLUSION: MEXICO’S IMMIGRANT EXPERIENCE:

Mexico’s migratory experience is motivated by three factors: those in search of employment and a better way of life, those in search of a place to retire and enjoy a mild climate, and those in exile or fearing persecution. That Mexico’s migration policy favors immigrants who can contribute to its economic development, however, is undeniable.
With today’s degree of globalization well in mind, Palma Mora states the following in this regard:

These types of migrants are well received all over the world. Mexico has not escaped as a receiving country of qualified workers and executive employees. On the contrary, during the 20th century—especially in the later half—they were the desired immigrants, and even though they must abide by certain requirements, migration legislation stimulates and even makes their entrance easier—clearly in contradiction to those who arrive searching for work and without financial resources [researcher’s translation], (2006, p. 112)

Incorporation and assimilation are evident in Mexico’s demographic landscape. According to some Argentinean immigrants interviewed for an article for La Nación (The Nation), “integration is easy. The Mexican is very hospitable and their customs are similar…. [T]he informality of the Mexican is contagious” and Argentineans are welcomed here (as cited in Krell, 2003, pp. 1-2). Assimilation is also enhanced by the many associations formed by the different nationalities. The focus of such organizations is largely social and recreational—with celebrations of national holidays, for example—but they also devote time and energy to helping each other acclimate. Although maintaining the culture of origin remains part of their statutes, these associations are slowly moving away from this function toward the resolution of issues impeding adaptation to the Mexican way of life. They are interested in integration into their host society to contribute to what Palma Mora calls the “pluralidad cultural de Mexico” (Mexico’s cultural plurality) (2006, p. 344). They are much more open today than in the past, conducting bicultural events. These associations currently include second and third
generation immigrants in their membership. Not surprisingly, the association with the largest membership is the American Society. As previously stated, according to Palma Mora, seven nationalities alone—American, Spanish, Italian, German, French, Japanese and Cuban—have created 122 organizations in Mexico City, of which three-fourths are American and Spanish. Meanwhile, Canadians and Guatemalans have not demonstrated much interest in associating (2006, pp. 138, 240). Some of these associations have established hospitals, schools, and even centers for the aging—which were nonexistent in Mexico prior to their establishment by the American Benevolent Society in 1993. With the exception of the American organizations, it is the Japanese, French and, to a lesser extent, Italians whom Palma Mora identifies among the most unified and organized. Funded by the Italian government in 1902, the Italian Society Dante Alligeiri has specifically expressed its desire to influence immigration policy reform. Political involvement nevertheless has remained minimal.

Today, one need only visit Mexico City to get a taste of Mexico’s multicultural background. Like New York City, Mexico City, has a Chinese neighborhood very close to the center of the City. Here one can sample Chinese culture, food and festivities. Oktoberfest is celebrated in the neighboring state of Puebla, where the bulk of German immigrants reside. Interestingly, the largest German school outside of Germany—Alexander von Humboldt—is located in Mexico. Spaniards have dispersed themselves throughout the country with areas of high concentration in Puebla of Zaragoza. They, too, have formed many associations. In the City alone they have established the Centro Asturiano (Asturian Center), Centro Gallego (Gallego Center), Agrupación Leonesa (Lioness Association), Asociación Montañesa (Mountainous Association) and the Club
Real Español (Spanish Real Club), among others. The same is true of Lebanese, Italian, and Argentinean immigrants.

Unfortunately, the “ugly” face of multiculturalism cannot be ignored. Although the benefits of immigration to Mexico are indisputable—particularly for those who are somewhat educated and not without financial resources—acts of xenophobia against immigrants are likewise undeniable. This is true not only of the past; the problem persists today. As Meyer and Salgado (2002) indicate, xenophobia in Mexico has been more verbal than physical. Spaniards, for instance, are commonly called “gachupines,” Americans “gringos” and the French “gabachos.” Unfortunately, however, there are also documented cases of xenophobic incidents of a more physical nature. During the 1900s, around the time of the Revolution, several immigrants were killed in the states of Chihuahua, Durango and Zacatecas, having become victims of revolutionary hate crimes. During the 1920s and ’30s, campaigns against the Chinese were intense; Chinese ghettos were created, commercial establishments were closed, and Chinese were illegally expelled (Kimball, 2007, p. 58). During the 1966 student uprising of Tlatelolco, a business owned by a German Jew and several businesses owned by Spanish descendents in the southern state of Oaxaca were bombed and destroyed (Somers, personal communication, 2008).

This chapter has served to demonstrate that Mexico is not only a country of emigrants, but also a country of immigration. Hailing from various countries and continents, a limited number of immigrants make up a significant part of the country’s social, cultural, and economic landscape. Although generally well received, immigrants have historically been subjected to acts of xenophobia. Today it is the immigrants of
lesser economic and educational status who are subject to acts of violence and
discrimination. Many Guatemalans, Salvadorans, and Hondurans in particular are subject
to exploitation either in their work environments or as they are crossing the border into
Chiapas. While making their way into the country, they are often beaten, robbed and even
raped. It is this severe problem, as we will see later, which is of primary concern to civil
society organizations demanding policy change. Before examining the role of civil
society in this regard, however, the next chapter takes a look at the actors and avenues by
which immigration policy is developed and implemented as well as at the role historically
played by the state in shaping Mexico’s immigration demography.
SECTION II - THE MEXICAN POLICY PROCESS

CHAPTER 3: HOW THE MEXICAN SYSTEM WORKS WITH REGARDS TO IMMIGRATION POLICY

This chapter sets forth the history of Mexico’s migration policy and the main institutions involved. Specifically, it provides a review of the governmental institutions and legal frameworks which have governed the development of migration policy and its implementation. In so doing, it provides the background necessary to understand how migration policy has reached its present form, which will be analyzed in Chapter 5.

A variety of institutions are associated with Mexico’s government in general and with migration issues in particular. Each exerts its own set of pressures, sometimes contradictory, with regard to how Mexico should treat foreigners on its soil. Mexico’s traditional foreign policy priorities of non-intervention, support of revolutionary movements and commitment to consistency in foreign policy are represented by the Secretaría de Relaciones Exteriores (SRE) (Ministry of Foreign Relations). Although the SRE is concerned with promoting human rights for Mexico’s emigrants in the U.S. and is actively engaged in the provision of nationality to foreigners in Mexico, overall issues of domestic growth and therefore immigration in all its manifestations is the primary concern of the Secretaría de Gobernación (SEGOB) (Ministry of the Interior). Within this Ministry, immigration specifically falls under the Instituto Nacional de Migración (INM) (Migration Institute) a subordinated but independent entity. A separate governmental agency, La Comisión Mexicana de Asistencia al Refugiado (COMAR) (Mexican Commission for Refugee Aid), addresses those issues pertaining to refugees. COMAR concerns itself specifically with the coordination of Mexican refugee policy as
well as with assistance to the country’s refugees. Border and national security issues fall under the jurisdiction of the Military and the Ministry of Defense. As in the U.S., since September 11th, this has included the enforcement of immigration policy at the border. Sharing related responsibilities are also the Ministry of Defense, Navy, Labor, Public Security, Treasury and Communications and Transport and the Social Security Institute (Grayson, 2006, p. 59). Additional organizations, such as the Federal Preventive Police and the Federal Judicial Police, get involved, having legitimate jurisdiction, while others, namely members of the local police, will involve themselves despite a lack of jurisdiction. The latter justify their involvement based on the fact that, according to General Law of Population Article 123, illegal entry was viewed both as crime and an administrative violation. In the eyes of the local police, it is therefore the duty of national, state and municipal police to arrest criminals as they are committing the crime (Diaz & Kuhner, 2007). However, the matter of illegal entry as a crime has been revoked and signed in to law in July 2009 by President Felipe Calderón Hinojosa.

Despite this obvious overlap in actors, it is important to note that the locus of power in Mexico’s system of government has resided in the Executive branch ever since its independence in 1821. In this sense, the President has had unchallenged control over the state—a control allowing for a party dictatorship lasting 71 years and held by Revolucionario Institucional (PRI) (Revolutionary Institutional Party). As far as immigration policy is concerned—and all other policy issues for that matter—this centralization of power has meant that policy comes largely from above. In other words,

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22 Although the President is elected by a simple majority of registered voters in 31 of its states and the Federal District (Mexico City), his nomination is predetermined by a process often referred to as el dedazo, i.e., the selection of the next nominee by the outgoing president and top party officials.
the President directly appoints or dismisses cabinet (Secretarías) officials and most executive branch employees; their ratification by the Senate is routine. On the other hand, the President confers broad powers to his secretaries who, in turn, head significant departments, each of which is responsible for the oversight of laws, norms and regulations germane to that department. Interestingly, a hierarchy of influence is evident among the cabinet agencies with SEGOB clearly at the top. Until the 2001 elections, it was the head of this cabinet office who received what was called el dedazo, meaning that he or she was handpicked by the President and the party to become the next executive. As indicated previously, the INM—the agency responsible for all immigration matters—is located within SEGOB. This connection underscores the significance of the agency, particularly with respect to the executive branch’s influence in shaping and determining Mexico’s immigration policy.

It is important to mention that within the parameters of institutional concern there is and has been leeway for individual government officials to maneuver and develop their own personalist policies. The appointment of a new director of INM or SEGOB’s Under Secretary of Population, Migration and Religious Affairs, for example, can influence policies beyond those deriving only from the individual’s formal position within the bureaucracy. Depending on the degree of executive governmental support he or she enjoys, policies different from those enunciated at a higher level or in other agencies can be formulated and implemented (Ferris, 1984). During the Lopez Portillo administration of 1976-1981, for example, then-Director of Migratory Services within SEGOB Diana Torres represented the hard line on immigration and, as such, was dubbed “our Margaret Thatcher, the Mexican Kirkpatrick” by Excelsior columnist Manuel Buendía (Ferris,
1984). Torres viewed the influx of Central Americans into Mexico as disastrous for economic and social order, labeling them undesirable economic migrants who contributed to anarchy and crime. Later, President Vicente Fox (2001-2006) appointed Jesús Preciado Coronado, a wealthy lawyer and former state deputy, as INM commissioner. Although Preciado had no experience in migration matters, he was a hardliner, who in 2002 created the position of Special Prosecutor for Immigration Affairs. Together with the Federal Preventive Police and the Department of Justice, the Special Prosecutor was to eliminate corruption in the agency. This corruption, however, was not something his boss, SEGOB’s Secretary Santiago Creel, wanted brought to light, as it was Creel’s intention to run for President in 2006 (Grayson, 2006). Creel replaced Preciado with his political ally, Magdalena Carral Cuevas, whose commitment to modernizing the INM encouraged some attempts to fight corruption even as headway was made in terms of the organizational matters outlined below. Additional changes at the helm have been made during President Felipe Calderón’s administration. His INM Commissioner, Cecilia Romero Castillo, however, has thus far adhered closely to his and SEGOB’s stated policies.

Thus, despite the fact that the 2001 elections marked a significant change in the country’s history, with Mexicans voting in their first free elections and electing Vicente Fox—a member of the opposite party, the Partido Revolucionario Institucional (PAN)—immigration policy making and implementation nevertheless remains within the province of the executive branch and continues to be shaped by the aforementioned bureaucracies. This is not to say that a legal framework for immigration policy does not exist. On the contrary, such a framework was established in the Constitution of 1917, setting the
parameters for Mexican immigration policy. This framework will be discussed below and in the two chapters which follow. It is clear that Mexico’s legal and political framework is based on Mexico’s understanding of itself as a country not only of emigration, refuge and transit migration, but as a receiver of immigrants.

3.1 THE NATIONAL MIGRATION INSTITUTE (INM):

As a result of previous organizational and bureaucratic restructuring, the provision of nationality to foreigners remains with the SRE, but migrant issues and policy have been the responsibility of SEGOB since 1891. In 1993 INM was established by Presidential decree as an independent specialized organization responsible for the planning, execution, control and evaluation of immigration services, issues and policy as well as for the coordination of the different departments addressing migration issues within the federal administration. Although it is independent, it remains surrogated to SEGOB and to its Under Secretariat of Population, Migration and Religious Affairs. The INM has faced a series of organizational challenges, not the least of which is its frequent change in leadership; from October 9, 1993 to December 15, 1993 it had five commissioners. In spite of such challenges, the general functions and organizational structure of the INM appear to be consolidating.

According to statements made by current INM Commissioner Cecilia Romero Castillo, the INM is committed to regularizing and easing migration flows—particularly those which are documented—thereby improving issues of control and verification and protecting the rights of immigrants regardless of their status or country of origin. Castillo has outlined Mexico’s policy to be one of “open but secured doors,” a policy of “friendly
gates’ opened to all foreigners that come to Mexico in order to contribute to our economic, social or cultural development, but vigilant and able to identify possible internments of persons with criminal records or purposes” (INM Comunicación Social, 2008b).

In order to conduct its activities and implement the aforementioned policy, the INM has a delegate office in each of the country’s 32 states in addition to its headquarters, which is located in Mexico City. Matters pertaining to its emigrants in the U.S. are handled out of offices in Chicago, Los Angeles and Dallas. The INM also operates over 200 facilities across Mexico including 48 migration centers—also known as detention centers—in 23 states, with a maximum capacity of 3,958 people (Calleros Alarcón, 2007). According to INM officials, at these centers the asegurados or administrative detainees are entitled not only to free legal services but also to medical services ranging from prevention or hospitalization to specialized treatment and provision of medicines—all free of charge (Calleros Alarcón, 2007). Over the last three years an average of 200,000 migrants have been detained in these facilities while awaiting the results of pending visa or refugee status reviews. Civil society organizations meanwhile have submitted numerous complaints that despite heavy governmental rhetoric about upholding the rights of migrants, fair and open access to their clients at these overcrowded centers with terrible conditions has become increasingly difficult. In response to such complaints, several centers have undergone an extensive modernization program, which has resulted in either the construction of new facilities or in substantial improvements made to existing facilities. Some centers, deemed substandard, have been closed. Although in the past deportees were taken by bus to the border—which meant it
was not long before the migrants reentered Mexico at another point of entrance—the
INM now operates the “Dignified, Orderly and Secure Repatriation” of illegal migrants
from Guatemala, Honduras, Nicaragua and El Salvador. Under this program, illegal
migrants apprehended at any location in the country are dispatched to the INM’s center in
Tapachula and then bused to the border of their home country, where they are handed
over to local immigration authorities. According to Grayson (2006), approximately 10
buses—each loaded with 38 Central Americans and two guards—leave Tapachula daily.
Given their similarities in culture and language, some migrants try to pass themselves off
as Guatemalans in hopes that they will be dropped off near Mexico. This would allow
them to attempt to cross again. When Mexican officials are unsure of a migrant’s
citizenship, however, they leave it up to the officials in the alleged country of origin to
make the determination and take custody of the detainee (Grayson, 2006).

3.1.1 Tracking

Because the INM must track and document immigrant travel at border entrances
of all cities in the country, its responsibilities clearly overlap with national security
issues. Together with the Policía Federal Preventiva (PFP) (Federal Preventive Police), it
patrols Mexico’s 165 points of entrance and exit (Revista INM, 2007b). In addition to the
more than 20 million international tourists visiting Mexico’s towns and beaches annually,
the INM services approximately 10,000 new immigrants who enter Mexico each year and
over half a million permanent aliens residing in Mexico (INM Comunicación Social,
2008b). Interestingly, until recently all documenting and tracking of entrance applications
was done manually. This, of course, resulted in inadequate tracking of deportees and
visitors. In an attempt to modernize the process and gain better control of its borders, Mexico has now digitized its system ("Mexico’s National Institute," 2006), thus significantly improving its ability to document and assess the number of individuals entering or requesting entrance into Mexico. An Internet linked database (SIOM) was installed at all of the agency’s state offices in mid-2004, and a year later the INM placed an Advanced Passenger Information System—a similar database that includes the photographs of over 7 million foreign travelers—in the nation’s major airports.

Digitizing the system also facilitated the simplification and decentralization of visa procedures, cutting the average time required to process visa applications—now approximately 19 days as opposed to months in the past. The current goal is to reduce this time frame to 10 days. Moreover, while visas were formerly issued on a case-by-case basis, the current approach allows for a period of 180 days of stay by means of standardized decisions issued to certain groups, namely tourists, businesspeople and visitors. Business travelers from Asia-Pacific Economic Cooperation (APEC) member countries are allowed to enter Mexico without a visa for a period of up to three years with an APEC Business Travel Card. This is hardly insignificant when one considers that in 2007 alone over 400,000 businessmen visited Mexico (INM website, 2009). High-tech improvements have also made possible the creation of new visas for participants in Mexico’s guest worker program with Guatemala and Belize. Although at this point

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23 The APEC is a forum for 21 Pacific Rim countries or regions to discuss the regional economy, cooperation, trade and investment. Membership is claimed to account for approximately 40.5% of the world’s population, 54.2% of world GDP and 43.7% of world trade ("What is Asia-Pacific," 2009). For more information on its activities see http://www.apec.org.
24 As previously mentioned, approximately 40,000 Guatemalan temporary workers are documented annually as laborers in the agriculture sector of the southern border state of Chiapas (INM Comunicación Social, 2008b).
biometric visas are being implemented in the Southern border, the ultimate goal of the INM is to use them at all points of entry.

According to its current Commissioner Romero Castillo, the INM also aims to enhance its ability to identify foreigners with criminal records and targets of intelligence agencies (INM Comunicación Social, 2008b). For this reason the Mexican-Guatemalan border is now seen as a new frontier in the war against terror. In 2005 the INM was officially recognized as a security agency. This status afforded it the opportunity to share information with the National Security Investigation Center (CISEN)—Mexico’s equivalent of the Federal Bureau of Investigation. The border zone itself is patrolled by immigration officials posted along designated sections. Border coverage is minimal, particularly when compared to internal controls, which include migration checkpoints along the highways and railways leading north. This makes traveling across Mexico more difficult and dangerous than entry as in their attempts to avoid being caught—especially by unscrupulous officials—migrants will go so far as to climb on top of trains. Such drastic moves often lead to falls resulting in severe injury or death. It is important to note here that although INM officials work in conjunction with the Federal Police (Polícia Federal Preventiva) (PFP) and other levels of governmental security, detention remains the legal jurisdiction of INM officials. According to Commissioner Cecilia Romero, the only time agents of the federal and state police or members of the military become involved in detention cases is when they encounter immigrants while conducting their own jurisdictional activities (INM Comunicación Social, 2008a). This claim, however, is strongly contested; human rights violations by federal, state and local police agents—and

25 For more on this visa program with Guatemala and Belize see Chapter 5.
even by INMs own personnel—are continuously reported in the local press. These reports are corroborated by members of civil society who vehemently expressed their concerns in this regard during interviews conducted by the researcher.

In all fairness, the INM has made some attempts to address complaints made against its own personnel. Starting with Commissioner Carral of Fox’s administration, programs aimed at improving the caliber of INM’s agents introduced background checks, drug tests, human rights training workshops and salary increases. Although, according to Father Flor María Rigoni of the Migrant House in Tapachula Chiapas, complaints and reports of complaints persist, abuses of authority at the border have been reduced by 40% (personal communication, 2008).

Paradoxically, the INM also has under its purview the operation of 16 BETA Migrant Protection Groups along its borders. This unarmed force is made up of INM officials—distinguished by their orange jumpsuits—who act as human right patrols, providing orientation, food, and emergency assistance to national and foreign migrants as they either transit to the U.S. or within Mexican territory. This program, which will be discussed further in Chapter 5, has been the subject of criticism in the U.S.; these officials are seen as agents encouraging illegal immigration to the U.S. In the eyes of the INM, the BETA groups are set up to protect the safety and welfare of migrants who are determined to make dangerous moves with or without any such protection. These groups began their operations in the Northern border, but now cover the South as well. From January to November of 2007, these groups rescued more than 6,000 endangered migrants (Revista INM, 2007b).
3.1.2 Coordination

Within SEGOB and INM, civil society liaison offices have been established as the organizational mechanisms which ensure that these organizations work together with the government on all migration issues. In 1999 the GLP was amended—along with SEGOB’s internal regulations (see Article 57, XXV)—such that the INM is required to “elaborate and dictate agreements and bases for coordination with dependencies, governmental entities and non-governmental organizations” (Article 64, II). These regulations also stipulate that INM’s office of Coordinación de Relaciones Internacionales e Interinstitucionales (Coordination of International and Inter-institutional Relations) is to coordinate “relations with dependencies and governmental entities, as well as with academic and civil organizations and associations.” To this end, the INM established in 2007 a Consulting Advisory Body comprised of members of civil society and academia whose aim it would be to formulate new proposals for Mexico’s intended new migration policy as well as for the institutional improvement of the country’s migration services (INM Boletín No. 081/07).

Thus, in terms of enhancing civil society’s participation in policy development and implementation the creation of the above mentioned liaison offices are a significant step. These offices provide the mechanism by which civil society can gain direct access to government and participate in the policy process. However, as stated above coordination must be also implemented between government agencies that have interest in immigrant flows such as the Commission for Refugee Aid which assists refugees.

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26 Researcher’s translation.
3.2 THE MEXICAN COMMISSION FOR REFUGEE AID (COMAR):

Mexico is a party to the United Nations Convention Relating to the Status of Refugees and its protocol as well as to the International Covenant on Civil and Political Rights. Although it took 49 years to ratify the 1951 Refugee Convention and the 1967 Protocol, Mexico had its own refugee policies prior to that time. As previously mentioned, Mexico has historically prided itself as a country generous in terms of granting refugee status and asylum to those whose life is at risk due to political reasons. In 1980 the COMAR was created within SEGOB and charged with the responsibility of ministering to the rights and needs of refugees petitioning for refugee status and to their social and financial integration should their appeal be accepted. To those deemed eligible the COMAR provides medical services and nutritional assistance (Somohano, personal communication, 2008).

The COMAR has also been entrusted with the responsibility of reviewing refugee and asylee applications. In cooperation with other agencies, including a member of civil society—each with an equal right to vote—the COMAR makes recommendations to INM based on its findings as to whether applicants meet the requirements for refugee status. Thus, while COMAR processes the appeals, it is the INM which makes actual decisions per Articles 166 and 167 of the GLP’s Regulations. According to the principle of non-refoulement the applicant cannot be expelled from Mexican territory while the application is under review. Should the administrative review result in a denial, the applicant has the right to appeal to the Tribunal Federal de Justicia Fiscal y Administrativa (Federal Tribunal for Fiscal and Administrative Justice). The decision can be challenged by an amparo (constitutional lawsuit) as being contrary to law. If the
appeal is accepted, it is the COMAR which must cooperate with SRE with regard to the issuing of letters of refugee status. This aspect of the process is significant to this research in that it highlights how Mexico treats refugees differently than migrants since as previously stated according to the Mexican Constitution the government may deport immigrants considered “inconvenient” without a hearing.

Although COMAR worked directly with more than 40,000 Guatemalan refugees during the Guatemalan conflict, according to the United Nations High Commissioner for Refugees (UNHCR), there are a mere 2,500 refugees living in the country today with new applicants numbering only in the hundreds. From 2002 to 2003, for example, the COMAR handled 243 requests, of which 53 were approved and 150 were rejected; 40 withdrew their application (COMAR, n.d.). Although these numbers pale in comparison to the 52 million refugees worldwide, Mexico’s refugee experience is nevertheless significant. Together with the UNHCR and church-based organizations, the COMAR ran various refugee camps and provided basic, albeit much needed, services during the Guatemalan conflict. As pointed out in Chapter 2, once the war was over, many refugees opted to return home, though some sought to stay. The COMAR was then faced with the challenges both of repatriation and incorporation or naturalization programs, the latter having only reached completion in December of 2004. Some camps actually became towns, e.g., Santo Domingo Kesté. In conjunction with UNHCR, the COMAR financed the distribution of land titles—about 802 in the state of Campeche alone—to new Mexican families (COMAR, n.d.). Both programs have been viewed as highly successful by historians, scholars and government officials alike (Haro Alamilla, 2006).
According to COMAR Director Karina Somohano (personal communication, 2008), although the work with Guatemalan refugees has come to an end and refugees are now largely being replaced by economic migrants, the agency continues to refine programs of refugee assimilation and push for legislation which would be in keeping with its present international commitments while making room for Mexico’s current challenges. For example, COMAR is addressing the needs of a small but diversified flow of refugees from Bangladesh, Nigeria, the Republic of the Congo, Haiti and more. Among other things, this implies the challenges of coping with a variety of languages and the translation issues which accompany them. Somohano stated that there are at least 20 different languages spoken in Mexico today (personal communication, 2008). Given the limited funds allocated to COMAR, its current challenges are intensified. As a result, COMAR is fortifying relationships with such civil society organizations as Amnesty International, UNHCR and Sin Fronteras. A case in point would be the Casa Espacio de los Refugiados (Home Space for Refugees). This is a project run in conjunction with Amnesty International and funded by UNHCR in a site donated by the The “Casita,” as it is often called by refugee children, offers a variety of workshops—from painting to photography—to refugees and their children (“Pintando el Desarraigo,” 2007).

3.3 THE LEGAL FRAMEWORK BEHIND THE PROCESS:

Mexico’s strict adherence to legal codes and minimal jurisprudence is rooted largely in its system of Spanish civil law, although some evidence of the common law tradition can be seen as well. A by-product of the revolution of 1910, the Constitution of

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27 Researcher’s translation.
1917 is Mexico’s fundamental law. As such, it establishes not only the constitutional rights of individuals, but the form and structure of the country’s government. Although the Mexican Constitution was inspired in large measure by the U.S. Constitution, it has its own peculiarity: a “long catalogue of the prohibitions and restrictions imposed on foreigners”—a “peculiarity” linked, in the opinion of Mexican legal scholar Jorge A. Vargas, and many other Mexican scholars, to the country’s long history of a “prickly and roller-coaster type of ride” where bilateral relations between the U. S. and Mexico are concerned. This is perhaps most evident in the U.S.-Mexico War of 1846-48 (Vargas, 2007a, p. 7). The Constitution in fact includes several provisions directly prohibiting immigrants and foreigners from participating in certain activities and imposing restrictions on them with respect to the execution of certain acts, such as type of employment, even the enjoyment of those basic constitutional rights—known as Garantías Individuales (Individual Guarantees)—granted to all “peoples” in Article 1 of the very same Constitution. These provisions serve as the legal basis for the enactment of particular federal statues in a number of economic areas—immigration, foreign investment, electoral and other political rights, trade and commerce, acquisition of real estate, negotiable instruments, companies, labor law, education, tourism, electricity, communications and transportation, mining, civil aviation, rendering of professional services, etc.—that further detail the prohibitions and restrictions imposed on foreigners. (Vargas, 2007a, p. 7)

Thus, for every guarantee there is a restriction applicable to immigrants. Article 9, for example, guarantees the right to associate peacefully for any licit reason. In Article 33,

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28 To these significant historical events it is important to add Mexico’s colonial relationship with Spain and the invasions from France.
however, foreigners are forbidden from participating in any political association or activity, and according to Article 8 they are denied the right to petition authorities regarding political issues. The same phenomenon can be seen in Article 11 of the Constitution, which guarantees the right of every individual to enter, leave, or travel throughout its territory without the need of a letter of security, passport, safe conduct, or any similar requirement. Only paragraphs later, the article stipulates that this right will be subordinated to the powers of the judicial authority as “it involves the limitations imposed by the laws regarding emigration, immigration and the public health of the Republic, or in regard to undesirable aliens who reside in the country” (Vargas, 2007a, pp. 9-12). This, albeit as in most other countries, leaves room for any immigration official to legitimately deny entry to any foreigner, even if this individual is in possession of legally required forms—tourist visa or passport, for example.

Alternatively, some Constitutional restrictions are circumvented by means of other legal provisions in order to allow foreign nationals to contribute economically to Mexico’s progress. Such is the case with Article 27, which specifies that only Mexican companies and those who are Mexicans by birth or naturalization can own lands, waters and their appurtenances or obtain concessions for the exploitation of mines or waters. The State may grant the same right to foreigners, provided they agree before the SRE to consider themselves as Mexican nationals with respect to such property and consent that they will not invoke the protection of their governments in matters relating to such property. In the event of noncompliance with this agreement, forfeiture of the property takes place. No foreign individual or entity, however, is permitted to own land or water within 100 kilometers (64 miles) of the frontiers or 50 kilometers (30 miles) of the shores
of the country. This outright denial of property rights to foreign nationals was circumvented by President Echeverría in 1973, when he realized that Mexico needed foreign investment in order to promote the country’s social and economic development. Without amending any symbols of Mexican nationalism, Mexico borrowed the notion of a U.S. real estate trust contract and established the fideicomiso which allows foreign entities and individuals to have “beneficiary rights” to a piece of real estate—even in prohibited areas—without having direct ownership. By means of such a trust, the legal title is placed in the name of a Mexican bank under a permit from the SRE. The bank then may administer the property on behalf of the buyer or beneficiary, who enjoys the same rights of ownership as a Mexican national. This permit may be renewed multiple times, thus establishing perpetuity for the owners.

3.3.1 Nationality

Nationality, citizenship and naturalization are regulated by the Ley de Nacionalización (Law of Nationality) and are under the purview of the SRE. Mexico is among the countries which differentiate between nationality and citizenship such that nationality cannot be lost, whereas citizenship—and the accompanying political rights gained at 18 years of age—can should one commit a crime, fail to complete military service, or acquire a new nationality. For all intents and purposes, no one is born a Mexican citizen. Moreover, because nationality cannot be lost, Mexico has introduced the notion of “indelible nationality,” thus granting dual nationality to Mexicans by birth, but

29 The fideicomiso was part of President Echeverria’s Foreign Investment Act. Before this Act, the regulations and restrictions imposed on foreign investment were not consolidated, but were found in many statutes and legislative pieces.
not to naturalized Mexicans. The determination of Mexican nationality follows both the concept of *jus soli* (the right that derives from the physical locale of birth) and that of *jus sanguinis* (the right that derives from parents’ nationality), extending what some argue is Mexico’s intent to use nationality law as a tool of its foreign policy. By allowing dual nationality, naturalized U.S. citizens of Mexican descent could influence U.S. policy in favor of Mexican interests.³⁰

Those considered to be Mexicans by birth are: (a) those born in the territory of the republic regardless of the nationality or status of their parents; (b) those born in a foreign country who are children of parents born in the national territory or children of a Mexican father or mother born in the national territory; (c) those born in a foreign country who are children of a Mexican father or mother by naturalization; and (d) those born on Mexican vessels or aircraft.

It is interesting to note that Mexicans by naturalization, foreigners who obtain letters of naturalization from the SRE, and foreign women who marry Mexican men and establish their domiciles within the national territory are not only not permitted to hold dual nationality, but are also susceptible to losing their status if they return for a period for five years or more to their native country. They enjoy limited opportunity to hold certain political positions or serve in the military during peacetime. In other words, as Fitzgerald (2005b) so aptly described them, naturalized Mexicans are “probationary citizens” within the “hierarchy of citizenship” expressed in Mexican law.

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³⁰ In 1995 then-President Zedillo told a group of U.S. Latino leaders in Texas that the intent of dual nationality “was to develop a close relationship between his government and Mexican Americans, one in which they could be called upon to lobby U.S. policy-makers on economic and political issues involving the United States and Mexico” (as cited in Fitzgerald, 2005b, p. 10).
3.3.2 Immigration

Since immigration issues fall squarely under the jurisdiction of the INM, the oversight of the laws and regulations pertaining to Mexican immigration fall under its purview. These laws and regulations are incorporated within the *Ley General de Población* (General Law of Population) (GLP), the *Reglamentos de la Ley General de la Población* (Regulations of the General Population Law) and the *Manual de Trámites Migratorios* (Immigration Procedures Manual). The General Law of Population is dedicated to regulating all population matters, such as its volume, structure, growth and distribution. Immigration, therefore, is only one of many issues addressed by this law. Although other federal statutes apply to the entry, length of stay, activities and departure of foreigners, the General Law of Population and its regulations are the most significant pieces of federal legislation Mexico uses in its approach to immigration issues, drawing its authority from the Constitution.

It is the INM that drafts procedure and policy which would ensure compliance to the aforementioned laws. It is important to point out, however, that since Mexico adheres to the notion that the Executive has overarching power in the area of immigration, as expressed in Article 33 of the Constitution, the Executive has the right to deport any foreigner considered “inconvenient” without due process. Immigration courts and judges do not exist in Mexico, and the right of a foreigner to remain in the country actually depends on SEGOB and INM.

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31 Examples of these statutes are the *Ley General de Salud* (General Health Law), the *Ley Aduanera* (Customs Law), the *Ley Federal del Impuesto sobre la Renta* (Federal Income Tax) and the *Ley del Impuesto al Valor Agregado* (The Value Added Tax).
Reforming the General Law of Population in general and those articles which contradict Mexican foreign policy in particular is a matter of major contestation in Mexican politics today as is discussed further in Chapter 5. Although it has often been the practice in Mexico that the Executive introduces the majority of legislation, the responsibility for introducing bills does officially reside between the President and the Legislature, and, therefore, in mid-2008, the Legislature unanimously approved amending, and in some cases eliminated, the articles that criminalize illegal entrance: Articles 118 to 124 and 127. These amendments became law on July 22, 2008 once they were published by President Calderón in the *Diario Oficial de la Federación* (DOF) (Official Registry of the Republic), a necessary step for any amendment to become law. Nevertheless, the previous laws, which if imposed on illegal migrants, could result in a penalty of up to 10 years in prison and a fee of up to 5000 pesos (approximately 500 U.S. dollars), were not properly enforced. Most illegal immigrants are simply deported.

3.4 CONCLUSION:

When all is said and done, primary responsibility for immigration policy development and implementation in Mexico falls on the shoulders of the INM, though various other entities share this responsibility. Prior to the Fox administration the INM exhibited many weaknesses—from extreme corruption to inadequate tracking of those who entered and exited the country. Significant efforts have been made to address these problems and, although seven years is hardly sufficient to correct decades-old problems, progress is evident nevertheless. It is important to recognize the complexities stemming from the fact that within the government system we continue to find three levels of
influence at work with regard to immigration policy-making in Mexico: the executive agenda, the legal framework, and institutional interests.

The elections of 2001 and 2006 brought about administrations committed to establishing a number of reforms which would further cement Mexico’s democratic process. In 1999 the requirement that the President must be a Mexican citizen by birth and a child of Mexican citizens by birth was amended, allowing Fox—a child of Irish and Spanish immigrants—to run and win in 2001 the race for the highest office in the land. Ironically, the ultimate say in immigration matters legally remains in the hands of the Executive who still dictates the overall direction that immigration policy will take.

With respect to Mexico’s legal framework, immigration policy is outlined at the highest level in the Constitution and in the General Population Law along with its inherent “hierarchy of citizenship,” as Fitzgerald put it. A consequence of the interventions that Mexico has suffered from Spain, France, Great Britain, and the United States and…fostered by Mexican elites who aim [to manage] a balance between promoting certain kinds of immigration and emigration while preventing international migrants from becoming a vehicle for the intervention of foreign states. (2005b, p. 5)

This hierarchy of citizenship will be further discussed in Chapter 5. Despite their restrictive nature, many of these laws are not implemented or are modified to fit the country’s contemporary needs, as was noted earlier in the case of the changes that allowed Fox to run for the Presidency.

It is important to mention for the purposes of this study that the Mexican system in general is allowing for external actors inclusive of international forces to participate in
the development and amendment of its policies and laws. In light of the hierarchical
delineation outlined above, however, it is a cumbersome process. As discussed in
Chapters 6 and 7, civil society is attempting to take advantage of this process and its
mechanisms in order to gain more access to government and policy development. In
1994, 2000, 2005 and 2006, for example, civil society organizations gathered as a group
to set up agendas and proposals which would strengthen their status as organizations and
encourage their inclusion in the development of governmental programs. One by-product
of their deliberations and consultations is a 2006 report on foreign policy entitled Diálogo
Social Para una Política de Estado en Materia de Política Exterior (Social Dialogue for
a State Policy on Foreign Policy)\textsuperscript{32} (Lindavista Center, 2006). This report, along with a
second one, also produced in 2006-2007—Agendas Ciudadanas: Seguridad, Derechos
Humanos, Fortalecimiento de la Sociedad Civil y Migración (Citizen Agendas: Security,
Human Rights, Civil Society Strengthening, Migration\textsuperscript{33})—is actually the result of a
collaborative effort with the SRE. Clearly there is a desire on the part of civil society to
participate in policy development. The channels would appear to be in place. We will
discuss these developments in detail in Chapters 6 and 7.

\textsuperscript{32} Researcher’s translation.
\textsuperscript{33} Researcher’s translation.
CHAPTER 4: THE FIRST THREE PHASES OF MEXICO’S IMMIGRATION POLICY
(1821-1973): A HISTORICAL OVERVIEW

As previously stated, Mexico’s historical legacy is vital to a proper understanding of the country’s policy process. It is likewise necessary for an understanding of the actors involved in shaping the country’s views and treatment of its own immigrant population. This chapter, therefore, presents a preliminary historical comparative analysis of migration policy by analyzing the changes that have taken place between 1821 and 1973.

Analyzing the impact of this immigrant population within the historical context of Mexico’s national policies, the researcher adheres to Buchenau’s outline of three major phases of Mexican immigration history and adds a fourth to include contemporary changes (See Table #4.1). These phases begin with the period from 1821 to 1876—an age of political instability and economic stagnation—when immigration, though limited, was pursued with the intent of increasing the country’s population. During the second phase, which lasted from 1876 to 1910, the Mexican government encouraged European immigration in order to “whiten” the population. This proved to be somewhat counterproductive in the sense that immigrants at that time preferred not to incorporate due to their own xenophobic notions. The third phase—between 1910 and 1973—saw a gradual closing of Mexico’s borders while the immigrant communities began a process of assimilation. The last phase, dating from 1973 to the present, has witnessed policies which have been largely restrictive in nature. Some of these policies, however, are currently the subject of debate. There are those who would seek revision of policy such that it would better align with Mexico’s demands on the U.S. for fair and humane treatment of Mexican emigrants. It is to this last phase that the next chapter is devoted.
The following analysis demonstrates how Mexico’s national identity and struggle for growth and modernization is directly related to its immigration policies and, thus, to the immigrants Mexico has received. As we have seen, Mexico’s quantitatively small immigration has helped craft the country’s social, cultural and economic fabric. This is also the case with the very policies and regulations that affect them. Since its independence in 1821, Mexico and its nationals have expressed what many of the country’s historians, demographers and sociologists—Alanís Enciso, Buchenau, Dodge, González Navarro, Meyer, Palma Mora, Salazar, Salgado, for example—have understood to be a combination of xenophobia and xenophilia towards foreigners. This combination of sentiments has found expression in a seesawing between restrictive and non-restrictive laws and implementation practices which demonstrates Mexico’s interest in prioritizing foreign investment in order to become part of the developed world while zealously guarding its national image and sovereignty at the same time.

4.1 PHASE I (1821-1876): THE BUILDING OF A NATION DEMOGRAPHICALLY:

With Mexico’s independence the country’s loyalty to the Spanish Crown shifted to the national Mexican state. According to historian González Navarro (1993, p. 10), it was within the context of this shift that class became more important than nationality or

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Table #4.1

**Phases and Policies of Mexican Immigration History**

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<td>Open but with restrictions</td>
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<td>Gradual closing</td>
<td>Restrictive but with some openness and under revision</td>
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birth status and money became the new race. As one of Mexico’s oldest sayings expresses the concept, “el dinero blanquea” (money whitens) (Buchenau, 2001, p. 29). Because of this new mindset, immigrants, who at that time were generally better off economically and looking to get rich as opposed to merely finding a way to survive, enjoyed a position of privilege.

With only about 8 million inhabitants dispersed throughout 4½ million square kilometers of land, Mexico began its independence as a country of scarce population. This scarcity of population was of primary concern to its early leaders, who believed it was vital to populate the country and exploit its vast natural resources in order to modernize and eventually establish a powerful nation. As a young country familiar with the influence of immigrants and motivated by the need to enhance its potential by means of population growth and by what they perceived to be the economic and cultural benefits afforded by foreigners, Mexico opened its doors to foreign immigration (González Navarro, 1993, p. 31). This openness, however, was selective; clearly there were biases regarding the type of immigrants to be allowed in the country. Some administrations preferred European Catholics while others welcomed Anglo Saxons. Some officials argued, for example, that Protestant immigrants would upset State and Church relations, as the Catholic Church was an important pillar of social order at the time, or that foreigners would pose a threat to Mexico’s sovereignty. Nevertheless, it was the aim to promote the immigration of investors and workers who would expand Mexico’s industrial and agricultural potential by promoting new and advanced industries and techniques that prevailed.
Because of the correlation between the politics of modernization and immigration, immigration policies can be traced back almost to Mexico’s birth as an independent nation. As we shall see upon closer examination, however, the actual legal framework behind a seemingly open policy was inconsistent at best. This inconsistency, in combination with insufficient agricultural land\textsuperscript{34} and the economic and political instability of the first 70 years, inhibited immigration. It was chiefly U.S. farmers and middle and upper class Spaniards, Germans, British and French, as well as Guatemalans who migrated at that time.\textsuperscript{35} Opportunity in Mexico beckoned, but only those with money or, in the case of the Spaniards, with family ties, could follow. With the exception of the Spaniards, most European immigrants considered themselves temporary residents and kept largely to themselves, avoiding private contact and intermarriage with Mexicans; they socialized with people of their own kind. In the absence of associations such as schools, churches, athletic clubs and beneficent associations, the “sojourner communities” of the time “did not yet become diasporas in the true sense” (Buchenau, 2001).

4.1.1 Relevant Policies of This Phase

Mexico’s politics of modernization through population manifested in various colonization projects implemented across the country. On January 4, 1823, little more

\textsuperscript{34} No actual registry of public and private lands existed and much of the good land was in the hands of the Catholic Church and of the elite creoles—Spanish descendants.

\textsuperscript{35} Boundaries between Mexico and Guatemala were delineated formally only until 1842. Throughout this period and for some time thereafter many Mexicans or Chiapanecos considered themselves first and foremost Guatemalan. A small elite majority in Chiapas favored annexation to Mexico in contrast to a significant minority. To this day ties between Chiapanecos and Guatemalans remain strong as evidenced in their very close ethnic background and language, as well as family, cultural and even economic ties.
than a year after Mexico’s independence, Agustín de Iturbide, known as “the Liberator,” published the *Ley General de Colonización* (General Law of Colonization). According to this law, the federal government guaranteed liberty, property and civil rights, to all foreigners who promised to obey its laws. To ease their establishment, the government agreed to provide newcomers with parcels of land and exempt them from various taxes for at least their first six years of residence in the country. This law, however, had a serious limitation: it applied primarily to Catholic immigrants. Soon thereafter, under the leadership of Guadalupe Victoria, Article 3 of the Constitution of October 4, 1824 established the supremacy of Catholicism—and this despite the concern expressed by many during debates that such a restriction would limit foreign immigration. This concern was also vehemently raised by foreign representatives—particularly the British. The Mexican government, however, only reiterated the policy, claiming that the Constitution’s intent to unify the Mexican people overrode any conflict.

In practice and behind closed doors Mexico’s regulatory position was often ignored. Even local governments, such as the governments of the state of Jalisco and Yucatan, enacted their own interpretations to the law, extending tax exemptions or ignoring the religious restriction. When Mexican representatives Mariano Michelena, Vicente Rocafuerte and Manuel Eduardo de Gorostiza were commissioned to Europe to conduct negotiations on statehood recognition and commercial treaties, they were also sent with the directive of promoting the immigration and colonization of highly skilled individuals, such as artists, laborers and paper and cotton producers. Recognition and commercial treaties were signed with the British in 1826 and with the U.S. and Prussia in 1831, guaranteeing freedom of religion provided Mexico’s religion was to be respected.
Interestingly, when a foreign group—particularly the British—felt threatened because they were not Catholic, their representatives needed only to file a complaint to receive a generally favorable response—sometimes even a presidential notice to the appropriate heads demanding that the situation be properly addressed (Alanis Enciso, 1996, pp. 543-545).

Although those interested in immigrating to Mexico were promised protection and monetary support, such promises were largely unsubstantiated during this time due to insufficient resources. Moreover, “colonizers,” as they are generally referred to in the literature, often arrived only to discover conditions other than what they had been promised. González Navarro’s (1993a, p. 183) research cites many examples of failed colonization projects, highlighting one in particular when, between 1829 and 1843, 10 French expeditions—8 in the region of Coatzatcoalcos, a 9th in Jicaltepec and the last in Nautla—arrived to discover deplorable living conditions and an intolerable heat (38° C) to which they were unaccustomed. Many of the 1,021 colonizers became very ill and two committed suicide. González Navarro details that some transmigrated to New Orleans while others dispersed themselves throughout the Mexican states of Puebla, Mexico and Oaxaca where, in some cases, Mexicans took them in and helped them out. Among those having a particular advantage were two doctors mentioned by González Navarro, who stayed and enjoyed success.

During this time period various administrations experimented with outlawing foreign ownership of retail businesses, an approach which only further discouraged immigration (Buchenau, 2001, p. 25). In this case, it was the Spanish who were targeted because of their unique relationship with Mexico; most were either landowners or
merchants. Fueled by Spanish attempts to re-conquer Mexico, anti-Spaniard sentiment found further expression in the Guerrero Law of March 20, 1829. Aiming to guarantee Mexico protection in the event of an invasion, the Guerrero Law stipulated that foreigners were not permitted to own land in coastal areas; those holding property in these areas at the time were to abandon them. According to this law, only naturalized Mexicans were to own property; “colonizers” were permitted to acquire residency only when they demonstrated to the appropriate local authority a continuous residency of two years with the intent of staying to find gainful employment and establish a home. Because this law inhibited immigrant merchants from investing in the local manufacturing industry and real estate, they often chose to send their profits home (González Navarro, 1993, pp. 173-175).

Influenced by the land encroachment of U.S. settlers in Texas and the loss of 100,000 Mexican residents (Barker, 1968; González Navarro, 1993; Fitzgerald, 2005b), this period of semi-open borders is the first during which Mexico, established an anti-immigration law. The Ley del 6 de Abril de 1830 (Law of April 6th), promoted by then Minister of Foreign Relations Lucas Alamán and Escalada, forced foreigners desiring to enter through the northern border to do so with a passport issued by a Mexican authority at the point of departure. Most significant in this regard was the intention of the law to limit the entrance of U.S. citizens and forbid Anglos from becoming citizens of Texas. Meanwhile it encouraged colonization of the territory by Europeans and even Mexicans from the southern areas of the country guaranteeing their transportation expenses and offering financial assistance for one year (Barker, 1968).
Mexico did not lose much time with regard to either acquisition or loss of Mexican nationality. In 1836 the *Constitución de las Siete Leyes* (The Constitution of the Seven Laws)\(^{36}\) established Mexican nationality on the basis of paternal blood lineage, or *jus sanguinis*, with the requirement of intent to reside in Mexico, and a limited *jus soli* based on residency and affirmation requirements. It further limited Mexico’s attraction to future investors by imposing requirements of naturalization and marriage to a Mexican woman in order for a (male) immigrant to own land (Fitzgerald, 2005b). This constitutional specification of restrictions on property ownership set a precedent for many years to come and is evidenced even today in the previously mentioned Article 27 of the Mexican Constitution. By 1857 the notion of nationality was based exclusively on *jus sanguinis* and the government was given full discretion with regard to the expulsion of any “pernicious foreigner”—another direct antecedent to today’s Constitution, particularly to Article 33. According to legal scholars, this particular shift resulted from a nationalistic repudiation of foreigners and their children who had supported the various interventions of foreign states, as in the case of the U.S.–Mexican Wars of 1836 and 1846-48 and the French invasion of 1838 (Burgoa, as cited in Fitzgerald, 2005b).

Despite these legal restrictions, the small number of European investors—French, German, British and Spanish—arrived well protected against any legal obstacles by their vast fortunes, strong family networks and ties to the Mexican upper classes. By 1850, the British owned most of the privately held mines and, together with the French, founded Mexico’s first modern banks. Germans and Spaniards owned most of the warehouse

\(^{36}\) The *Siete Leyes* which suspended the Constitution of 1824 strengthened the powers of the presidency and militarized the federal government. In 1857, however, after 30 years of political instability stemming from unrestrained power struggles between liberal and conservative elites, a new constitution was once again enacted.

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stores central to an extensive wholesale network (González Navarro 1993a; Buchenau, 2001). Impressed by these contributions, liberal reformers of the late 1850s among them Benito Juárez, continually pointed out the benefits of Western immigration, seeing it as an effective way of infusing the mestizos (Spanish and Mexican) and indigenous population with Protestant virtues of thrift, hard work, and dependability. Ironically, it was in an attempt to imitate the U.S. economic success demonstrated by the annexation of Texas—a success “based on yeoman farming,” according to Mexican Liberals—that the Ley Lerdo de Tejada (Lerdo de Tejada Law) was enacted in 1856. This law, which served as the basis for the Constitution of 1857, took the significant step of taking the lands away from the Church and inviting Europeans to colonize them. Nonetheless, Mexico was still unable to persuade more than a few thousand immigrants to make it their new home as civil war—the War of Reform of 1858-1861—and the French intervention of 1863-1866 once again took over the country for the next decade.

4.2 PHASE II (1876-1910): BUILDING A “WHITER” NATION

The belief that Mexico could only modernize and enhance its place in the civilized world by means of the infusion of European money, education and customs found its most profound expression during the three decade dictatorship of General Porfirio Díaz (1876-1910). Commonly referred to as the Porfiriato, this administration aggressively advertised Mexico as a land of unlimited opportunities for immigrants. Diaz and his officials believed that by positioning Mexico as a producer and exporter of raw materials, the resulting surplus capital would lead to the country’s industrialization. Foreign labor, capital and intelligence would furnish the fuel for the desired economic
growth. This “whitening” process, also undertaken by previous governments, promoted immigration by means of assistance programs to rural colonization projects and the recruitment of foreign workers and professionals to enhance foreign investment. Díaz’ administration took it a step further by tackling the reformation of immigration law to meet the needs of foreign capitalists and immigrant farmers alike.

To the dictatorial Porfirian administration “whitening” specifically meant allowing for the “infusion of European money, education, and customs into a countryside populated by supposedly indolent and ignorant indigenous people” (Buchenau, 2001, p. 31). This line of thought corresponded not only with Max Weber’s Protestant ethic thesis, but also with Auguste Comte’s philosophy of “being white as a stage of civilization rather than a biological condition” (Buchenau, 2001, p. 32). The elite itself was composed of a mix of mestizos (Spanish and Mexican) and Creoles (Spanish descendants). For this reason it could not embrace a biologically-oriented philosophy; to do so would have implied its own racial inferiority. Instead, “white immigration served as a civilizing influence, and ultimately as a step toward the eventual cultural and racial fusion of the creole, mestizo and indigenous people” (Buchenau, 2001, p. 32). As in previous administrations, Mexican representatives were sent to Europe to promote Mexico as a land of opportunity with wide open spaces, plenty of farmland and much needed laborers. The most significant of these agents was German-born Heinrich Lemcke who described Mexican Indians as “lazy and superstitious” and promised generous subsidies to future settler colonies (González Navarro, 1994a, p. 101). This ideology, which saw the Indian race as an obstacle to modernization, allowed European businessmen to expand their dominant place in the Mexican railroad industry, commerce,
and banking. Instead of creating the new class of Mexicans intended by the *Porfiriato*, however, immigrants continued to isolate themselves from the rest of Mexican society. Rather than mingling with Mexicans, they created close-knit communities, opening their own schools and establishing their own churches and social clubs.

Although foreign investment witnessed dramatic growth in Mexico between 1880 and 1910 (Buchenau, 2001), other factors contributed to the failure of Díaz’ whitening project. As stated above, immigrants did not mix with Mexicans. As a result, city areas became wealthier while the rural countryside remained neglected. It was soon evident that Díaz’ promotion of free enterprise had made the wealthy wealthier and isolated the poor indigenous population. This disparity combined with the administration’s ruthless repression of dissent caused an unrest which ultimately led to the Revolution of 1910.

In addition to these serious social and political issues, the whitening of Mexico faced other obstacles. As indicated in Chapter 2, the composition of the immigrant population towards the end of the nineteenth century was rather different from that of the population which had moved to Mexico earlier in the century. Unlike their prosperous predecessors, most of these newcomers had limited financial resources when they arrived in Mexico. This was true even of those coming from wealthier nations, such as Italy and Spain. Although they were not indigent and they did gain wealth once in Mexico, some of these immigrants, such as the Guatemalans, had fewer resources. In addition, while the number of Europeans grew from approximately 26,000 to 47,000 between 1885 and 1910—rate of growth which paralleled that of immigrants from the U.S. and Guatemala—it was the Asian population which demonstrated the most rapid rate of growth during this period, jumping from 1,500 to 20,000. This large influx was facilitated
by friendship treaties with Japan and China and further encouraged by the many pressures the Asian population faced as a direct result of discrimination in the U.S. at the time. Despite their economic contributions, Asians were not typically viewed as the type of immigrants who would contribute to the civilization of the Mexican race. Some officials, however, acknowledged their potential and sought them out (Ota Mishima, 1997; González Navarro, 1993b, pp. 164-165).

4.2.1 Relevant Policies of This Phase

Realizing that the promotion of a positive image abroad was not enough to attract qualified immigrants and that foreign investors had to be offered greater incentives, Díaz’ administration enacted the Law of Fallow Land in 1883. According to this law, investors could own land previously considered public. Because this included subsoil resources, mines and oil fields were opened to foreign ownership. Each colonizer was to receive 2,500 hectares which he could purchase over a 10-year period. At that point, the lead colonizer was free to give away land to the other immigrants he had brought to Mexico, up to 100 hectares and, per a law enacted in 1894, this amount was increased. Colonizing efforts thus intensified and, from 1878 to 1910, 156 colonization contracts were officially formalized. The majority of these contracts were set up with agricultural and livestock development in mind; most of the colonies were established in the states of Baja California, Sonora, Chihuahua, and Veracruz as well as in areas of the South pacific (Lloyd, as cited in Salazar Anaya, 2006, p. 206; González Navarro, 1994a, pp. 100-126; Ota Mishima, 1997, p. 195). In reality, only 32 rural colonies were formed during the Profiriato period (Lloyd, as cited in Salazar Anaya, 2006, p. 207) and most failed due to
unfulfilled promises; government support did not materialize and indigenous resistance grew.

Ignacio Luis Vallarta, Díaz’ Foreign Minister, contended that it was because the government attached so little importance to the issue of naturalization that the colonization projects failed. In 1886, while also serving as President of the Supreme Court, Vallarta drafted and promoted the Ley de Extranjería y Naturalización (Law of Alienage and Naturalization) which established *jus sanguinis* through the father—or through the mother if paternity was unknown—as the guiding principle for determining citizenship for the children of foreign nationals. *Jus soli* was applied to these children only until the first year of adulthood and only in such cases when a preference for the father’s nationality was not declared. Foreigners who owned property or served a minimum of a year as a government or public employee could also request Mexican nationality for children born in Mexico. Most significant with respect to the intent to encourage assimilation through naturalization was the provision of automatic nationality to contracted colonists along with an easing of procedures for non-contracted immigrants. Interestingly, few immigrants accepted naturalization despite this loosening of naturalization restrictions (González Navarro, 1993b, pp. 82-122; Buchenau, 2001, p. 34).

As previously noted, Díaz’ administration prioritized European migration even while Asians were immigrating in increasing numbers and making significant contributions to the country. In 1888 Mexico signed the Friendship, Commerce and Navigation Treaty with Japan allowing for the immigration of Japanese to Mexico. The first Japanese colony was established in the state of Chiapas in 1897 but by 1910,
Japanese laborers were arriving to work in the mining industry, build the railroads, and cultivate sugar cane. Many of these Japanese immigrants made their way to the U.S., using Mexico as a trampoline (Ota Mishima, 1997, p. 56). Diaz signed a similar treaty with China in 1899 only to later oppose Chinese immigration (Cott, 1987; Liwerant, as cited in Salazar Anaya, 2006, p. 383n).

Toward the end of Díaz’ administration, a shift in policy took place such that preference was given to private colonization projects over state projects. By this point in time, Diaz was of the opinion that because the sponsorship of colonization projects was both expensive and tediously slow, it was more expedient to leave them in the hands of private individuals or companies who made colonization their business. The government continued to view Mexico’s general progress as its responsibility and, for this reason, decided to assist the colonization process indirectly. To this end, the government was to irrigate the land, open neighboring roads and enhance agricultural credit. According to González Navarro (1994a), all of this implied a shift away from the policy of colonization (away from the recruiting of immigrants) toward a more general focus on immigration. Instead a series of projects aimed at the resolution of Mexico’s agricultural problems was initiated. Unfortunately, the fruits of such projects—irrigation projects, for example—were enjoyed more by foreigners than by the Mexican workers employed to implement them (1994a, p. 102).

One tangible outcome of this shift in perspective was the 1894 Ley de Ocupación y Enajenación (Law of Occupation and Transfer) which did away with the ownership limit of 2,500 hectares and gave colonists much more freedom with respect to the use of land. It eliminated, for example, the requirement that the land needed to be lived on or
cultivated. Some states, such as Tamaulipas in 1893, decreed their own initiatives to encourage immigration from all nations, placing an emphasis on the conditions of honesty, work, and exemptions from financial contributions for those who formed colonies lasting more than 10 years. Believing that greater freedom for property ownership would attract more newcomers, the Díaz’ administration recognized the error of this thinking by 1902, and once again the government took over the colonization process (González Navarro, 1994b, pp. 106, 120). Not only did the administration revert to its earlier perspective on colonization projects, it also did an about-face in terms of its liberal economic thinking. 1908 witnessed the beginning of a period of heightened immigration restrictiveness with the enactment of a very discriminatory law that indirectly targeted Chinese immigrants. This portion of the immigration population was seen as comprised of poor farmers who not only were taking away work that could and should be done by Mexicans, but also were carriers of disease. The new law did denied entrance to those who demonstrated a “lack of moral and sanitary capacity.” Because it proved difficult to confirm adequacy with regards to moral and sanitary concerns, the Chinese in general were restricted. Díaz had originally allowed their entrance under the previously mentioned treaty—as laborers or braceros—to work for businessmen and land owners, arguing that Mexico needed labor to construct the railroad, harvest the mines, and farm the land in the northern border region. Despite deplorable working conditions and low wages, in a short period of time, the Chinese immigrants came to dominate the retail and money lending sectors, particularly in the northern state of Sonora (Palma Mora, 2006, p. 68; Ota Mishima, 1997, p. 197). Many who arrived—particularly toward the end of the 19th century—came directly from China as contract labor. Although many
of them chose to stay in Mexico, they kept very much to themselves and retained their customs avoiding integrating into the Mexican culture.

Since Anglo and European immigrants were considered the essence of the “whitening” process of modernization, these immigrants and their descendents were allowed to influence politics and dominate Mexican commerce and manufacturing. They set up the telephone and telegraph companies and made significant investments in the country-wide railway system. Europeans—chiefly British and Germans—and Americans received the highest salaries. Foreigners in general enjoyed better working conditions than native Mexicans, hence the reference to Mexico during the Porfiriato as “mother of foreigners and stepmother of Mexicans.”

It is important to mention that the Díaz dictatorship witnessed many advancements, among them the development of the railway system and significant improvements in communication. As a result of more effective health programs, birth rates exceeded mortality rates despite the various epidemics striking the country at the time. Improved sanitation also served to lower mortality rates (Palma Mora, 2006, p. 56n). In addition, Díaz created a solid banking system and paid off Mexico’s creditors, balancing the national budget for the first time in the country’s history. Despite these “successes,” Díaz became disillusioned with foreign influence in the latter years of his administration. He began to nationalize the railroad and develop an ideology of anti-imperialism in foreign policy. As seen above, he even signed his first restrictive immigration legislation into law in 1908 (Buchenau, 2001, p. 36) Repressed for their political ambitions, the wealthy elite were likewise disillusioned with Díaz and his
administration. If not exiled, dissidents were executed, and there was no freedom of the press. Mexico’s Revolution ensued and Díaz was exiled to France in 1911.

4.3 PHASE III (1910 -1973): KEEPING MEXICO FOR THE MEXICANS:

The early 1900s marked a significant change in Mexico’s “immigration sentiment,” which was precipitated by the realization that Mexico needed to focus on its own population growth rather than on the importation of Europeans in order to spur real growth. This shift away from immigration as a panacea came about as a result of the Mexican revolt against the Porfiriato, which took place from 1910 to 1920 and by which Mexicans called for land reform and an end to foreign privileges. These privileges were brought to light during the economic crisis of 1907, when Mexican nationals became painfully aware that foreigners controlled over 99% of the country’s oil, electric and mining industries as well as over half of the manufacturing industry. On the heels of this discovery, immigrants—particularly the Spanish, Chinese, and Jewish—became the object of persecution and were subjected to legal discrimination and attacks. Of the three groups, it was the Chinese and Jewish who suffered most. The Chinese fell victim to a bloody campaign that reached its peak in the massacre of 1911 in the northern city of Torreón (Liwerant, as cited in Salazar Anaya, 2006, pp. 383-412).

Mexico’s post-revolutionary period was defined by an immigration policy debate aimed at crafting Mexico’s national identity, negotiating the power of the state and, in turn, establishing a semblance of social stability. The goal was to come up with an approach which would emphasize the importance of Mexico’s rural indigenous population in its development. This shift in focus, however, did not imply doing away
with the colonization projects; the government continued to subsidize projects for the establishment of rural colonies of German-speaking Mennonites, Arabs, Indians and others. Indigenistas, as the revolutionaries became known, recognized the need for financial and other resources. Alongside Indigenista agricultural and educational projects, then, the governments of Álvaro Obregón (1920-1924) and Plutarco Elías Calles (1924-1928) sought immigration status reports and sponsored studies on how to successfully enhance the flow of Europeans to Mexico (Acheson, 1999). Even later, under the Lázaro Cárdenas administration in the 1940s, demographers such as Gilberto Loyo actively promoted the immigration of skilled workers for the country’s growing industrial sector despite the population growth that Mexico was experiencing at the time (Liwerant, as cited in Salazar Anaya, 2006). Thus, although the post-revolutionary government promoted an immigration program of cultural and racial nationalism, intent on creating a populist state that united itself with its rural population, sponsorship of foreign investment remained a necessity. Consequently, U.S. citizens and propertied Europeans continued to enjoy an open door policy in Mexico. Nevertheless, the presence and intensity of this nationalism led to ambivalent policies and regulations that promoted Western immigration while severely restricting the entrance of “lesser races,”—lesser in the sense that they were looked upon as competition for the Mexican work force and as unlikely candidates for assimilation by virtue of their culture and race. It goes without saying that Mexico saw a significant decline of its foreign population at the beginning of this phase—to be precise, a decrease from 116,526 in 1910 to 108,080 in 1921 (Palma Mora, 2005, p. 34)
However by 1930 and after, the foreign population did experience a slight growth, reaching 140,587 at its peak. It is important to note here the correlation between this growth and the anti-immigration policies of the U.S. at the time. Jews, Chinese, Indians, Lebanese, Greeks, Italians and others who were denied entrance to the U.S. found a home in Mexico instead. Another contributing factor was the termination of the *Bracero*[^37] program in 1964, which resulted in the deportation of Mexican workers living in the U.S. who, by then, had had children born to them who were registered U.S. citizens (Palma Mora, 2005, p. 34).

Alongside this period’s anti-immigration wave, another dimension of selectivity was forming—a dimension that would establish Mexico’s image as a country of asylum and place human rights concerns, even if in a limited way, at the forefront of its immigration policy debates. This dimension unfolded as President Cárdenas administration (1934-1940), opened the door to members of the International Brigades and to more than 20,000 Spanish Republicans (Cate-Arries, 2000, p. 223) who had lost the war against Francisco Franco. Among these refugees were several distinguished intellectuals who left an indelible imprint on Mexican life as they help found such distinguished universities as the *Colegio de México*. This openness was not extended to Jewish refugees as discussed below.

The plight of immigrants in Mexico remained largely unchanged until mid-century. Labeled as “foreigners,” immigrants continued to remain separate from the host society. After the thirties, however, as U.S. citizens replaced the Chinese in greater

[^37]: The *Bracero* program was promoted in response to a demand for manual labor during WWII. It began in the early 1940s, when the U.S. brought Mexican agricultural workers into the country to harvest crops; it ended in 1964.
numbers and became the fastest growing immigrant group—quadrupling from 12,000 to 48,000 during the thirties (Ota Mishima, 1997, p. 37; Buchenau, 2001, p. 42)—a process of assimilation and integration began. Aided by an easing of naturalization requirements, this process gained momentum with the return of Bracero workers, the proliferation of radio and motion pictures, and the industrialization and urbanization of Mexico which allowed for a growing middle class to interact with foreigners more directly. An eventual mixing of the races was inevitable as middle class families saw an increase in incomes and began to avail themselves of the schools, clubs and even hospitals founded by immigrants (Palma Mora, 2005). By 1973, however, Mexico had all but closed its doors to many immigrants, particularly to those considered undesirable. With unemployment on the rise, once again immigrants were seen as a labor threat, with the potential to take jobs from Mexican workers.

4.3.1 Relevant Policies of This Phase:

One of the most significant legacies of the Revolution of 1910, the Federal Constitution of February 5, 1917, is still in force today, albeit with various reforms. Referred to as the Constitución Política de 1917 (Political Constitution of 1917); this constitution as previously mentioned is quite “atypical”—particularly “from a foreigner’s point of view,” according to legal scholar Vargas (2007a, p. 7). Like any constitution, it establishes constitutional rights and sets forth the form and structure of the Mexican government. In addition to the outline of rights and obligations of extranjeros (foreign individuals), however, the Constitution includes a series of provisions prohibiting them from engaging in certain activities, types of employment and even from the exercise and
enjoyment of certain constitutional rights otherwise known as “Individual Guarantees.”
Again as pointed out in previous sections this “atypical” aspect of the Constitution has its
roots in several laws enacted since Mexico’s birth as an independent nation and these
restrictions form the basis of charges of hypocrisy against the Mexican government even
as it objects to such restrictions being placed on Mexican nationals residing in the U.S.

Among these objectionable restrictions is Article 27, which placed stringent
restrictions on the ownership of property by foreigners and the Roman Catholic Church
and declared land and mineral resources a national patrimony. A throwback to the
Constitution of 1857, Article 33 enables expulsion to “recalcitrant” immigrants and
foreigners, i.e., even visitors, by granting the Executive the power of expulsion without
regard for due process. Article 123, which guaranteed workers the right to collective
bargaining and strikes made an exception for immigrants and specified that preferential
treatment was to be given to national workers. This allegiance to national workers—a
tenet of the revolution—caused foreign entrepreneurs and businesses to fear
expropriation. In light of the previous reallocation of approximately 42 million acres of
hacienda land to peasants and the nationalization of the oil industry undertaken by the
Cárdenas administration in 1938, this was not an unreasonable fear. In an appeal for
diplomatic protection, foreign businesses established chambers of commerce. Not
surprisingly, economic interests were made priority over the public promotion of
nationalism and, as in the past, the government refrained from regulating foreign capital
(Buchenau, 2001, p. 38).

Post-revolutionary debates on migration saw the development of proposals
promoting a population policy based on Mexico’s natural rich potential and its need for
labor on the one hand, while making clear its desire for sovereignty from foreign forces on the other. Starting with the 1926 Ley de Migración (Migration Law), Mexico’s leaders responded to the juxtaposition of these undercurrents by promoting highly restrictive migration policies. The writers of this legislation specifically stated the need to address the deficiencies of Díaz’ Migration Law of 1908\(^{38}\), as this law limited the government’s ability to adequately determine “what type of foreign elements were welcome to mix with our society” and allowed for “the continuous entrance of individuals not only undesirable, but openly dangerous and harmful to our people and our country” (researcher’s translation) (INM, 2002). Behind the 1926 Migration Law lay the intent to further restrict the type of immigrants to be welcomed to Mexico and to bestow this power upon the Executive, particularly in cases when immigration was perceived as having a potentially negative “effect [on] the economic situation of the country” (INM, 2002). Measures were taken to regulate the entrance and exit of new categories of foreigners—laborers, colonists, tourists, and workers, for example—including the establishment of an identification card. This legislation specifically targeted individuals without significant economic resources as well as those who were sick or persecuted for their leftist ideologies, children and women under 25 lacking adequate financial support, illiterate men, drug dealers, and other individuals involved in illegal activities.

Addressing health concerns, the law granted the last word regarding admittance to the Servicio de Salubridad Pública (Public Health Service). Moreover, the SEGOB was authorized to limit the entrance of immigrant workers during periods of high unemployment (INM, 2002). According to Palma Mora (2006), the intent of the law was

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\(^{38}\) Although this law took effect in 1909, it is generally referred to as the Immigration Law of 1908 (INM, 2002).
to restrict the entrance of Chinese and Japanese immigrants. It failed to accomplish this objective at that time, however, as these groups were denied entrance to the U.S. and, opted instead to stay in Mexico. Four years later, in 1930, Mexico was not unaffected by the Great Depression and growing pressure from an influential lobby of small business and industry groups demanding the restriction of certain types of workers, i.e., Asian and Jewish. Mexico’s regulations reflected a search for similarity and ethnic fusion in order to protect its work force,

it was considered beneficial to encourage the immigration of foreigners in good health capable of work, well behaved and of races that due to their nature are readily assimilated into ours, [who] would be of benefit to the species and…the economic conditions of the country [researcher’s translation and emphasis].

(INM, 2002)

The phrase “ability to assimilate” became the official language used to justify domestic opposition and ethnic discrimination. It was the Jewish population requesting asylum after Hitler’s persecution, who were most directly affected when President Lázaro Cárdenas (1934-1940), normally supportive of an open door policy to refugees, at the Evian Convention of 1938, battled in offering Mexico’s “generous asylum doors” to them as many expressions of anti-Semitism were being expressed. As a result of the strong opposition to their welcome, only 100 a year were accepted (Gilbert, 1987, p. 1938), being subject tot the numerical limitations inherent in the immigration system of quotes according to country of origin. Moreover, the refugees arrived with tourist visas and would have to regularize their status as immigrants once in Mexico (Liwerant, as cited in Salazar Anaya, 2006).
Cardenas’ administration set in motion a nationalistic system of government that persisted through the 1970s and into the 1980s. His plan for economic development no longer linked Mexico’s modernization to immigration only. Instead, his Six Year Plan focused on the promotion of the health and wellbeing of the Mexican population and that of immigrants desiring to become a part of Mexican society. Laid out in the Ley General de Población de 1936 (1936 General Law of Population), his plan addressed directly the issues of birth rates, mortality rates and the distribution of Mexico’s domestic population. To a lesser extent, it addressed immigration and the repatriation of emigrants from the U.S. Making Mexico’s national labor force a priority, it stipulated quotas for each nationality—with exceptions for the Spanish and Latin cultures—and directly prohibited the entrance of all foreign labor. Per Articles 31, 32 and 33, those who were granted entrance were restricted as to what activities they could engage in—even in intellectual and artistic realms. Article 87 made it clear that immigrants were to dedicate themselves to agriculture, industry and exportation rather than getting involved in commerce, which was to be the domain of the Mexicans. Once again, however, economic standards and selectiveness took precedence. Provided nationals were not adversely affected, exceptions were made for those with adequate resources and capital (INM, 2002; Palma Mora, 2006, p. 72).

Notwithstanding tangible economic growth resulting from the educational and health programs propelled in the 1920s, the administration of Miguel Alemán Valdés (1946-1952) faced an unhappy populace; more people were exiting the country than entering. Against this backdrop the Alemán Valdés administration promulgated another very comprehensive development program. The Ley General de la Población de 1947
(The General Law of Population of 1947) eliminated the last vestiges of the “whitening” of Mexico ideology (Buchenau, 2001, p. 42) and immigration was relegated to secondary status in terms of national development priorities. Attempts to denounce racial biases were made as new Friendship, Commerce and Navigation treaties were signed with China (Romero Castilla, as cited in Salazar Anaya, 2006, p. 425). This is not to say, however, that immigration was open to any or all interested; financial and health restrictions remained in place as did assimilation requirements. In general, the law kept intact the immigration policies of the 1936 Law while positing an even greater shift in terms of national development programs. This shift implied a focus on education, for which the Secretary of Education was to take responsibility, and on health, for which a series of measures and campaigns was established. As a result of this law, significant institutions were created, namely the Secretariat for Public Assistance and the Social Security Institute—the Mexican counterpart of the U.S. Health Department (Palma Mora, 2006, pp. 77-78). Mexico needed to deal first and foremost with the challenges stemming from the fact that the country remained largely rural despite the fact that industrialization was under way.

The 1947 law did have significant implications for immigration policy. First, it classified foreigners into two categories: immigrant and non-immigrant. It also established the requirement of a national registry of foreigners and nationals, which made for better tracking mechanisms. In its presentation of motives, the law stated its aim to facilitate immigration for investors—particularly in the agricultural industry and in the production of raw materials—and for technicians required to train Mexican nationals (researcher’s translation and emphasis) (INEGI, n.d.).
Issues of nationality addressed by the 1917 Constitution as well as by later amendments and regulations continued the legacy of *jus sanguine* established in the 1836 Constitution as the key principle of nationality. Although cases of *jus soli* are also documented, the basic approach to nationality emphasized parental or ancestral transmission of nationality. Accordingly, in 1934 *Ley de Nacionalidad y Naturalización* (The Law of Nationality and Naturalization) applied *jus sanguinis* only to those born abroad whose father was Mexican or, in cases of unknown paternity, whose mother was Mexican. This represented a change from the Constitution of 1917, according to which *jus sanguinis* applied only to those born to parents that are “Mexican by birth.” This limitation was addressed in 1969 when women were granted the constitutional right to transfer nationality to their children.

Granting nationality through *jus soli* regardless of parents’ nationality persisted, but the affirmation requirement when reaching adulthood and demonstration of residency were dropped in 1934. According to Fitzgerald (2005b), it was a fear of foreign influences from emigrants and immigrants that dictated this mixed *jus sanguinis/jus soli* regime. The possibility of forfeiting Mexican nationality continued to exist until 1939, at which point the *Ley de Nacionalidad y Naturalización* (The Law of Nationality and Naturalization), established that nationality could be recovered for returning emigrants who had naturalized abroad, particularly if they had done so in compliance with work requirements. These individuals had to demonstrate residence as well as “good moral” character. As for naturalized Mexicans, if they had lived abroad more than five years, they were forced to forfeit their nationality. This restriction marks what some consider a discrepancy of rights between birth Mexicans and naturalized Mexicans, relegating the
latter to a second class citizenship—an argument heard today not only among migration scholars (Fitzgerald, 2005) but in the U.S. media and debates on U.S. immigration policy (Grayson, 2002, 2006).

Regarding the types of immigrants or foreigners requesting naturalization, a preference for individuals of Latin descent was established by granting them shorter residence requirements (Fitzgerald, 2005b). The revolution’s claim of the superiority of the country’s Indian heritage expressed itself not only in terms of who was to be permitted to enter the country, but in terms of who was to become Mexican as well. Shorter residence requirements—two years as opposed to five—were implemented for Spanish nationals living in Mexico. According to Fitzgerald, congressional debates on this issue reflected hesitation towards the incorporation of Mexican descendants in the U.S. as they were considered “potential agents of U.S. intervention.” In light of the preferential treatment given to Latin Americans and Spaniards, this is quite telling regarding a rise of anti-imperialist sentiment and fears of invasion (Fitzgerald 2005b, p. 7). Even as late as 1974, that year’s Ley de Nacionalidad y Naturalización (The Law of Nationality and Naturalization) extended a similar preference to the Portuguese—another Latin based population—although at that time, newcomers were required to know Spanish and integrate into the national culture (Fitzgerald, 2005b).

Despite strong economic performance in the 1960s, when GDP growth averaged about 7% overall and 3% per capita, economic activity in Mexico fluctuated wildly with periods of growth followed by sharp drops (Urquidi, 1987). As the new decade began, fiscal profligacy combined with the oil shock of 1973 led to hard economic times. The government responded by clamping down even more on immigration. In 1973 the doors
were almost completely closed with newcomers qualifying for temporary visas only; obtaining permanent work authorization became nearly impossible. Maintaining its image as a country that lends a hand to political refugees, however, Central American refugees fleeing military dictatorships were granted immigrant visas on a regular basis. Wealthy retirees, tourists and students received visas, but were denied permission to work.

4.4 CONCLUSION:

Since its birth as an independent nation in 1821, Mexico’s struggle to modernize and become part of the developed world has been closely linked with its struggle to manage population growth. The earliest policies and programs, therefore, focused on importing foreigners to work the country’s vast lands and reflected the belief that as they contributed their expertise, resources and unique customs, these immigrants would intermingle and enrich an otherwise uneducated, inefficient and uncultured Mexican population. The desired result was not only population growth, but modernization brought about by an “improved” population stock. Although Mexico’s population doubled from the time of its independence in 1821 to the Revolution of 1910-11 and later tripled from 17 million in 1930 to 51 million in 1970, its economic progress—though significant at times—continued to suffer (MacDonald, 1979). Colonization projects failed in large measure because Mexico did not offer those advantages that attracted immigrants to other parts of the Americas—Argentina and the U.S.—namely sufficient agricultural land and adequate financial credit programs. The best land available, which was located in Central and Southern Mexico, remained, for the most part, in the hands of a small elite
of Creoles who, eager to protect their interests, mounted opposition to further immigration. This situation was hardly inviting to immigrants in search of a better life.

As Mexico realized that importing white, educated people was neither an easy process nor a cure-all for its economic woes, the country gradually began to focus on its native-born population. Hand in hand with this change in mindset came the implementation of an incrementally restrictive immigration policy underlined by strong racial overtones couched in economic terms. Mexican policy thus shifted from a xenophilian view of foreigners motivated by a desire to whiten its people to a xenophobic stance toward lower status immigrants driven by the theme of Mexico for the Mexicans. According to historian Gomez Izquierdo (1991), Mexico’s decision to close its doors to immigration was rooted in resentment of the proven economic success of the new arrivals and first manifested itself in the Porfrian immigration law of 1908, which limited Chinese immigration. As more restrictive laws and policies were put into place, inclusive of a very nationalistic Constitution, Mexico encouraged the establishment of programs prioritizing the educational, economic and health of the Mexican population.

This shift was somewhat effective in the sense that Mexico experienced periods of relative economic growth. This, however, was hardly a uniform growth; the country faced recessions in 1947-1948 and again in 1954. Nonetheless, the period from 1956 to 1972 is considered by most historians and economists as one of stabilizing industrial development and, more importantly, one which saw significant improvements in the country’s infrastructure and communication systems. Medical advances led to a reduction in Mexico’s mortality rate. In 1930 the country averaged 27 deaths per 1,000, but by 1970 the average was reduced to 10 (Palma Mora, 2006, p. 86).
This era of growth contributed to the establishment of a middle class which gradually assimilated and integrated with the previously separate communities of immigrants. Immigrant communities founded their own schools, which the Mexicans viewed as superior. As Mexicans were able to afford to send their children to these schools, as well as to their private clubs, this introduced increased opportunity for interaction and, ultimately, a route to integration. The role played by these associations with respect to integration, however, was strictly social and economic; their service to the community had no bearing on politics or policy making. During the three phases of immigration history reviewed thus far, Mexican modernization and development policy although with differences, was dominated by nationalistic interests of self-determination and sovereignty. This nationhood perspective determined in large part the way the country viewed and treated its immigrants. Although social attitudes and government policies vacillated on the immigration issue—particularly at first—there was one underlying constant: the goal to promote an immigrant population that would produce economic benefits. In essence, as long as an individual demonstrated economic solvency, posed no threat to Mexican labor, and showed a desire to assimilate, he or she was welcomed.

As demonstrated in the next chapter, this underlying objective has persisted into the 21st century. The recent implications of Mexico’s emigration problem—both at home and in the U.S.—have led to significant policy changes, bringing increasing scrutiny to Mexico’s restrictive migration policy.
CHAPTER 5: THE FOURTH PHASE OF IMMIGRATION POLICY (1973 TO PRESENT): “FRIENDLY GATES”

This chapter continues the historical analysis of Mexican migration policy with a focus on the period dating from 1973 to the present (2008/early 2009). Given its importance to this research project a full chapter is dedicated to this period. This chapter assesses contemporary reforms in Mexico’s immigration system as the country moves towards economic and democratic liberalization initiated by an immigration policy that first intended to exclude Jews and Asians, then the poor, and finally all immigrants. This analysis highlights the impact of the existing discrepancy between Mexico’s immigration and emigration policies even as it has fueled recent debates regarding the need to reform the country’s restrictive immigration policy.

By the end of the 1970s Mexico experienced a population explosion, due in part to the success of the health programs that lowered the infant mortality rate (González Navarro, 1993a, p. 10), it was also experiencing a rise of a more influential middle class (Buchenau, 2001, p. 43) that had benefited from a strong protectionist government and from the economic boom of the previous decade. It quickly became apparent that population quantity was no longer an issue. Instead, the country needed to focus on other significant events, namely the arrival of refugees from Guatemala and El Salvador, the growing number of Central Americans on their way to the U.S., the influx of highly-skilled individuals from the Western world and last, but not least, the growing number of Mexican nationals emigrating to the U.S. The Mexican economic miracle of the 1960s

39 Of particular benefit to this population was the nationalization of the oil industry, which took place in 1938 under President Cardenas’ administration.
had given way to a declining industrial sector by the late 1970s that was no longer able to absorb the Mexican labor force. Unemployment had risen to nearly 15%, and the disparity between rich and poor had increased with an average per capita annual income of approximately $600 annually as compared with $90 for the poorest (de Cosío, as cited in Palma Mora, 2006, p. 95). The value of the peso dropped from 12.50 pesos per dollar in 1954 to 20 pesos per dollar in 1976. By the mid-1980s Mexico’s economy was in critical condition; its foreign debt had reached $90 billion, necessitating the adoption of austerity measures that only exacerbated the already harsh living conditions of the very poor, forcing them to leave in search of a better life in the U.S.

Fueled by all these developments, Mexico’s demographic and development policies shifted from a view of foreign immigration as a panacea—a perspective evident as late as the latter part of the third phase previously reviewed—to a mindset which looked upon foreign investment as a substitute or, at the very least, a complement to its desire for foreigners. The future of the country’s demographic dynamics, as stipulated by the General Population Law, now depended on the capacity of the government to provide employment, education, and health to an ever increasing population. Most significant here is that the perceived need to “whiten” the Mexican population fully disappeared (González Navarro, 1993a, p. 10). Instead, Mexico has virtually closed its doors to immigrants based on immigration laws designed to be instruments of control and vigilance (INM, 2006, p. 192). Meanwhile, as Mexico has become aware that the remittances its nationals in the U.S. are sending home are substantially increasing—from 4.4 billion in 1995 and 13.3 billion in 2003 to a record $24 billion in 2007 (Banco de México, 2007)—Mexico began to publicly engage in the promotion of the establishment
of a U.S. policy that is open and “humanitarian” towards Mexicans residing in the U.S. It is this inherent discrepancy between Mexico’s immigration and emigration policy—or national versus foreign policy—that fed the policy debates and resulting immigration reforms of the early 1990s and into the 21st century. These debates and reforms highlight the country’s lack of consensus on how best to accomplish a comprehensive and contemporary national migration policy which would strike a balance not only between immigration and emigration policies but, in light of the contentious immigration environment in the U.S., between national and international human rights and security concerns. This lack of consensus may to some degree come to an end however, as the INM has decided that the best course towards a comprehensive policy is to promulgate a new immigration law that stands independent of the General Law of Population. As of June 2009 a draft of this law is being debated internally by INM officials and has yet to be submitted to Congress for debate and approval.

5.1 RELEVANT POLICIES OF THIS PHASE:

The new sentiment or move away from “whitening” of the population was first officially expressed as early as 1974 in the new Ley General de Población of 1974. In contrast to previous population laws, this new General Law of Population does not expressly state the need to protect certain types of employment for its nationals. It does specifically include in Article 34, however, a highly restrictive stipulation, according to which those allowed in the country must be “useful elements,” contributors to the country’s national economic progress who receive the necessary income to support themselves and any dependents (researcher’s translation) (INM, 2002). “Useful
elements” included scientists, technicians and even retirees (rentistas), as the latter were often highly educated with a sufficient income and, as such, could render services along with scientists and technicians in areas of little or limited Mexican expertise. The restrictive nature of this law was expressed not only in the exclusion of those “not useful,” but in its resulting consequence: immigrants were generally issued only temporary visas. As pointed out by Buchenau, “obtaining permanent work authorization in Mexico became more difficult than receiving a ‘green card’ in the United States” (2001, p. 43).

This new General Law of Population marked the beginning of what can be called the centralization of immigration regulation. Assessing which and how many immigrants were of benefit to Mexico was now left to the Ministry of the Interior (SEGOB) and to its newly created National Population Advisory (Consejo Nacional de Población) (CNP), a cabinet institution with more than a consulting role and in charge of planning Mexico’s demographic growth. This entity enjoyed executive powers. At this point (1974), SEGOB is thus granted the authority to determine what was in the public interest (Montero Solana, as cited in Palma Mora, 2006, p. 98) and thus who is beneficial to Mexico and who is not. This remains the case as of this writing.

During the last three decades of the 20\textsuperscript{th} Century, other than 1974 law few if any significant changes were made to immigration legislation. During this time—1970s to late 1990s—the only category of foreigners welcomed by the Mexican government were political exiles fleeing repressive South American military regimes—from Argentina, Chile and Uruguay—and the 40,000 or more Central American refugees fleeing the civil war of the 1980s. However, it is important to highlight that despite these allowances and
the diplomatic, social and economic implications of these significant numbers of immigrants, it was not until 1990 that, normatively, Mexico accounted for the category of refugee. Up to that point, Mexico accounted only for the category of political asylee under the classification of “non-immigrant.” This category applied to those seeking protection at a Mexican diplomatic office while in their native country. Mexico felt that it had sufficient grounds and means to appropriately handle these newcomers. Not only was it a signatory to significant international conventions, specifically the Habana (1928), Montevideo (1933) and Caracas Conventions (1954), but it had a proven history as a “country of asylum.” Mexico soon learned, however, that the Latin Americans seeking protection at this point were different from the groups it had assisted previously, not only in terms of numbers—approximately 250,000 total—but also politically and economically. Unlike the 20,000 Spanish that fled Franco’s dictatorship in the 1930s and ’40s, these Central American refugees were not intellectuals. By and large, they were illiterate peasants, generally from rural indigenous communities, who were in need of employment and all types of services. To complicate matters, this new wave of immigration took place at a time when Mexico was facing harsh economic times. Some government representatives, such as Partido Acción National (PAN) (National Action Party) spokesman Gerardo Medica, expressed fears that this new influx would lead to social and political unrest (as cited in Ferris, 1984, p. 336). Nevertheless, Mexico accepted the refugees. As a result, in 1990 the Mexican Congress recognized the need to incorporate into the General Law of Population new guidelines allowing for the recognition and admission of individuals in search of refugee.
Incorporating the status of refugees was based on the 1984 Declaration of Cartagena, which allowed for the more liberal recognition of individuals fleeing due to insecurity and “generalized violence” caused by internal conflict, as opposed to having to demonstrate persecution per the definition outlined by the U.N. The incorporation of the category of refugee also implied that according to the principle of non-refoulement, such an individual cannot be repatriated to his or her country of origin or to any country posing a risk to his or her life. Despite this significant inclusion and the fact that Mexico was a signatory to the aforementioned international conventions, it was not until 2002 that the 1951 United Nations Convention on Refugees and its 1967 Protocol—the principal international statutes on refugees—were actually ratified. Again, Mexico still felt no particular urgency given its previous history as a country of asylum. With this ratification, however, asylum procedures were streamlined and applicants were given more time—fifteen days—to file a request for asylum at the nearest INM office as opposed to filing at the point of entry (García, 2006).

Despite the obvious dearth of an adequate legal framework during the 1970s and ’80s, the various groups of Latin American asylees and refugees received significant assistance. As noted in Chapter 2, the government provided political asylees with a place to live, employment and financial support for the first few years of residence (Palma Mora, 2006). In cooperation with such international organizations as the United Nations High Commissioner for Refugees (UNHCR), Oxfam and the Catholic Church, the government established refugee camps and offered educational, health and nutritional programs. The successful cooperation of these organizations was an important contributing factor to the significance of this period in Mexico’s immigration experience.
The Commission on Mexican Refugee Aid (COMAR) later led the establishment of repatriation and naturalization programs inclusive of distribution of land parcels to refugee families who had decided to stay in Mexico. Also, as pointed out in Chapter 2, with the end of the Central American wars—in Guatemala and El Salvador in 1996 and 1992 respectively—and the signing of peace accords, about half of the 40,000 Guatemalan refugees remained in Mexico, either naturalizing, as in the case of some 2,506 or remaining under the categories of immigrant or non immigrant—8,149 and 11,336 respectively. The government attempted to further regularize the status of this population by incorporating an additional immigration category, that of “assimilated,” into the General Law of Population in 1996. According to this regulation, one gains “assimilated” status either by marrying or living with a Mexican national or by having or adopting a Mexican child (INM, 2002; Palma Mora, 2006, p. 206).

Although the repatriation and naturalization programs ended as recently as 2004, their impact continues to be felt. As observed by Castillo, this experience has contributed to the emergence of a new set of “trans-border relationships” expressed in new regional, social and cultural dynamics “since those who stayed did not break their bonds with their compatriots who had returned home” (2003, p. 6). The strength of these trans-border relations facilitated a disinterest on the part of the Mexican government in the need to secure its Southern border until recently, when the U.S. began to exert pressure on it to do so.
5.1.1 Incentives to Attract “Useful” Immigrants

Although significant restrictive legislation affecting migrants has been in place for decades, as in the case of the aforementioned Article 33 of the Federal Constitution, whereby a foreigner deemed dangerous to society can be expelled without due process, and until July of 2008 Articles 118-127 of the General Law of Population, whereby illegal entry is deemed a crime, Mexico has followed a less protectionist path in terms of economic policy since the mid- to late 1980s. Opting to imitate liberal U.S. economic policies, the Mexican government eagerly joined the U.S. and Canada in 1994 in the North American Free Trade Agreement (NAFTA). The country’s position at the time was that despite the economic disparity between Mexico and the U.S. and Canada, Mexico’s economy and the wellbeing of its people would likely improve through trade liberalization and economic exchange. Although not specifically stated, the expectation was that NAFTA would lead to a reduction in Mexican emigration. Likewise, it was believed that by continuing in the protectionist path40 pursued by previous administrations, Mexico would only limit its success in international markets and further decrease its productivity levels and competitive schemes for its products, impeding the country’s overall progress (Castillo, 2003). The belief that protectionism was no longer the appropriate path was further stimulated by Mexico’s admission to the Organization

40 President Luis Echeverría Alvarez (1970-76) and his successor López Portillo pursued an ideological and concrete struggle for a nationalistic program called the “New Society,” which called for greater government involvement in education, commerce, and so on. During the first years of President Portillo’s (1976-82) administration, Mexico grew quite rapidly; wealth benefitted virtually every sector in society. The “economic miracle” did not last long, however, and to avoid blame for the new crisis, Portillo nationalized the banks just as he left office in September of 1982. Soon after taking office, the next president, Miguel de la Madrid (1982-88), amended the Constitution to establish the state as “the supreme rector of economic life in Mexico.” Although De la Madrid was forced to follow severe austerity methods imposed by the International Monetary Fund in order to borrow money to make the payments on its rescheduled loans, he refused to privatize banks (Wilson Hanon, 1984).
for Economic Cooperation and Development (OECD) in 1994. The promotion of liberal economic policies thus became Mexico’s new economic and political platform.\textsuperscript{41} Initiated by President Salinas de Gortari, a Harvard educated economist whose economic policies were referred to by the press as “salinastroika,” this platform was said to have “effectively canceled the Mexican Revolution” (Tuck, 1999). Indeed Gortari did away with the agricultural cooperatives known as \textit{ejidos}\textsuperscript{42}, a sacred tenet of the Revolution, and privatized most of the companies previously under government ownership, including the telephone system and major banks, among them BANAMEX and BANCOMER. This platform of privatization and reform remained the guide for successive administrations including that of today’s President Calderón. Calderón’s administration has been engaged in a variety of large reforms and attempts to open key parts of the economy, namely the telecommunications, oil, cement and energy industries, as well as reforming the state pensions system. Interestingly, today’s reform efforts are taking place during a time when Mexico ranks among the 15 largest economies in the world (“Mexico’s hand in illegal immigration,” 2007) and when the level of wealth among those already better off is increasing. Consider, for example, Carlos Sims, the world’s third wealthiest individual according to \textit{Forbes Magazine} (Kroll, Miller, & Serafin, 2009). Meanwhile, just under half of the country’s population continues to live in poverty and NAFTA has not led to the job expectations it held. Instead, emigration is greater today with 11.5 million Mexican-born residing in the U.S. in 2006, 6.5 million more than when NAFTA was first

\textsuperscript{41} By 1993 inflation was approximately 10% lower and foreign debt had been reduced by about $25 billion (Tuck, 1999).

\textsuperscript{42} Theoretically the peasant farmers were now free to profit from their lands by either renting, selling or mortgaging them. In reality their lands were taken away either by creditors or by the wealthy who purchased them (Tuck, 1999).

Because opening the country to direct foreign investment and privatizing large-scale industries meant going against some of the country’s Constitutional provisions—an approach still not readily accepted—the Mexican government resorted to inventive ways of circumventing regulations, sometimes via other federal statutes whereby exceptions to the laws can be implemented legally. Such was the case with Article 27 of the Constitution. Article 27 states that foreigners desiring to own property must first renounce protection from their own governments or risk confiscation. In other words, they must become nationals with respect to such property. The same Article also prohibits foreigners from owning land in “restricted zones,” meaning land within 30 miles (50 kilometers) of any coastline at high tide or 64 miles (100 kilometers) of either border. Included in these zones are areas very attractive to tourists, as in the case of the entire Baja Peninsula. President Luis Echeverría Alvarez (1970-1976) sought alternative ways to generate investment despite nationalistic rhetoric and policies at a time when the country recognized the need to renegotiate its dept payment schedule and curtail public expenditures. In 1973 he successfully circumvented Article 27 through the Foreign Investment Act, which established the concept of the fideicomiso similar to a land trust. According to the fideicomiso, a foreigner may acquire property by placing the property title in the name of a Mexican bank under a permit from the Secretary of Foreign Relations (SRE). Thus, although the buyer enjoys the same rights of ownership as a Mexican national, it is the bank which administers the property on behalf of the buyer. Initially, the permit to establish such a trust could be obtained for a period of 30 years and
renewed at least once, but in 1993 this time frame was extended to 50 years with multiple renewals (Neil, 2008; Steenblick, 1997). Interestingly, by placing the trust in the hands of a Mexican entity, the Constitution’s intent of maintaining control of Mexican lands is preserved and fears of possible foreign intrusion are ameliorated.

The *fideicomiso* has been very successful. Because the cost of living is higher in the U.S., more and more Americans inclusive of young families are purchasing properties in areas previously considered restricted. One can easily find promotional packages encouraging Americans to purchase property and relocate to Mexico. These packages even include information on health and car insurance programs not readily available to Mexican nationals. One such program, *International Living*, published a report in 2007 titled “U.S. Boomers Invade Mexico: Where to Snap Up Drive-Time Beach Property” (Haskins, 2007). Besides citing details on the ease and comfort of beachfront communities in Baja California, this report also addresses the *fideicomiso* and its guarantees in order to assuage any fears stemming from previous understandings of foreign ownership of property in Mexico.

Further liberalizing changes with regards to the limitations still inherent in Article 27 are currently under discussion and debate. Amendments to lower ranking regulations, particularly as stipulated in Articles 122 and 123 of the Regulation Chapter of the General Law of Population (GLP) have been incorporated, granting foreigners the freedom to purchase properties without permission from the Secretary of Foreign Relations (SRE). That they are lower ranking reforms with regards to the General Law of Population itself and the Constitution, however, only creates regulatory insecurity and
confusion.43 The fideicomiso remains the safer approach. At the 2007 XXI Amdetur Convention (Asociación Mexicana de Desarrolladores Turísticos—Mexican Association of Tourism Developers), the Secretariat of the Environment (Secretaría del Medio Ambiente) backed a proposal to directly sell coastal land to foreigners through an actual constitutional amendment to Article 27. According to the Secretary of Tourism, such an amendment would be appropriate as long as another amendment were added that would incorporate sanctions to local and state public servants who provide building permits or changes in land use permits irresponsibly. Legislators Luis Coppola Jofroy and Octavio Martínez, Chairs of the Senate and Congress Tourism Committees, agree that “this would be a good thing for the country” (“Playa Mexicana,” 2007). Nevertheless, in an effort to appease opponents, Senator Coppola Jofroy stated that foreign investment in coastal zones would go hand in hand with a humanitarian compromise: Each foreigner that buys land to build must give back to the community in the form of contributions toward the building of schools or roads, for example (“Playa Mexicana, También Para Extranjeros” (“Mexican Beach, Also for Foreigners”), 2007). Although the future of these suggested amendments remains to be seen, they are indicative of an environment in Mexico that is both less nationalistic and less fearful of international intervention.

The need to attract private investment is being fueled by a variety of large-scale investment and development projects promoted by the government for some time now. The Mar de Cortés Project, for example, featured in International Living and first

43 This level of incongruence in Mexico’s immigration policies was highlighted during INM’s State Forums held in 2006 with the participation of representatives from each of the country’s 32 states as well as members of academia. The state of Nayarit in particular raised this issue. Each state’s comments and proposals have been compiled by INM in a book entitled Towards a Migration Policy for the Mexican State.
announced by President Fox in 2001 as the “Nautical Ladder”, calls for four expanded access routes between modern marinas and several small quaint villages currently under construction (Haskins, 2007). Although significantly scaled down in response to environmental concerns, the project calls for $1 billion in foreign investment and, according to the aforementioned report, Calderón’s administration has already invested $140 million of its own resources.

In order to facilitate the needed flow of foreign investment, the government has been working on additional ways to open what INM Commissioner Romero Castillo calls Mexico’s “friendly but secure gates” to foreigners albeit “useful” foreigners (INM Comunicación Social, 2008b). In addition to regulatory mechanisms, therefore, INM has been easing entrance restrictions for qualified immigrants and their families. For example, prior to 2008 the processing of migrant status, changes in status, time extensions, referendums, and so on took over 32 days. Now this process takes 19 days on average, and INM hopes to reduce processing time even further. Moreover, if family members of an immigrant living in Mexico want to visit or stay for an extended period of time, they now have a guaranteed minimum stay of 180 days. Prior to this change, one had approximately a week’s time before it was necessary to go to INM to request an extension. In 2007 Mexico signed an agreement with Asian countries making it even easier for business people to obtain and renew their visas to Mexico. Now investors from 92 countries can receive long-term visas (five years) to any part of Mexico. Meanwhile, Mexico has joined the countries that issue an APEC business travel card, a card issued to business men and women who are members of the Asia-Pacific Economic Cooperation. This card allows the bearer to travel between member countries for a period of up to three
years without needing to apply for a visa (Revista INM, 2007a). Cardholders also benefit from faster immigration processing on arrival via access to fast-track entry and exit through special APEC lanes at major airports in participating economies\textsuperscript{44}.

5.1.2 The 1998 Law of Nationality

As discussed in Chapter 4, immigrants in Mexico have been historically forbidden from engaging in political activities and holding certain types of employment—particularly high-level government positions—and even from becoming members of the clergy. Article 55 of the Constitution, for example, prohibited foreign-born or even naturalized Mexican citizens from becoming federal lawmakers while Article 91 prohibited them from becoming cabinet secretaries and Article 95 denied them the opportunity to become Supreme Court Justices. Article 16 put peacetime military service off limits. With respect to the children of immigrants, limitations have also been present. Like the president of the United States, for instance, the president of Mexico must be a citizen by birth. Article 82 mandated that the president’s parents must also be Mexican-born citizens, thereby affording secondary status to Mexican-born citizens of immigrant parents (Waller, 2006). In 1998, however, and later in 2005, significant changes took place, which made it possible for immigrants and their children not only to influence, but to shape policy.

\textsuperscript{44} Other APEC Member Economies fully participating in the program include Australia, Brunei Dar Es Salam, Chile, China, Hong Kong (China), Indonesia, Japan, Korea, Malaysia, New Zealand, Papua New Guinea, Peru, Philippines, Singapore, Chinese Taipei, Thailand, and Viet Nam. The U.S. became a “transitional member” in 2007 with the intent of becoming a full participant within three years (Asia-Pacific Economic Cooperation (APEC), 2008).
Just prior to 1998 the Mexican ruling party or PRI regime initiated a policy of *acercamiento* (getting closer) to Mexican nationals and communities abroad, particularly to those in the U.S. This included Mexican citizens and Mexican Americans who were U.S. citizens. One important result of this *acercamiento* was the amendment in 1997 of Constitutional Articles 30, 32 and 37, which introduced the concept of “indelible nationality.” According to this concept, nationality obtained by birth can never be lost. This meant, of course, that dual nationality was accepted, and now anyone who had previously renounced his or her Mexican nationality in order to acquire a different nationality could recover it. This amendment led to the Law of Nationality of 1998, which regulates in detail the legal questions involved and marks a significant change in the previous understanding of allegiance to one nation. Mexico now joined the growing number of countries accepting dual nationality, Spain, Italy and Turkey among them45.

While Mexico had legally adopted the provision that nationality should be singular in 1993, the congressional debates on dual nationality had been largely negative prior to that time (Fitzgerald, 2005a). Even during the mixed *jus soli-jus sanguinis* regime of previous years, dual nationality was only applicable to children who, upon reaching maturity, were then subject to affirmation requirements. Legislative developments in the U.S.—particularly the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and California’s Proposal 187—not only convinced many Mexican residents in the U.S. that they should obtain American

45 Although dual nationality is officially discouraged in the U.S. it is allowed in practice as the Supreme Court has ruled that involuntary expatriation is a violation of the 14th Amendment (Koslowski, as cited in Martin & Hailbronner, 2003, p. 162).
citizenship to protect themselves from the restrictions being implemented\(^{46}\), but actually promoted the implementation of dual nationality in Mexico (Alba, 2004)—a concept designed to legally embrace the largest possible number of individuals as Mexican based on both *jus sanguinis* and *jus soli* (Vargas, 2007b). As more Mexicans became naturalized, their lobbying potential on behalf of U.S.-Mexican relations was expected to grow and ultimately benefit Mexican foreign policy. During the 1998 Congressional debates on dual nationality, Democratic Revolution Party (PRD) Congressman Tenorio Adame alone cast a vote against duality nationality, warning that dual nationality and the expansion of citizenship rights would lead to U.S. economic intervention.\(^{47}\)

The general consensus during the congressional debates was that the living conditions of Mexicans who emigrate “are cause for concern to the Mexican society which is convinced of the necessity of giving the most ample protection to those who have had to go beyond our borders but continue, however, maintaining the conviction of being Mexicans” (as cited in Vargas, 2007b). According to Mexican legal scholar Vargas (2007b, p. 8), Article 30 reflects the importance Mexico attaches to *jus sanguinis*, which refers to “a child born in a foreign country of a mother or a father who are Mexican” by birth or by naturalization by “constitutionally recogniz[ing him or her] as a Mexican national by birth.” The *jus sanguinis* provision is limited, however, to the first and second generations, where first generation birth abroad precedes January 14, 1999. Thus, although dual nationality is extended, it is done so with limitations.

\(^{46}\) From 2000 to 2006, 2 million Mexicans became American citizens by naturalization (Vargas, 2007b).

\(^{47}\) For more on factors that promote dual nationality see Koslowski (2003) “Challenges of International Cooperation in a World of Increasing Dual Nationality” in *Rights and Duties of Dual Nationals*. 

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The impact of the law of 1998 on Mexican politics became evident with the election of President Vicente Fox who, was born in Mexico of a mother born in Spain. Prior to 1998 Constitutional Article 82 had stipulated that a president’s parents must also be Mexican. This was no longer the case; only one parent was required to be a Mexican national. Interestingly, President Fox further applied the modifications implied by the 1998 law of nationality during his administration. By appointing Juan Hernandez, a Texas born Mexican-American with dual nationality, as a Cabinet Minister who would represent Mexicans Abroad, Fox facilitated the “getting closer” process (Fonte, 2002).

Another case illustrating the significant impact of this reform is that of SEGOb Secretary Juan Camilo Mouriño Terraza, who was born not in Mexico, but in Spain. Mouriño Terraza had always enjoyed Mexican nationality status by virtue of the fact that his mother was born in Mexico. Considered Mexican by birth, he was therefore eligible to hold the position of federal legislator from 2000-2003 representing the state of Campeche. Until his death in an airplane crash in October 2008, however, he not only held the second highest political position in the country, but according to a press article entitled “Juan Camilo Mouriño: Eligible for the Presidency,” he had been cleared as eligible to run for president (Ramos, 2008a). When Secretary Mouriño Terraza took his position in SEGOb, his nationality was debated in the press. Copies of his mother’s birth certificate from the Spanish Hospital in Mexico City and her parents’ naturalization papers were made readily available on the internet when members of the opposition party, Partido de la Revolución Democrática (Party of the Democratic Revolution) (PRD), made claims that Terraza’s mother’s birth certificate was falsified.
As the issue of Mouriño Terraza’s nationality was settled, the question of his allegiance to Mexico was then raised, resulting in an exhaustive investigation into the type of passport he used when entering and exiting the country after resigning his Spanish nationality (Ramos, 2008c). As previously stated, eligibility for the Presidency is currently met by those who are Mexican by birth—whether through *jus soli* or *jus sanguinis*—and are born of at least one Mexican parent. Constitutional Article 17, however, still stipulates that

the applicant must expressly renounce the nationality attributed to him/her as well as any submission, obedience and fidelity to any foreign State, especially that attributing said nationality; any protection different than that provided by the Mexican laws and authorities; and any right that international treaties and conventions grant to foreigners.

Although Secretary Mouriño Terraza had complied with Article 17, the debate illustrates that even as significant changes are taking place with regards to the dual nationality law, Mexicans continue to grapple with the implications of these policies at home. This is not merely the result of nationalistic ideals. Mexico is a country in which nationality and citizenship, while used interchangeably in everyday discourse, actually have different legal meanings. Nationality refers to the formal legal status of state membership, while citizenship delineates the “specific character of a member’s rights and duties within the national polity,” such as voting or the right to hold office (Jones-Correa, 2001, p. 998). Although dual nationality allows individuals to hold memberships in two or more states, this does not imply that they have access to the rights and benefits of national citizenship.
This inherent limitation has encouraged the political mobilization of Mexican emigrants in the U.S. For example, Raul Ruiz Piñeda, a member of the Chicago-based Political Rights Commission for Mexicans Living Abroad, has made numerous trips to Mexico to lobby the Mexican Congress and demand the right to vote in Mexican elections from abroad (Quiñones & Kraul, 2005). The Commission argued that Mexican emigrants should be granted the right to vote on the basis of the proven importance of their financial contributions to the development of Mexico. Although in 1996 Mexicans were allowed to vote for president from outside their districts of residence, by 2005 the opportunity to vote in absentia from abroad became a reality. Modeled after the U.S. absentee ballot system, the bill which led to this development enjoyed great support, passing with a congressional vote of 455 in favor and only six opposed. This extension has a significant limitation however, in that no provision has been made for registration abroad; registration must take place in Mexican territory, thus limiting the opportunity of many emigrant nationals to exercise the right to vote in absentia. While many emigrants drove in caravans to border towns to vote in the election of 2000, only 1% of Mexican nationals residing in the U.S. voted in the 2006 election. Because it posited the real possibility of democratically ousting the PRI, the ruling party, the election of 2000 had an additional motivating factor. Not since 1920 had a member of the opposition had so strong a chance to win the Presidency as Vicente Fox.

Despite these significant nationality and citizenship reforms, inconsistent treatment of naturalized immigrants persists. Mexican law does not allow naturalized
Mexicans to keep their nationality of origin\textsuperscript{48}, and naturalization can be revoked should one decide to return to live in his or her country of origin for a period of more than five years. Such treatment is prohibited in the case of those who are Mexican by birth. The limitations on the political rights of naturalized immigrants imposed by Constitutional Article 9 and the legal differentiation or “hierarchy of citizenship” between native Mexicans of native parents and native Mexicans of foreign born parents versus naturalized Mexicans continues to render this population group “second class” citizens (Fitzgerald, 2005b; Dabat-Latrubess, 2001, p. 4).

5.2 MEXICO’S RESTRICTIVE POLICIES – A NEGATIVE IMAGE:

From the outset of President Vicente Fox’s administration (2000-2006), emigration seemed to be promoted as an escape valve for the country’s economic problems in general and, for its inability to generate employment opportunities for its own people in particular. Emigrants were heralded by President Fox as “heroes” for the economic contribution they made towards Mexico’s development (Martin, Martin, & Weil, 2006, p. 37). In President Fox’s own words, “the Mexican government began promoting the establishment of a new system that regulates the movement across our border in a manner which is legal, safe and orderly” as soon as he took office (as cited in Vergakis, 2006). In 2001 the U.S. and Mexico intensified the dialogue that set in motion a process of bilateral negotiations with the intent of finding ways to face the multiple challenges and opportunities associated with trans-border migration. The tragic events of September 11, 2001, however, significantly altered the bilateral agenda on migration. The

\textsuperscript{48} Mexicans who naturalize to the U.S. and then return to Mexico as retirees do not face this problem of losing their American nationality.
result was the establishment of a direct relationship between migration and national security that fed a contentious debate on migration reform in the U.S. and has since inhibited the progress of bilateral negotiations and agreement on this issue.

As Mexico promotes the protection of the human rights of its emigrants, champions the regularization of the undocumented living in the U.S., supports the issuance of greater numbers of visas for Mexican entering the U.S. and the establishment of a guest worker program while debating at home eligibility requirements for nationals abroad desiring to vote, the country is accused of failing to grant foreigners on its own soil the same claim to human, civil and working rights it demands for its nationals abroad. This sentiment has been voiced by many anti-immigration organizations in the U.S., the Colorado Alliance for Immigration Reform and The Center for Immigration Studies, to name a few. According to these organizations, “if American policymakers are looking for legal models on which to base new laws restricting immigration and expelling foreign lawbreakers, they have a handy guide in the Mexican Constitution” (researcher’s emphasis) (Waller, 2006).

Several such restrictive regulations have been highlighted herein. These same regulations have been noted by U.S. politicians, the U.S. press and the aforementioned organizations. Particularly controversial in this regard are Constitutional Article 33 and 118 to 127 of the General Law of the Population (GLP). Constitutional Article 33 and Article 125 of the GLP, as noted previously, authorize the deportation of “inconvenient” foreigners without due process and prohibit “foreigners from participating ‘in any way’…in the political affairs of the country.” These articles are perhaps the most discriminatory and arbitrary of all (Dabat-Latrubes, 2001). As Mexican Congressman
Jesús Alí de la Torre (PRI) asserted in an initiative presented in 2001 to reform Article 33
“The executive power allocated by this article presupposes in the Executive an
infallibility that one cannot give to any human being” (“De Reformas al Artículo,” 2001).
Ali de la Torre further pointed out that this constitutional argument is self-contradictory,
particularly in light of the initial paragraph, which enumerates the individual guarantees
outlined in Chapter 1. This contradiction becomes particularly egregious when one
considers that Mexico is a signatory to various international conventions protecting the
rights of all individuals, among them the 1948 Universal Declaration of Human Rights,
the American Convention on Human Rights and Obligations, the International Pact on
Civil and Political Rights and, perhaps most notably, the International Convention on the
Protection of the Rights of all Migrant Workers and Members of their Families.49
However, according to a 1999 Supreme Court of Mexico decision, international treaties
and conventions entered by the President and approved by the Senate rank immediately
below the Constitution and above federal laws, thus ranking them above the General Law
of Population.

In an attempt to confront this obvious contradiction, Congressman de la Torre’s
initiative aimed to provide foreigners with “legal recourse” in case of expulsion,
however, to no avail. Unfortunately, Article 33—which refers to all foreigners in Mexico
immigrants or non immigrants—has been applied several times within the last 10 years.

49 Mexico is part of various U.N. and International Labor Organization (ILO) accords and conventions,
such as Convention 166 regarding repatriation of seafarers, which it ratified in October 1990. There are
also international accords to which Mexico adheres, which impact the terms of entrance of foreigners to its
territory. These accords address matters pertaining to the issuance of visas for regular, diplomatic and
official passports, as well as permits for business people within NAFTA and the General Accord on
Commercial Services of the World Trade Organization (WTO). With respect to human rights Mexico is a
signatory of the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms
of Discrimination against Women and the Declaration of the Rights and Duties of Man.
Given the restrictions inherent in Article 33, human rights advocates when entering Mexico state their purpose for visiting Mexico as tourism and thus enter as a non-immigrant. In 1998, for example, three Norwegians were expelled after mounting a roadblock to help the Zapatista rebels in the southern state of Chiapas (“Three More Foreigners Expelled From Mexico,” 1998), and in May of 2002, Mexico expelled 18 Americans participating in May Day marches in Mexico City and Guadalajara. In Mexico City it was college students from Washington State who were protesting the expropriation of land near the city for a new airport and waving machetes with other protestors (Wall, 2002). Most recently, May 2009, National Autonomous University of Mexico’ sociology professor Miguel Angle Beltrán Villegas, was expelled and flown to his native Colombia after being accused of having links with Colombia’s Revolutionary Armed Forces’ (FARC) guerrilla leader Raúl Reyes. Beltrán Villegas was in Mexico as a visiting scholar but awaiting the issuance of his FM-3 visa. The very day he was asked to go to visit INM’s offices and ratify his paperwork, he was deported without due process (Petrich, 2009).

Interestingly, two of the interviewees contributing to the current research, who are committed to raising awareness of immigrant injustices, are foreign-born. Both Father Rigoni, a native of Italy, and Fabienne Venet of France have naturalized as Mexicans and thus have a right to participate in the political arena. Father Rigoni indicated that becoming naturalized was an important factor in his freedom to effectively continue his

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50. The FM3 visa is a renewable long-term permit (more than 6 months) that grants the right to live and work—under the terms specified in the visa—in Mexico. It can be renewed for up to 5 years. See INM’s (n.d.). Web site for more info: http://www.inm.gob.mx.
work (personal communication, August, 2008). Both research participants represent
groups that have an ongoing working relationship with government.

It is important to mention that Mexico’s economic circumstances have made it
easy to overlook the enforcement of other regulations pertaining to the immigrant
population. Such is the case with Articles 74 and 140 of the General Population Law.
According to these articles, violators of the prohibition against hiring an undocumented
worker are subject to a fine of $4,434 pesos (approximately $440 U.S. dollars) or
imprisonment of up to 36 hours. Because tax evasion is rampant in Mexico—with 40% of
businesses and 70% of professionals and small business delinquent (Mexico’s
Presidential Race, 2006), and approximately 27% of people are working in the informal
sector, i.e., off the books, as shoe shiners, food vendors, farm workers, electricians, etc.,
so prosecution of violators is difficult (Hawley, 2008). Professor Elain Levine of the
National Autonomous University of Mexico (UNAM) claims never to have heard of an
employer being punished for hiring someone lacking appropriate documents (as cited in
Hawley, 2008). Workplace raids are rare and even if an employer is suspected of hiring
undocumented employees, the ever prevalent practice of informal hiring makes proof of
employment very difficult.

Although the various articles of the General Law of Population criminalizing
illegal entry into the country—Articles 118 to 127—have recently undergone reform, as
detailed below, it is important to recognize that even up to the day these reforms became
law—June 29, 2008—they had never been enforced. Instead, illegal immigrants were
deported. The length of detention varied and continues to vary depending on such factors

51 A review of Mexico’s National Migration Insitute’s (INM) online statistical database does not show any
data on arrests or fines for employers for violation of Articles 24 and 140 of the General Population Law.
as the migrant’s nationality, identity documentation and the existence of any pending legal claims, such as an asylum application, for example. Central Americans migrants with identification have generally been deported within days. Since 1997, Mexico has established bilateral agreements on deportation; agreements with El Salvador are in place since 2004. Accordingly, Mexico deports all Central Americans to Guatemala. From there Guatemalan authorities take them to their borders with El Salvador and Honduras. As of October 2008, Mexico has an agreement with Cuba to repatriate Cuban nationals back to the island. Migrants from more remote places—Africa, for example—have remained in detention longer, sometimes up to six months (Diaz & Kuhner, 2007). According to Casa del Migrante it has provided refuge to three migrants from different parts of Africa as recently as during the summer of 2008 (Rigoni, personal communication, August, 2008). If caught, these migrants are deported directly to their countries of origin, which necessitates a consular arrangement with their governments and a budget for travel expenses (Castillo, 2006).

According to INM Commissioner Romero Castillo, although undocumented immigrants are not sanctioned with prison time (INM Comunicación Social, 2007c), many migrants have been threatened with the above articles in exchange for a “mordida” (bribe) by corrupt officials. As a 27-year-old mother from Honduras told the Washington Post, 18 days into her trip through Mexico to reach her husband in the U.S., she had to pay $45 to Mexican immigration officials (Watson, 2007). Even if most migrants were deported, these regulatory articles have become the object of international attention as they exemplify the hypocrisy of Mexico’s demands. Of special concern are the 10-year prison and 500 peso fine (approximately $500 U.S. dollars) imposed by Article 118 for
illegal re-entry and the two-year prison term and 300 to 500 peso fine imposed by Article 123 for a first offense.\textsuperscript{52}

Regardless of whether or not these regulations were enforced or not, which begs the question as to why they even existed, the reality is that they have been “on the books” as recently as mid-2008 and are used as tools to instill fear and extort bribes. In this respect, they have reflected negatively on Mexico’s foreign policy image. Perhaps most contentious of all, Article 33 of the Constitution, which restricts the activities that foreigners can conduct while in Mexico, has been in effect all along and has been enforced many times over.

5.3 TURNING MEXICO’S IMAGE AROUND: PURSUING AN INTEGRATED AND CONTEMPORARY POLICY:

As the debate over illegal immigration unfolded in the U.S. and the manner in which Mexico deals with its own immigrants has come to light, Mexican politicians have embarked on a more intensive approach to migration policy reform. Attempting to improve its image and enhance the possibility of favorable reforms in the U.S., in 2005 the Mexican government retained Allyn and Company, a public relations firm, to help develop and promote a message to the United States community “as its leaders debate immigration policy” (“Message from Mexico,” n.d.). “A Message From Mexico on Migration” (n.d.) stated that the Mexican government “\textit{does not promote undocumented migration and is eager to participate in finding solutions that will help us face the migration phenomenon}” (emphasis in original). It also clearly expresses the desire for a

guest worker program and presents migration as a phenomenon that needs to be guided by the principle of “shared responsibility” (emphasis in original). In addition to acknowledging that Mexican officials are paying attention to what is happening in the U.S., the message makes it clear that as a result of the current debate, it views the current situation as an “opportunity for Mexico” to revise its migration policies within a time frame of 15 to 20 years.\(^5\) This message builds on the guiding principles set forth in an unprecedented document entitled “Mexico and the Migration Phenomenon,” which was adopted by the Senate and the Chamber of Deputies of Mexico’s Federal Congress as a Concurrent Resolution on February 16, 2006. Interestingly, this document was the outcome of an equally unprecedented series of discussions involving a working group of migration experts, government officials, lawmakers, members of academia and representatives of civil society organizations, which began in 2001 and climaxed in 2005. These discussions inspired subsequent efforts to promote the development of a comprehensive immigration policy not only on the part of the Fox and Calderón Administrations, but also the Mexican Congress.

The many deliberations, workshops and conferences led to the creation of an extensive number of documents providing detailed recommendations for change at all levels of government inclusive of reforms to the General Law of Population and the Constitution.\(^4\)

\(^5\) An electronic version of this message and preceding document can be found at http://www.sre.gob.mx.
\(^4\) So many documents have been produced that INM has opted to compile them in CD format rather than in a printed version. Individual items, such as transcripts of the debates and proposals made in 2005 by INM’s state representatives, can be found in a report entitled *Hacia una Politica Migratoria del Estado Mexicano (Towards a Migration Policy for the Mexican State)* (INM, 2006).
Despite consensus regarding the need to update Mexico’s legal framework—the Constitution and the General Law of Population—and the need to implement a policy consistent with Mexico’s reality as a country of immigration, migration, transit and refuge, no official comprehensive revision of the country’s migration policy has been developed to date. The researcher’s fieldworks revealed that both the Constitution and the General Law of Population are deemed by many as “obsolete, far removed from Mexico’s current reality, and perhaps not only in need of revision but of a complete overhaul” (Rodríguez Chávez, 2008; Rigoni, 2008). In his interview with the researcher, INM’s Migration Studies Director Rodríguez Chávez highlighted disagreement as to how to achieve such a policy as the reason behind the failure to produce or draft a comprehensive policy (personal communication, 2008). While some prefer to pursue isolated reforms, others are in favor of the enactment of a separate legal framework which would address migration issues in addition to a revised General Population Law. They argue that because 34 of its 157 Articles have nothing to do with migration (INM, 2006, p. 192), the General Population Law does not adequately address the issues. Still others are even pushing for a new Constitution which would be more in line with Mexico’s 21st century realities (Rodríguez Chávez, personal communication, 2008; Vargas, 2005a). Interviews with officials also revealed that the INM has as of mid-2008 decided to pursue the enactment of a separate law of immigration and is drafting one. Once done the proposed law will be submitted to Congress, at which point, it will become clear if agreement on policy reforms exists. However according to Mari Carmen del Río, INM Director General for Legal Affairs, Article 33 of the Constitution will remain untouched as the Constitution is not under revision (personal communication,
2008). Thus this highly contentious law affecting foreigners in Mexico will stay on the books.

Despite the lack of an established or formalized policy plan, the INM and SEGOB claim that Mexico’s official immigration policy as it stands today incorporates 28 principles founded on four basic pillars: (a) recognizing the complexity of migration, (b) prioritizing human rights and the dignity of migrants, (c) furthering and deepening the humanitarian tradition of Mexico’s migratory practice and (d) continually updating and modernizing immigration procedures (INM Boletín No. 072/07, 2007). These pillars are said to guide every migration program and, consequently, are mentioned in virtually every policy statement produced by the government.

5.3.1 Successful Isolated Reforms

A series of isolated efforts has been successfully promoted and implemented not only by INM but also by legislators. These efforts have been heralded by the Calderón administration as steps towards the full promotion of the principles outlined above. One such step mentioned by INM is the recent reform to the General Law of Population that decriminalizes illegal immigration. This, in effect, takes away a tool of which corrupt officials have availed themselves. Well aware of U.S. accusations of hypocrisy and concerned that Mexico’s image presents an obstacle to policy reform in the U.S., members of the Mexican Congress have submitted initiatives to reform Articles 118 through 125 of the General Law of Population. According to the initiative submitted by Congressman José Jacques Medina of the Partido de la Revolución Democrática (PRD) (Democratic Revolution Party), “[Mexico] cannot be exercising a double morality, acting
like prosecutors to our immigrants while asking the north to treat our nationals with respect” (Medina, 2007). Congressman Medina’s statement goes beyond a mere confirmation of the obvious incongruence; it expresses concern regarding the accusations made by civil society organizations of human rights violations and bribe-taking on the part of migration officials. Congressman Edmundo Ramírez Martínez of the Partido Revolucionario Institucional (PRI) (Institutional Revolutionary Party) and Congressman Cruz Pérez Cuellar of the Partido Acción Nacional (PAN) (National Action Party) submitted similar initiatives. Both the Senate and Congress unanimously agreed to reform Articles 118, 125 and 127 and to eliminate Articles 119 through 124. Gaceta Parlamentaria, the official legislative publication, reinforces the importance of achieving congruence in these reforms with the following:

The Congressmen believe that by keeping the law as is, the legal migratory status of our country only legitimizes and gives additional material to the most conservative actors in the United States, thereby allowing them to continue their hate campaign against our nationals, and furthers the most racist elements of the north in their desire to consider our migrants terrorists, allowing the transnational human trafficking network to thrive from a lucrative business. It is, therefore, necessary to decriminalize and un-penalize migration and migrants. (Gaceta Parlamentaria, 2008)\textsuperscript{55}

\textsuperscript{55} For the actual reform bill, see Gaceta Parlamentaria del Senado, No. 237, April 28, 2008, posted online at http://www.senado.gob.mx.
The final “decree” of Article 118 establishes a fine at the rate of minimum wage for up to 100 days (at the Mexico City rate)\textsuperscript{56} and deportation or repatriation to the country of birth in cases of an existing agreement with the country in question. According to Article 127, a fine at the rate of minimum wage for up to 500 days is to be imposed on the Mexican who marries a foreigner with the sole purpose of providing residency in Mexico\textsuperscript{57}. In effect, the contentious status of “criminal” is eliminated with these reforms. Although the decree was sent to the President on April 29, 2008, nearly three months passed, i.e. more than the required 40 days, before the President published them in the Official Diary of the Federation on July 22\textsuperscript{nd}, rendering them official. There was never any doubt regarding the executive’s position on these reforms, as INM and SEGOB officials had made numerous public references to these amendments, lauding them as signs of Mexico’s progress in its immigration policy agenda (see INM’s series of Comunicación Sociales, 2007-2008). On the other hand, some party officials accused the President of giving too much attention to his energy reforms when issues of immigration merited equal attention (Mejido, 2008).

5.3.2 Institutional Efforts

Multiple institutional efforts to improve Mexico’s image have also been implemented, and, according to INM’s Commissioner Romero Castillo, the INM has pursued the consolidation of a new “migration culture” that makes respect for human

\textsuperscript{56} The minimum daily wage, as enforced in the Federal District, is a figure set by the government. It is commonly used as a benchmark for the purpose of calculating fines and such, as stipulated by various laws and regulations. Published every December in the Official Diary of the Federation, this wage becomes effective the 1st of the year (Mellin & Spencer, 2003).

\textsuperscript{57} The decree can be accessed in the Senate Gaceta at http://www.senado.gob.mx.
rights a top priority (INM, 2008a). A quick look at INM’s website and the documents released by the Commissioner reveals the government’s heavy reliance on human rights protection rhetoric. One of the stated policy goals in the document entitled “Mexico and the Migration Phenomenon”, for example, is that

Mexico must develop and enforce its migration laws and policy with full respect for the human rights of the migrants and their relatives, notwithstanding their nationality and migration status, as well as respecting the refugee and asylum rights, in accordance with the applicable international instruments. (Secretaría de Relaciones Exteriores [SRE], 2008)

Although progress has been minimal, the INM has made significant and worthwhile efforts to deal with complaints of corruption. From 2005 to 2007, INM received 370 official complaints of arbitrary detention, cruel and degrading treatment, extortion of bribes, and unsanitary and overcrowded detention centers (Revista INM, 2007a). Many such complaints have been logged by the head of the National Commission on Human Rights, Mauricio Farah. Others have been voiced in the press or at conferences, at times even attracting international attention. Such was the case with the complaints presented by 2006 Nobel Peace Prize nominee Jorge Bustamante, Special Investigator of the United Nation Human Rights for Migrants, and by Honduran diplomat José Armando Pineda, who at a migration forum in 2008 proclaimed, “just as Mexican authorities demand respect for the rights of Mexicans in the United States, we are demanding respect for our people” (“Central American Immigrants Seek Rights in

58 In 2001 the typical center held over 400 illegal immigrants despite an intended capacity of 250 (Shepard-Durni, 2008). At one point in the year 2005 the Tapachula center in Chiapas held as many as 1,300, when it was designed to accommodate only 550 (Grayson, 2006).
Mexico,” 2008). Among the programs established to address corruption was the implementation in 2002 of a program aimed at improving the quality of INM’s 1,900 agents. This particular anti-corruption program introduced screening for agents as well as mandatory drug testing, educational requirements and human rights training workshops. In order to attract better qualified employees, the monthly salary of agents was raised to approximately $800 (Grayson, 2006). More recently, the INM has initiated investigations into violations, resulting in the sanctioning of 187 of INM’s public servants in 2006 (INM Noticias, 2008g). In 2003 the INM launched a program to modernize 45 of its detention centers, completing the building of six new ones in the south in 2009. According to an article in El Universal, one of Mexico’s leading newspapers, the agency allocated approximately 170 million pesos to this program, which funded five new centers to accommodate the growing influx of migrants, physical improvements to existing centers, air conditioning and heating systems as dictated by regional climate needs, and medical services (INM Noticias, 2008g). As of this writing, new norms are being issued to regulate these centers, their detainees and their visitors. In response to complaints that the first set of regulations was too restrictive and limited the opportunity for migrants to receive adequate counsel, these new regulations are currently undergoing revision with the stated purpose of improving detainees’ access to lawyers and human rights defenders as well as prohibiting illegal migrants from being held in common jail (Watson, 2007). Thus far these regulations are stuck in the “bureaucratic process that is supposed to be followed” as INM Commissioner Romero Castillo described the situation in early 2008 (INM Comunicación Social, 2008a).
Two other recently created programs worth mentioning are the creation of a special shelter for unaccompanied migrant children\textsuperscript{59} in Mexico City and a state police unit dedicated to investigating crimes against migrants—\textit{Fiscal Especializado en Delitos Cometidos Contra Migrantes}—in the city of Tapachula, Chiapas. The Governor of Chiapas, Juan Sabines Guerrero, received a humanitarian commendation for the establishment of the latter from José Armando Pineda, the very same Honduran diplomat cited earlier, who just a few months before had demanded humanitarian protection for Honduran nationals (INM Noticias, 2008a, 2008j). Also as part of Mexico’s intent to back what it demands, the INM signed various agreements with 12 local health agencies that would require them to provide medical services to any immigrant that requires them. This latter guarantee is in accordance with the International Convention for the Protection of the Rights of All Migrant Workers and their Families that Mexico is part of and which guarantees immigrants the same rights as nationals without regard to their status (INM Noticias, 2008b).

Despite these significant changes, corruption and inefficiency continue to be a problem. This was evident in June 2008, when INM officials were assaulted while transporting 37 foreigners—33 Cubans and 4 Guatemalans—to the immigration center in Tapachula, Chiapas (Otero & Torre, 2008). Armed men drove away with the Cuban migrants who were later said to be in the U.S., where Cubans are protected from deportation. Nine of the INM agents have been accused of helping to orchestrate this assault as they coordinated it with members of Mexico’s growing drug and human trafficking cartels. Another recent case, that of Zhenli Ye Gon—a wealthy Chinese

\textsuperscript{59} This center was opened by civil society members with the assistance of the federal government as a result of a proposal presented by Mexico’s first lady, Margarita Zavala (INM Noticias, 2008a).
businessman and nationalized Mexican as of 2003, who as of this writing faces charges of arms and drug trafficking in the U.S.—received significant press coverage in Mexico (“Ye Gon recibio su carta,” 2007). All of this suggests that additional measures are necessary to address the INM’s in-house issues and regulations. Ye Gon’s case specifically demonstrates that Mexico’s policy of accepting “economically beneficial” immigrants and easing restrictions on businessmen is also subject to misguided selectivity as argued in the Mexican press (Mejido, 2008). In a statement to the press, SEGOB Secretary Mouriño Terraza reiterated that “a series of strong measures will be enforced within INM to ensure that this institution complies with its responsibility and that such cases as that which just took place [the Cuban incident] never happen again” (researcher’s translation) (Otero & Torre, 2008). Just what measures will be taken remains to be seen, but one thing is clear: corruption is deep-rooted and difficult to root out. Even the creation in 2002 by then-INM Commissioner Preciado of a special prosecutor for immigration affairs, who would work with the federal police to clean up the agency (Grayson, 2002), has met with limited success.

Analysts such as Orgen (2007) argue that part of the problem lies in the limited impact of training workshops. These workshops are available only to INM officials as opposed to other agencies involved in detention procedures, such as the municipal, state and federal police. This is relevant, particularly in light of the fact that only 60.88% of annual detentions are conducted solely by INM officials (Orgen, 2007, p. 222). It is also often the case that the other participating agents are unfamiliar with the different types of valid travel documents, visas, and permits, specifically those documents issued by
COMAR, the Mexican agency in charge of refugees. Unfortunately, programs designed to sensitize and educate officers at the ground level remain limited.

The myriad of agencies involved in migration control issues is propelling INM’s intent to increase its authority. As of October 2008, the INM is studying the possibility of proposing a new immigration law according to which it would no longer depend on SEGOB when in need of information about foreigners from other institutions or governments. It would also be allowed to decentralize migration procedures and documentation requirements by providing its regional delegations with this prerogative. The agency is hoping to directly forbid the entrance of convicted criminals and those linked to human trafficking. If granted this authority, the INM would no longer need to wait for SEGOB’s approval; “security” concerns would be the new justification for the prohibition of the entry of unwanted foreigners (INM Noticias, 2008i).

5.3.3 Beta Groups

Prior to the changes introduced in 1990, the INM established what has become its most successful, albeit controversial in the U.S. humanitarian program. This program, called Grupo Beta (Beta Group), came about as the result of “concerns for the well being and health of migrants.” As such, it aims specifically to protect their lives regardless of their nationality. The Beta Group consists of units of unarmed border officials wearing orange jackets to enhance their visibility while patrolling dangerous areas transited by migrants. Functioning as police, medics and social workers, the Beta Group bears the motto, “Vocación, Humanismo y Lealtad” (Vocation, Humanitarianism and Loyalty). Their stated goal is to prevent unnecessary and often violent deaths.
The first Beta Group was established in Tijuana. Its success led to the formation of other groups throughout the country, initially in the north, in Nogales in 1994 and then in Tecate and Matamoros in 1995. Today there are 16 units total along both the north and southern borders of the country (See Figure #5.1). According to Articles 137 and 138 of the General Law of Population, Beta members are directed to provide immigrants not only with blankets, food, medicines and water, but also with legal and social support by logging their complaints and referring them to the appropriate institutions. By law they are also required to inform migrants of their rights and of the many risks they face when crossing the borders. Despite authorization to arrest both coyotes (human smugglers) and drug dealers, should they witness a crime as it is taking place, Beta groups have come under scrutiny and, as of 2000, they do not bear arms.

The Beta program relies on a set of strategically placed towers that are about 10 meters high with a stroboscopic light positioned at the top. Visible for up to 10 kilometers, each tower is situated alongside a water container so that migrants can take refuge until Beta personnel arrive to assist or rescue them. In 2007 alone, Beta officers helped over 6,000 migrants in danger, rescuing 158 who had been lost, providing medical attention to 538 injured migrants and to an additional 39 who had lost a limb while attempting to move through Mexico atop or hanging from what is commonly referred to as the train of death (INM, 2008c).

The controversy surrounding the Beta program stems from accusations that the actions of Beta Group members actually encourage illegal immigration to the U.S. Some members have been accused of providing migrants with maps to facilitate their travel, an accusation the INM flatly denies, stating that migrants are provided only with
information about centers of refuge, consulate offices, and so on. In Mexico however, the Beta Groups are seen by government officials, scholars, and members of civil society organizations as performing not only a necessary function, but a risky and selfless one at that. Still, the program remains largely underfunded and undermanned, particularly in the South where only 45 of the 171 Beta Group members are situated despite the need to cover vast routes winding through the states of Chiapas, Campeche, Tabasco, Oaxaca, Quintana Roo and Veracruz (Grayson, 2006, p. 63).

*Figure # 5.1. Location of Beta Groups in Mexico. Source: INM (2008c).*
5.3.4 The Southern Border\textsuperscript{60} Plan

Although a comprehensive national policy which would address the issues of the South is yet to be developed, a proposal entitled \textit{Propuesta de Política Migratoria Integral en la Frontera Sur de Mexico} (Proposal for an Integral Migratory Policy for the Mexican Southern Border) was released in 2005. This proposal can be viewed as a revised or updated version of both current and preexisting programs, some of which are the reflection of an effort on the part of the Fox administration to strengthen the regional delegations in the Southern border called \textit{“Fortalecimiento de las Delegaciones Regionales de la Frontera Sur.”} Generally speaking, this is a strategy that replaced the very restrictive and ineffective \textit{Plan Sur} (Southern Plan) enforced from 2001 to early 2003. \textit{Plan Sur} was a massive effort to strengthen patrols and control immigration flows from the Isthmus of Tehuantepec in the Southern state of Oaxaca to the southern border. It did so by dispatching hundreds of new immigration agents, increasing roadside checkpoints, and, in violation of the General Law of Population, by officially engaging the military in detention activities. In other words, \textit{Plan Sur} “militarized” the Southern region. Within the first 15 days of the program—from June 4\textsuperscript{th} to June 19\textsuperscript{th}—Mexico deported 6,000 illegal aliens, of which 60\% were Guatemalan, 29\% Honduran, and 22\% Salvadoran (Proceso, 2001). Because the U.S. offered “to help Mexico deport illegal Central Americans” (as cited in Kimball, 2007), \textit{Plan Sur} symbolized to many the

\textsuperscript{60} The Southern border refers to a territory amounting to 238,904 square km and comprising five states: Campeche, Chiapas, Quintana Roo, Tabasco, and Yucatan, i.e., a span of land that can be compared to all of the United Kingdom or the sum of Austria, Belgium and Greece (Villafuerte Solís, 2005, p. 3). The focus of this study, however, is largely on the Chiapas region. This is in keeping with the INM Plan and a natural result of the fact that this area is the most visible in terms of immigration. Due to its proximity to the Guatemalan regions, Chiapas is also the most important state in terms of demographic mobility.
pressure exerted on Mexico by U.S. interests to reduce the flow of potential immigrants to the U.S.

Figure # 5.2. Mexico’s southern region. Source: Orgen (2007).

Mexican officials from both the Fox and Calderón administrations have been accused of giving in to U.S. pressure to limit transit migrants in response to the promotion of the U.S. anti-terrorist campaign only to get nothing in return. One example of such a concession is the visa requirement imposed on Brazilians wishing to enter Mexico, a new development as of 2006. In the words of an INM official,

    We have an agreement with Brazil that we do not require visas for Brazilians. But they are not allowing many Brazilians to enter the United States. So here, because they can enter legally, they walk to the border and enter the United States. So the United States starts to yell about that, “You are letting in too many!” and then,
what? They start saying that the problem is that there might be “terrorists.” So we enacted visa restrictions. (as cited in Kimball, 2007)

Although Mexican cooperation with regard to U.S. security issues did not begin with the incidents which occurred on September 11, it is important to point out that there has been increased cooperation since that time. In March of 2002 both countries signed the Smart Border agreement, which resulted in stricter controls and the militarization of Mexico’s Southern border, as well as an increased exchange of information between both countries on visa requests (Alba, 2004). Washington has wanted to ensure that as many deportations as possible take place on Mexican soil, as the cost of deporting illegal immigrants to the Guatemalan border from Mexico is only approximately $22 whereas the cost can amount to $1,700 once they are already in the U.S. (Shepard-Durni, 2005). Due to the enhanced focus on security, the number of illegal entries to Mexico has diminished from 215,698 in 2004 to 120,414 in 2007. As mentioned in Chapter 2, however, and as reiterated by Mexican officials, the implementation of tighter security controls is only part of the reason. Other factors have likely contributed. The same policies may have displaced immigrants to unknown trails, which, though perhaps more dangerous, make migrants more difficult to detect. Failure of detection can only contribute to inaccurate figures. Moreover, as Father Rigoni observed, stricter border controls do not appropriately address the U.S. concern about terrorism, since it is a mistake to equate migrants crossing the Chiapas/Guatemala border

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61 As part of President Ronald Reagan’s “war on drugs,” Mexico agreed to allow U.S. police agents to gather intelligence in Mexico. Mexico also participated in programs to help train pilots of helicopters and specialized aircraft (Kimball, 2007).
with terrorists. Terrorists can easily avail themselves of documents and need not subject themselves to the conditions migrants face.

Although consistently couching its agenda in human rights language (Kimball, 2007, p. 83) the implementation strategy of the “Southern Frontier Program” actually promotes major immigration restrictions and increased controls both internally and at the southern border. The official strategies outlined are directed at: (a) easing the necessary documentation for migration flows to the region; (b) enhancing the protection of immigrant rights by stimulating a culture promoting reporting of human rights violations and legal and human rights training programs for its officials; (c) tightening border security; and (d) enhancing the infrastructure and technology necessary to achieve such goals (INM, 2008b).

Border security is not only a significant part of the southern policy plan, but also of President Calderón’s general war against crime. This is a campaign he vehemently launched from day one of his administration. The Calderón administration has deployed over 35,000 troops and police throughout Mexico in this war—a war that also targets the increasingly destructive Barrio 18 and the Mara Salvatrucha (MS-13) gangs—which have their origins in El Salvador and, consequently, helped establish the link between migration and crime. During the X Tuxtla Presidential Summit, Mexican leaders reiterated that with the U.S. Congress’ approval of the Merida Initiative, the foundation

62 A summit of member countries of the Mesoamerican Integration and Development Project held on June 28, 2008.
63 The U.S. has been financially and technically supporting Mexico’s tightening of security because, as FBI Director Robert Mueller told Congress in mid-2004, foreigners with ties to Al Qaeda entered the U.S. through Mexico using fake identities. According to a 2005 article in Time magazine, Al Zarqawi, the head of the terrorist group Organization of Al Qaeda in Mesopotamia, obtained a visa in Honduras as a preliminary step to entering the U.S. via Mexico (Grayson, 2006).
for a security plan between Mexico and Central America was now in place. Named after the Mexican city in which it was negotiated, the Merida Initiative allocates $400 million a year to Mexico and $65 a year to Central America for the next three years for military equipment and training for drug interdiction forces, helicopters, surveillance planes, and sophisticated electronic inspection equipment. These monies are also to be used to fund software, immigration document verification systems, and human rights and anti-corruption training as well as for the establishment of a new civilian police force (Falconer, 2008).

As part of his initiative against drug cartels and gangs, President Calderón initially stepped up the presence of soldiers and federal police on the southern border. More recently he has withdrawn the presence of the military on this border. Although the border zone now has limited controls, internal controls have been intensified and patrols have been strengthened at strategic points along numerous highway routes preferred by immigrants and their guides. Some of the methods of control and verification—such as asking for identification—are also being conducted along railway points, though not as frequently as on the highways, where buses and other vehicles are easier to stop. As Father Rigoni pointed out,

only in Mexico it is easy to get in but later once in, the difficulties are magnified…. If you look at a map of these checkpoints throughout the country, it looks as if Mexico has chickenpox or is full of land mines about to explode. (personal communication, August 2008)

Actually a migrant can encounter up to eight checkpoints in a 350-kilometer stretch of highway (Kimball, 2007, p. 86). This implementation of intense controls “confirms
Mexico’s interest in stopping unauthorized migrations from reaching its northern border” (Castillo, 2006, p. 2). It also makes it easier for entities such as local police and even the military to act outside their jurisdiction and stop immigrants without concern. Richard Garcia, a Honduran waiting for a northbound train in Mexico City put it this way. “It is harder to go through Mexico than getting into the U.S…. At least in the U.S. they just pick you up and return you. Here you get robbed, beat up” (as cited in Watson, 2007).

Unfortunately, these controls and the fear they instill have forced migrants to pursue alternative means. Riding atop trains is extremely dangerous; immigrants jump aboard while the train is in motion. Migrants are also being forced to travel through more desolate areas far away from the safety of towns and populated places. Yet another unintended consequence of this program is that illegal immigrants are increasingly turning to contracting polleros or human smugglers, who charge them between $6,000 and $8,000, to help them get through the more difficult areas (Kimball, 2007).

The cornerstone of the Southern Frontier Program is the development of Mexico’s guest worker program with Guatemala, which attempts to regulate the entrance of approximately 40,000 temporary workers (INM Comunicación Social, 2008c). Before the 1970s, transborder migration between Guatemala and Chiapas was frequent as people routinely moved across borders for temporary work in agriculture, construction and domestic services with daily commuters, temporary workers and personal visits accounting for 85% of all crossings (Kimball, 2007, p. 72). Although before the 1990s this type of migration was tolerated and even encouraged in order to supply Mexico with low wage labor, in 1997 the Mexican government established a visa category for Guatemalan agricultural workers (Forma Migratoria de Visitante Agrícola) (FMVA), and
by 2001 a regularized program for agricultural workers who could demonstrate continuous employment was formalized under Fox.

In March of 2008 the Southern Frontier Program extended this process in a progressive move by issuing new biometric visas for guest workers from Guatemala and Belize and work permits valid for up to a year for more borderline States such as Tabasco and Quintana Roo, and by involving more sectors of the economy than just agriculture (INM Comunicación Social, 2008a). The distribution of visas with electronic chips is applicable to visitors as well, inclusive of those not only from Guatemala, but also from Belize.64 INM estimates that by the end of 2008, it will have issued more than a million “digitally embedded immigration cards to track migrant workers” (Nevaer, 2008). The previous non-electronic pass was “easily alterable and subject to the discretion of migration agents,” according to INM. The new cards should limit the ability of migration officers to seek bribes as it is intended to provide legitimate/uncontested identification to the everyday traveler, thereby encouraging his/her security. The program also forces employers to pay migrant workers the same wages they pay Mexicans and eliminates their ability to retain a worker’s documentation. The U.S. government has had a similar program in place, the Border Crossing Cards (BCC) since 1998. The laser visa is a laminated credit card size document with a digitally embedded photograph of the bearer as well as fingerprints. These cards are valid for travel approximately 10 years after issuance, but applicants must meet strict criteria inclusive of demonstrating that they have compelling reasons to return to Mexico after a short stay in the U.S. (“Border Crossing

64 Mexico has signed a seasonal farm worker agreement with other Central American nations, most notably with Belize. Mexico estimates that about 28% of local crossings come from Belize through the Subteniente Lopez bridge in the State of Quintana Roo (INM, 2005).
However, according to an Associated Press report in early 2007, “Mexico to Track Migrations,” U.S. border officials rarely inspect these cards and vehicle lanes lack the equipment necessary to scan and read them. It is Commissioner Romero Castillo’s hope that INM’s program will be seen as an example of how a well run guest worker program can be successful (INM Comunicación Social, 2008c). Time will tell.

5.3.5 Regional Integration

With the stated intent to improve the lives of the population not only in the Southern region of Mexico, but in all of Central America, and to prevent their emigration as jobs and higher wages are generated, a mega project between member nations is also underway. This project, recently renamed The Mesoamerica Project, although launched by Fox under the name Plan Puebla Panamá, has been praised as a modern “Marshall Plan.” The plan is to build a 1,000-mile development corridor, inclusive of the construction of highway infrastructure, energy, electric, housing and information networking. As for specific projects, over $9.3 billion was allocated to continue the modernization and expansion of the Mesoamerican highway network at the June 2008 Tuxtla Summit attended by the Presidents of Belize, Colombia, El Salvador, Costa Rica, Guatemala, Honduras and Nicaragua.

In September of 2008, Mexico committed $13.2 million to the construction of a 20-km road in Guatemala—a figure Clemente Poon Hung, Mexico’s Highway Director, claimed was justified because the road “will help control the migration flow and…increase the security of the zone while increasing tourism and commerce.” Pung Hung added that the road would “facilitate the building of a border patrol center” (“La
Obra Conviene a Mexico,” 2008) and contribute to the region’s border infrastructure, which is still lacking. All of this will encourage better control of migration flows.

Relying on regional development projects—including guest worker programs—is Mexico’s way of asserting that migration can be controlled. As pointed out by Rodríguez Chávez (2006), Director of INM’s Center for Migration Studies, Mexico believes that as legal circular migration is made both feasible and flexible, human rights violations are limited and regional security is enhanced without having to build a wall or limit border mobility, which, in the long run, forces part-time workers to become full-time immigrants (researcher’s translation).

5.4 CONCLUSION:

The period dating from 1973 to 2008/early 2009 has been marked in Mexico by a series of economic crises and attempts to regain the rapid economic growth enjoyed during the 1960s and ’70s. These attempts failed in short order and left the country highly vulnerable to external conditions. Conditions turned sharply against Mexico in the early 1980s, resulting in the worst recession since the 1930s. Mexico was now beset not only by falling oil prices, rising inflation, and a chronically overvalued peso, but also by high levels of unemployment and underemployment—most notably in the rural areas of the country due to an unprecedented emigration, especially to the U.S. Despite the positive momentum gained by 1989 and a rise in Mexico’s GDP, in 1994 the peso collapsed, precipitating another economic crisis. This instability led to the realization of the need for a shift in government policy aimed at addressing the need to generate a net capital inflow. In order to accomplish this objective, Mexico has intensified its process of
denationalizing state enterprises and deregulating the economy and has pursued a more
democratic government system, as evidenced by the election of Vicente Fox, a member
of the opposition party. This intense reform, at nearly every level of political and
economic life, has come about as the result of yet another realization, namely that Mexico
is a receiver of immigrants—particularly from Latin America—. The need to reform the
very laws and regulations that have governed the country practically since its inception,
which are now seen as incongruent with Mexico’s current realities, has come with the
realization that Mexico also needs to change the way it treats its foreigners and new
immigrants. Mexico understands that it needs a comprehensive and contemporary policy
that is both coherent with the international conventions it has chosen to support and
reflects its status as a country of emigrants, immigrants and transient migrants.

Mexico’s reform process has included numerous and varied significant attempts
to change the way the country treats foreigners on its soil and to become more attractive
to them. Concerted efforts have been made to create a better image where human rights
issues are concerned. Efforts directed at the establishment of a comprehensive policy are
evident from the many workshops and seminars held since 2001 to the resulting
documents of intent uncovered by this research. Despite a generalized consensus
regarding the need to revamp Mexico’s immigration policy and the expectation that eight
years of deliberations and incremental steps would have resulted in a comprehensive
policy change, differences of opinion as to how to achieve such a policy—whether by
creating a new federal constitution or a new law of immigration—have so far presented

65 According to INM, a comprehensive policy is one that coordinates principles, strategies and concrete
programs and activities while specifically answering the following questions: What is the problem? (Diagnosis),
response strategy (Strategic Items), and how should/will the proposed solution be applied? (Programs and actions) (INM, 2006, p. 10).
serious obstacles to the attainment of this goal, a change remains to be seen as the new immigration law is submitted to Congress possibly in late 2009.

Mexico is under pressure to respond to international complaints of human rights violations and to present an immigration perspective consistent with its foreign policy. In the words of President Calderón,

Just as we demand respect for the human rights of our countrymen, we have the ethical and legal responsibility to respect the human rights and dignity of those who come from Central and South America and who cross our southern border.

(as cited in Watson, 2007)

Nevertheless, government officials and legislators have opted for more of a band-aid approach, an approach that has produced only a series of isolated program changes and regulatory reforms, such as the expansion of a seasonal farm worker program, the improvement and building of detention centers, significant General Law of Population (GLP) reforms, and the Southern Frontier Program; isolated programs guided by basic generalized principles rather than by a comprehensive policy.

Given the culture of corruption, distrust towards government officials and the prevalent attitude of “está pero no está” (it is there, but it is not) toward the law, the aforementioned reforms have yet to translate into significant changes on the ground. Moreover, despite these reforms, the three pillars of Mexican immigration policy—the Constitution, the General Law of Population and, thanks to the Supreme Court decision, the International Conventions that Mexico has ratified,—remain inherently uncoordinated. For example, Article 33 of the Mexican Constitution which does not guarantee due process to a foreigner facing deportation contradicts the International
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. 66 This inadequate legal coordination presents a serious obstacle to Mexico’s ability to coordinate and implement strategies and programs of action. As Mexican officials declared in a 2004 consultative document titled “México Como país de Destino” [Mexico as a Country of Destination], Mexican migration policy therefore remains “restrictive, discretionary, excessively regulated and with little flexibility” since it is based on the usefulness and “qualifications of the activities to be performed in the country” by those wishing to enter. According to the same document, the push itself towards a contemporary and comprehensive policy is stuck in Mexico’s “slow, bureaucratic and passive” process, leading to “few proactive elements.” As pointed out by INM’s Migration Studies Director Rodríguez Chávez (personal communication, 2008), however, although it is difficult to assess the impact of such recent innovations as the biometric card and the reforms that would have legally allowed Secretary Muriño Terraza to run for President, these elements must be considered a step in the right direction as Mexico pursues establishing itself as a country with open but secure borders. More time is needed to accurately assess their impact.

Economic factors have led to the recent changes in immigration policy in Mexico, as in the case of the importance of remittances and Mexico’s need for foreign investment. Statements by government officials, legislators and even both Presidents Fox and Calderón confirm this reality. As Mexico pursues this economic agenda, however, its

66 Paragraph 4 of Article 22 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families requires that, except where a final decision has been pronounced by a judicial authority, “the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security required otherwise” (retrieved May 6, 2009, from http://www.unhchr.ch/html/menu6/2/fs24.htm).
relationship with the U.S. and its international image must be examined. Concerns about human rights abuses are relevant. It is within this arena that the current research identifies a third sector functioning as a participant in policy change. It is to this sector that the following chapters turn to.
SECTION III – AN ANALYSIS OF CIVIL SOCIETY

CHAPTER 6: CIVIL SOCIETY FROM THE MEXICAN PERSPECTIVE

From 1917 to 2001—a span of almost 80 years—Mexico was ruled by an authoritarian regime dominated by a single party, the Partido Revolucionario Institucional (Revolutionary Institutional Party) (PRI). This authoritarian regime ruled in a relatively peaceful atmosphere with a transfer of power between PRI leaders every six years through predetermined and symbolic elections. In this state-controlled environment, the military and economic sectors were subordinate to the state and the development of an independent civil society was limited. Civil society was evident nevertheless, but it served primarily a de-politicized function as provider or deliverer of services, as was the case in other authoritarian regions.

Over the last two or three decades, civil society has increasingly become a participant in policy development in many countries (See Thouez, 2004; Zinconne & Caponio, 2004). In Mexico’s case, this development is directly linked to the political opposition precipitated first by the economic crisis of the 1980s and the PRI’s responses to it, then by the 1985 Mexico City earthquake and, ultimately, by the push for electoral reform in the 1990s (“The Future of Civil Society,” 2002).

Prior to this, slight reinterpretations of civil society had been evident. This process began in the 1960s, when civil society was identified mainly with trade unions and peasant groups that stood apart from the ruling party. Later, during Vatican II, various

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67 For more on the influence of the political context on civil society, see de Tocqueville (1904); Putnam (1993), Tarrow (1994, 1996); Foley & Edwards (1996).
68 This particular crisis was precipitated by the sudden drop in oil prices and Mexico’s inability to cope with foreign debt.
independent religious organizations began to emerge. At that point, civil society was understood to be synonymous with “the people” (*el pueblo*), excluding private enterprise and conservative, elite associations. It was only in the 1980s-1990s that today’s broader conceptualization of civil society developed with the emergence of new groups focusing on political reform, democracy and human rights (“The Future of Civil Society,” 2002). In the minds of many today, civil society is limited to non-governmental organizations (NGOs) and citizen groups struggling for democratic political change. It, therefore, excludes professional, cultural and religious groups without a political agenda. A more general understanding that encompasses the sphere of private voluntary association as an essential ingredient in democratization and the health of established democracies—from neighboring committees to interest groups to a variety of philanthropic enterprises—has made its way into Mexican political and academic discourse (See SEGOB, 2007).

The country’s first democratic elections in 2000 further encouraged civil society’s participation in policy development (Hidalgo Domínguez, 2004). Thus, in 2001, when the PRI’s long tenure ended, the Mexican people discovered a fresh hope. As Mexico liberalized politically, civil society grew not only in terms of the traditional or conservative vision of civil society as a provider of services, but, in keeping with the more recent critical perspective, as participants in policy making. Studies conducted by

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69 As stated in Chapter 1, “civil society” is to be understood here according to CIVICUS comprehensive definition: “the sphere of institutions, organizations, networks, and individuals located between the confines of the family, the state, and the market, in which people associate voluntarily to advance common interests” (“Future of Civil Society,” 2002, p. 6). This definition allows for the incorporation of a variety of forms of association that must be independent from the state and the market, although they can interact and work in conjunction with them.

70 A decade of profound political transformation in Mexico culminated in July of 2000, when the opposition party won not only the presidential election, but several gubernatorial races and the mayorship of Mexico City. The opposition party also gained a majority in the lower house of Congress at this time (Crandall, 2000).
Wada (2005) and Cornelius et al. (1999) confirm this evolution. Moreover, Mexican scholars—among them Roberto Gutiérrez, Director of the Social Sciences and Humanities at the University of Azcapotzalco—and policy makers—such as SEGOB’s Population Registry Director Carlos Anaya—confirm that this growth has been supported by many advances—outlined below—in the definition and establishment of institutions and mechanisms that regulate their access to political power (SEGOB, 2007).

The events of this liberalization period served as the impetus for the development of civil society as a participant in policy development. They also stimulated the development of a state-civil society relationship on migration policy.71 This chapter focuses on the development of civil society at a time when key government policies were established—policies that encouraged the participation of civil society and had their roots in civil society itself, as detailed below. It also highlights significant obstacles to the growth of civil society as Mexico continues to struggle to extend participatory values—civic culture—from the electoral arena to the institutional and social arenas. This struggle is exacerbated by the deep-rooted practices of corruption experienced for so long at all levels of government and society that have left Mexicans distrustful of any change.

6.1 THE DEVELOPMENT OF CIVIL SOCIETY IN CONTEMPORARY MEXICO:

Despite the historically authoritarian nature of Mexico’s government under PRI leadership, civil society has been an important part of Mexican life. Fox (1996) attributes the existence of representative autonomous societal organizations under less than

71 This dissertation does not claim that civil society has come about as the result of the democratic process in México. This, however, cannot be argued convincingly since, as pointed out earlier, civil society has been documented as playing a role in authoritarian México by such notable scholars as Jonathan Fox (1996).
democratic conditions in Mexico to political opportunities provided by the government and to the vital energy and ideas of the people in combination with opportunities for local representation and bargaining power. During the 1930s, mid-1970s, and early 1980s the Mexican government aimed to create positive incentives for collective action at the grassroots level. Such was the case of the consumer food subsidy programs—Community Food Councils—of the 1980s. Channels for participatory community oversight made region-wide networking possible for organizations at the village level. When participation resulted in successful programs, communities received the material incentive of reduced prices in more competitive local markets.

In much of indigenous Mexico, communities have reproduced longstanding traditions of cooperation, reciprocity and self-help. Thousands of villages have long been making “community decisions about resource allocation and justice by consensus, and they maintain powerful norms of accountability between leaders and community members” (Fox, 1996, p. 1093). The influence of civil society and social capital has been uneven, however, as indicated by Fox’s study, which found it to be “thin in some regions while very thick in others” (1996, p. 1093). His research further confirmed great diversity in degrees and patterns of association both among and between ethnic groups prior to President Fox’s administration. Generally speaking, civil society organizations under the PRI were incorporated in the state system known as corporatism. By means of corporatism, the PRI would mediate among the different groups while ensuring that no one group challenged its power. Funding was often the incentive. During the 1990s, for example, the Salinas and Zedillo administrations opened the government’s anti-poverty programs to independent development organizations on the condition that they would act
in concert with the state on local-level technical problems directly affecting the poor. This provided the incentive for autonomous organizations to focus on local community development projects as opposed to national political demands (Wada, 2005). It would be a mistake, however, to believe that the Mexican government controlled all autonomous forms of association. This was hardly the case. One example of a powerful independent group was the Confederación de Patrones de la Republica Mexicana (COPARMEX) (Confederation of Employers of the Mexican Republic), which became a significant voice of opposition to the PRI (O’Neil et al., 2006). Another example is the Catholic Church and its many service organizations, which have long voiced a loud protest against the repressions suffered by Mexico’s indigenous populace.

In the last 25 years or so, civil society has increased its mode of participation and sharpened its focus on issues of interests. More importantly, as the Mexican people have become more active and better organized, civil society has moved toward financial independence from the state. Mexican civil society currently receives only 8.5% in public funding and 6.3% from private sources. Eighty-five percent of its resources are self-generated, as by donations (“Agendas Ciudadanas,” 2007, p. 64). Among crucial catalysts for the establishment of associations were: the September 19th earthquake in Mexico City in 1985, which spawned the creation of community agencies to aid earthquake victims, and the refugee crisis of the late 1970s and 1980s that forced thousands of Guatemalans to flee violence at home. The latter tested Mexico’s deep-rooted tradition of non-devolution and mobilized both the United Nations High Commissioner for Refugees (UNHCR) and the Catholic Church to provide housing for...

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72 By contrast, 30.5% of the resources of U.S. civil society come from public funds. Nordic countries receive 40% from public funds (“Agendas Ciudadanas,” 2007, p. 64n).
the Guatemalans in settlements camps. Ultimately, Mexico was challenged to accept the UNHCR’s principle of *non-refoulement* and international refugee protocols. As the public became more aware of the refugee situation, many organizations were formed and, according to former (1981-1983) head of Mexican Commission for Refugee Aid (COMAR) Ortíz Monasterio (2005), COMAR authorities ended up giving more heed to civil society organizations than to the refugees themselves. This led to the establishment of a strong relationship between COMAR and these organizations that ultimately formed the “backbone of the movement for civilian monitoring of human rights.” The negotiations that followed, not to mention the congressional audiences given to these organizations, resulted in the reform to the General Law of Population that recognized the status of the refugee in Mexican law (Ortiz Monasterio, 2005). The refugee crisis was thus critical to the establishment of a state-civil society relationship in general and to a relationship focusing on migrant/human right advocacy in particular.

Another significant development took place in 1988. For the first time, a large number of organizations, citizen committees, and resistance fronts supported the candidacy of Cuahutémoc Cardenas Solórzano of the opposition party—the National Democratic Front (*Frente Democrático Nacional*) (FDN)—for president (Hidalgo Domínguez, 2004). Later, in 1994, civil society played a significant role in preventing the escalation of violence perpetrated against the Zapatista Indians and peasants of Chiapas. Vital to the peaceful resolution of conflict in Chiapas, *Espacio Civil por la Paz* (Civil Space for Peace), *Coordinadora de Organismos no Gubernamentales por la Paz en Chiapas* (Coordinating Committee of NGOs for Peace in Chiapas), *Convergencia de Organismos Civiles por la Democracia de Chiapas* (Conference of Civil Organizations
for Democracy in Chiapas), Cristianos por la Paz (Christians for Peace) and the Centro de Derechos Humanos Fray Bartolomé de las Casas (Center for Human Rights Bartolomé de las Casas) together proved that civil society had successfully caught the attention of Mexican society and the world at large. They were among the first organizations to recognize and utilize the potential of the internet for disseminating information and winning national and international support for their cause. The Zapatistas themselves learned about the legitimization capacity civil society had gained in Mexico when they discovered that by joining forces with civil society, their dialogue with the Mexican government would amount to far more than mere dialogue.

Mexican historian Ilan Selmo confirms that because corruption remains a problem, Mexico’s democratization process—which, according to Selmo, got its official start in 1988—would not have been feasible without the emergence of those national and local electoral organizations that contributed to the development of the new electoral system which, in turn, led to what Selmo calls today’s “semi-democratic regime” (as cited in Thelen, 1999a). Despite the corruption observed during this transition period, however, Selmo maintains that the old regime is disintegrating. Slowly but steadily, various independent organizations continue to reformulate the complex relationship between the state and civil society (as cited in Thelen, 1999a). Carlos Monsiváís, another of Mexico’s foremost social and political chroniclers, describes the situation as follows:

What you heard on the streets after the 1997 election were not discussions about Mexican nationalism but about the transition to democracy and civil society.

73 Ilan Selmo asserts that Mexico is “stuck” in the transition from an authoritarian political system to a democratic system. “[A]fter more than a decade of political transformation, we can speak today only of a semi-democratic system, not of a democratic one. Electoral fraud is still a common practice” (as cited in Thelen, 2006, p. 1; see http://www.indiana.edu/~jah/mexico/isemo.htm).
What you heard everywhere was: What is hopeful is civil society. What is hopeful are non-governmental organizations. What is hopeful is to believe in democracy. (as cited in Thelen, 1999b)

Many independent organizations emerged during the 1990s in order to monitor the electoral process. Among the most important were the Alianza Cívica (Civic Alliance), which was supported by the United Nations, the Academia Mexicana de Derechos Humanos (Mexican Academy of Human Rights), the Convergencia de Organismos Civiles por la Democracia (Conference of Civil Organizations for Democracy), the Acuerdo Nacional por la Democracia, (National Agreement for Democracy), Movimiento Ciudadano por la Democracia (Citizen Movement for Democracy), Consejo por la Democracia (Council for Democracy) and the Fundación Arturo Rosenbluth (Arturo Rosenbluth Foundation) (Thelen, 1999a).

Today, however, most of these organizations have lost their autonomy. Some of their members joined electoral parties or began to receive funding from the state. As promoters of Mexico’s democratic reform process, however, their significance remains pivotal (Robles Gil, 1998; Cornelius et al., 1999; Wada, 2005). With its detailed analysis of popular protests from 1964 to 1994, Wada’s study on the rise of critical civil society in Mexico confirmed their rise in the realm of politics (2005). Wada demonstrated that the principle arena of critical challenge had shifted from economic or material issues to civil and political issues. His study revealed a four-fold increase in political participation claims made by civil society organizations during Mexico’s period of economic and political liberalization: “When the hegemonic power of the authoritarian regime was
weakening in the processes of economic restructuring, civil society actors became more
data-vocal on political matters…. [C]ivil society became more critical” (Wada, 2005, p. 106).

In addition to electorally-focused civil society organizations, many types of civil society groups flourished and proliferated throughout the country. According to Agendas Ciudadanas (Citizen Agendas, 2007), an estimated 20,000 civil society organizations are in existence today. Some of the more recent organizations concern themselves with civic issues—the defense of human rights, the electoral process, corruption—while those that have been around a bit longer focus on such social causes as health, education, housing, low income and indigenous issues. Despite this growth, Director of the Social Science and Humanities of the UAM-Azcapotzalco Roberto Gutiérrez observes that it remains necessary to reinforce within the different national social and institutional spaces the inclusion and/or adoption of notions of tolerance and respect for the law, plurality and solidarity, as well as rational dialogue, participation and responsible negotiation, all of which are vital for a democratic order (SEGOB, 2007, p. 5).

Civil society is well aware of the fact that for the past two centuries Mexican society has been primarily a creature of the state; the relationship between society, market and the state has been heavily state-centric and state-dependent. The empowerment of civil society was, therefore, bound to be an arduous process. Despite the challenges, civil society has facilitated many modernization benefits during the twentieth century—urbanization, industrialization, education, health, and the establishment of a middle class, to name a few.

Civil society is also cognizant of the need to reorganize and modify its practices. In order to encourage a more balanced relationship, it must rearticulate its relationship
with the state and the market. Economic liberalization in combination with the political
democratization occurring since the 1980s has awakened the Mexican citizenry and
motivated civil society to enhance its functions even as it works independently of, yet in
conjunction with the state in the promotion of the many social and political issues of
concern (SEGOB, 2007, p. 194; Ilan Selmo, as cited in Thelen, 1999; Wada, 2005).

6.2 CIVIL SOCIETY’S NEW AGENDA:

Civil society organizations in Mexico are now taking advantage of new political
opportunities. According to the Citizens Agenda (2007) report, a collaborative effort has
been made by several Mexican civil society organizations to identify and address various
issues of interest—security, microfinance, human rights, the bolstering of civil society,
migration and development. Political changes over the last 26 years have made it possible
for these organizations to unite in their proposal of key public policies in areas of social
and economic interest and to negotiate with Congress and the authorities for the
establishment of public policies that would eliminate obstacles to the empowerment of
civil society.

One such negotiation effort took place soon after President Fox was elected in
2001. Poder Ciudaddano (Citizen Power) and the Mesas de Diálogo de las
Organizaciones de la Sociedad Civil (Civil Society Organizations Dialogue Forums) met
with Fox’s transition team to develop initiatives to strengthen civil society. Actually,
during each of the electoral of the last three elections—1994, 2001, and 2006—civil
society organizations came together to identify, agree upon, and work together on
priorities in each areas of interest, promoting their causes and insisting on their
participation in the new government programs. According to “Citizen Agendas,” these gatherings encouraged the sharing of information, streamlining of activities, identification of common interests and of best and worst practices (2006, p. 7). From the start, their issue-specific proposals aimed to engage civil society, academics and area specialists, and emphasized the importance of dialogue with appropriate authorities countrywide. The 2007 version of the “Citizen Agendas” report is a tangible result of these efforts. In terms of coordination and organization alone, their achievements are not insignificant. The group responsible for human rights issues, for example, has developed qualitative and quantitative indicators to assess progress made by the government with regard to alignment of public policies with the regional and international instruments to which Mexico is a signatory. In 2006 and 2007, the workgroup concerned with strengthening civil society focused on relevant topics ranging from citizen participation, strengthening institutional spaces, legal norms, and data gathering to funding and then compared its practices and findings with those of other countries (2007, p. 9). Their intent was to further systematize, develop and promote concrete proposals aimed at improving civil society organizations and to support the Technical Consulting Body of Mexico’s 2003 Ley de Fomento de las Actividades de Desarrollo Social que Realizan las Organizaciones (referred to thus far as the Law of Enhancement). This workgroup emphasized that they see themselves as a plural and diverse space that is looking neither for political power nor for a replacement of government or its representative institutions. It seeks instead to complement and extend the public sphere. This group also sees itself as a space where innovation is possible, largely because its members tend to have the local “know-how” necessary to develop direct insights on appropriate new methodologies and
innovative practices. They are careful to emphasize, however, that their desire to enhance their influence is directly related to their intent to be recognized as a social actor engaged with government in the identification and resolution of the problems affecting Mexico, an actor with the power to interact and connect at decision making levels with the three branches of government, political parties and economic and social elites (“Agendas Ciudadanas,” 2007, pp. 53-54).

Just two years earlier, in 2005, civil society organizations and academia had begun what they called a “social dialogue” with the Ministry of Foreign Affairs (Secretería de Relaciones Exteriores) (SRE). This dialogue was aimed at developing a non-partisan set of long-term foreign policy proposals that would incorporate the ideas of academia, civil society, business, unions and religious organizations. Civil society had thus signed a formal collaboration agreement with the SRE concerning matters of foreign policy. By doing so, they were, ready to cooperate with the new members of the Executive and Legislative branches to be chosen in the July 2, 2006 elections (SRE, 2006). Fourteen separate issues were addressed. Incorporating basic criteria and principles, the agreement included proposals pertaining to foreign affairs—specifically, Mexico’s relations with the U.S. and Europe; international technical cooperation—particularly with Africa; energy development, culture, and the enhancement of civil society’s participation in policy development. What follows is only a sample of the many proposals spelled out in the agreement (for more, see Social Dialogue, 2006). These examples underline the importance civil society attaches to the need to establish dialogue and the right mechanisms for their substantive influence in policy development:
- Secure a permanent, transparent and strategic social participation which must be plural, organized, properly structured and is to include representative social actors.

- Contribute to the development of a governmental structure open to dialogue with society on substantive issues with a proactive, transversal vision and clear, efficient mechanisms.

- Develop a State Foreign Policy based on Mexico’s constitutional principles and traditions with the capacity to face the challenges presented by globalization and adapt its implementation to current and future circumstances.

Although the agenda embraced by civil society is vast and the challenges ahead are monumental, civil society actors are well organized and highly motivated, particularly with regard to their commitment to strengthen their institutional capacity. To this end they have targeted the improvement of the Law of Enhancement, as outlined below. Currently, the Law of Enhancement limits access to funding and imposes bureaucratic restrictions inhibiting their efficacy.

One example of such a bureaucratic restriction is the lack of clarity regarding the definition of civil society. The Law of Enhancement defines civil society rather broadly, i.e., as social interest groups. This definition does not match that used by many federal programs; these programs tend to target income-generating projects carried out by self-help organizations (Tapia & Robles, n.d.). In order to take advantage of public funds and their not-for-profit status, civil society organizations must acquire an identification number and become listed in the national registry of civil society organizations.
To do so, however, requires excessive duplication of paperwork due to the fact that state and federal registries are not synchronized.

The fact that the programs providing funding and technical assistance have different rules and procedures for allocation of funds creates additional bureaucratic headaches. Moreover, information regarding the various aspects of the selection process can be attained only by formal request (Tapia & Robles, n.d.). All of these factors in combination get in the way of civil society organizations receiving donations.

Civil society actors also note that of the meager 8.5% they receive from public funds—in 2005, approximately 1,170 million pesos or U.S. $85 million—only 15.7% of the registered organizations actually received any of this money, whereas 59% of the total—691 million pesos—went to actual internal government programs. This situation creates unnecessary rivalry between organizations even though, Mexican civil society tend to generate on average, 85% of its budget, on its own (Agendas Ciudadanas, 2007, p. 64).

Civil society is aware that much needs to be done if it is to pursue the extensive agenda identified in Citizen Agendas—fostering social participation in fiscal, economic, public security and housing matters. According to Consuelo Castro (n.d.), legal adviser to the Mexican Center on Philanthropy, civil society can and must proceed, realizing that the new relationship between civil society and the government “has been fortified by new laws.”

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74 This registry is coordinated by the National Institute for Social Development (known as INDESOL in Spanish), which is part of the Ministry of Social Development. Registry information is accessible to the public on the web site http://www.corresponsabilidad.gob.mx.
6.3 NEW GOVERNMENT POLICIES AND MECHANISMS

To many Mexicans, the year 2001 symbolized more than a rupture with an authoritarian regime. It symbolized a move toward the establishment of equality and freedom. President Fox’s election brought new policies with significant implications for freedom. As these laws were being implemented during his administration, President Fox stated that “the construction of basic citizenship rights is a precondition for consolidating autonomous representative organizations” (1996, p. 1092). It is for just this development that the establishment of the Law of Transparency and Access to Public Information on June 11, 2002, set the stage. Off to a good start with this law (Crespo, 2007, p. 216), civic participation was further encouraged and reinforced by such new laws as the 2003 Law of Enhancement (Aguilar Villanueva, 2007, p. 197), the 2004 Ley General de Desarrollo Social (General Law for Social Development) and the 2004 Ley de Asistencia Social (Social Assistance Law). Citizens would now have the right to access government information, the freedom to associate, and freedom to speak out in favor of individual or collective interests without regard to personal status. In this sense, the Mexican government now has implemented—in regulatory terms—the framework within which social organizations are to operate.75

The Law of Transparency is a powerful tool for civil society organizations despite the fact that the average Mexican is still unaware of its existence (Anaya, personal communication, 2008). This law constitutionally guarantees greater access to government information that was previously out of reach to the average citizen. Enforced by a newly

75 For more on the civil society–state theoretical argument, see Edwards et al. (2001). For more on the paradox of civil society, see Walzer (1992), who emphasizes that a democratic civil society requires a democratic state while a strong civil society requires a strong and responsive state.
established governmental entity, the Instituto Federal de Acceso a Información (IFAI) (Federal Institute for Access to Information), this law—in conjunction with a greater freedom of speech and of the press—has led to numerous corruption cases and cases against improper use of power.

Although it is a powerful instrument, it is important to realize that the Law of Transparency is hardly implemented in its entirety by all state institutions. One noteworthy case is that of the Comisión Nacional de los Derechos Humanos (CNDH), Mexico’s National Human Rights Commission, which, despite a large budget—a significant U.S. $73 million with over 1,000 employees in 2007—has failed to fulfill its obligations in connection with the broad mandate to address the many urgent human rights violations in Mexico (“Mexico’s National,” 2008). Although the Human Rights Commission has shown resourcefulness in its effort to document abuses and, in some cases, has followed through on demands for institutional reform—as in the case of expanding freedoms of the press76 and addressing complaints of immigration abuses, it has fallen short in many other areas. In February of 2008 Human Rights Watch presented a critical assessment on CNDH’s activities, concluding that CNDH’s failure to follow through on its mandate was chiefly the result of its own policies and practices. It found that the CNDH is neither subject to any meaningful oversight nor adequately monitored by independent organizations. Its limited internal and external transparency has made monitoring difficult for civil society groups and even for Congress.

76 The Commission was instrumental to the successful passage of legislation in 2007 that decriminalized defamation and of legislation in 2006 that protected journalists from being forced to reveal their sources of information (“Mexico’s National Human Rights Commission,” 2008).
Human Rights Watch ("Mexico’s National," 2008) highlights the limited implementation of such a valuable piece of legislation as the Law of Transparency in its recommendation that CNDH increase the level of transparency in all areas of its work and increase public access to the information it gathers on human rights abuses and abusive state practices. According to Human Rights Watch, CNDH is to interpret the Law of Transparency by applying the principle of “maximum disclosure” and modify the regulations it follows in order to implement said law as to eliminate broad confidentiality exceptions ("Mexico’s National," 2008, p. 7).

Nevertheless, civil society has made use of other significant legal tools to enhance its participatory functions, namely the 2003 Law of Enhancement—a piece of legislation highly significant to the state-civil society relationship, particularly as it was the direct result of an initiative presented to the Mexican Congress by civil society. This Law had been preceded by a decade of deliberations between civil society and government and within civil society itself as to what the parameters of civil society participation and the legal definition of civil society were to be, namely organizations with a “collective benefit and social interest” (SEGOB, 2008). The Law of Enhancement addresses the utility of civil society and establishes both the rules and the administrative and financial conditions under which civil society organizations are to work with the state. It specifically establishes and guarantees civil society’s participation in the development, implementation and evaluation of public policies. The Law of Enhancement also requires that civil society organizations register and acquire an identification number in order to take advantage of their not-for-profit status with its corresponding benefits and deductions. In order to gain this status, they must register with the Instituto Nacional de
Desarrollo Social (INDESOL) (National Institute for Social Development), the federal organ responsible for the design, implementation, follow-up and evaluation of the measures taken to enhance the relationship between civil society and the state as established by the Law of Enhancement. In addition, the General Law for Social Development specifically requires that civil society organizations participate in the independent evaluation processes of social policies (SEGOB 2007, p. 214). The Law imposes certain obligations on civil society organizations, namely the submission of annual reports on their financial status and reports regarding any changes made to their bylaws. They are also prohibited from engaging in proselytism (Tapia& Robles, n.d.).

In keeping with federal mandates, particularly the transparency and accountability program mandated by the Law of Transparency, various federal agencies—the SRE among them—participate in a program called “Ten Institutions with Critical Processes, Procedures and Critical Services.” This program encourages the creation of mechanisms for mutual government-civil society participation, evaluates the mechanisms in place and provides follow-up to the evaluations. By way of example, three civil society organisms provide citizen accountability and oversight with regards to SRE’s guidelines on issuance of passports. These include Iniciativa Ciudadana para la Promoción de la Cultura y el Diálogo, A.C. (Citizen Initiative for the Promotion of Culture and Dialogue), Iniciativa Ciudadana y Desarrollo Social, (Citizen Initiative and Social Development) and Fuerza Ciudadana (Citizen Strength) (Derechos Humanos, 2008).

As for the establishment of mechanisms for cooperative policy development, efforts to include civil society in the various stages of policy development—formation of
the government’s agenda, issue definition, building of political options, policy communication, implementation and evaluation—are evident in both Fox’s and Calderón’s national six-year development plans. According to the efforts outlined by SEGOB in a report entitled *Political Culture and Citizen Participation in Mexico Before and After 2006* (SEGOB, 2007), Mexico has made significant strides toward the provision of spaces for political participation. The report underlines that Calderón continues to govern “under the conviction that no society that believes itself to be a democracy will advance in the achievement of its collective goals if its citizens do not enjoy the institutional spaces to defend their rights and promote their interests” (2007, p. 8).

Significant mechanisms aimed at institutionalizing and enhancing communication between civil society and government agencies have been put in place as a result of the Law of Enhancement that mandates their establishment. A quick look at many government web sites—SRE’s and SEGOB’s, for example, not to mention the Executive and Congress web sites—reveals a commitment to transparency and a link to the Law of Transparency. A careful look at the organizational structure uncovers the existence of significant liaisons with civil society and, in most cases, the office providing oversight of the agency’s relationship with civil society, the Oficina para la Vinculación con las Organizaciones de la Sociedad Civil. The SRE, for example, has created its own web site (http://www.participacionsocial.sre.gob.mx) and an e-mail address (participacionsocial@sre.gob.mx) to open lines of communication between the agency and civil society, thereby encouraging participation. The SRE’s site features an electronic quarterly magazine and a calendar of events highlighting activities of interest to Mexican
society, as well as events planned by the agency in conjunction with civil society. The
web page also provides links to international funding sources of potential interest. It is
important to mention here that the Law of Enhancement has not been institutionalized in
state agencies or within state law at the local level. As of 2008, only 7 out of 32 states
had legislation enhancing the activities of civil society: Baja California, Distrito Federal,
Morelos, Tamaulipas, Tlaxcala, Veracruz and Zacatecas. Only four other state
legislatures currently have proposals up for debate: Campeche, Michoacán, Puebla and
Sonora (SEGOB, 2008).

The field interviews with government officials and members of civil society
confirm the argument set forth in the SEGOB 2007 document regarding the political
culture referred to above. It is easier today to find government officials in high positions
who both understand and respect civic work and promote opportunities for collaborative
work with civil society. According to Rigoni many government officials are sincere in
their efforts to work with him (personal communication, 2008), this sentiment is
reiterated by Father Solalinde Guerra, who stated that it has actually been the government
that has sought his Shelter’s participation in policy meetings (personal communication,
2009). In general, it is easier at present to identify organizations that have adjusted their
antagonistic behavior towards government without renouncing their political
independence and vigilance.

Several interviews highlighted the strength of the existing government-civil
society relationship and the level of respect between members. This is particularly true of
the interview with Father Cruz Montés of COMI (personal communication, February 1,

77 See Chapter 7 for detail regarding these statements and their relevance to the state-civil society
relationship.
2008). When COMI’s administrator made reference to Lucía Vázquez of the Oaxaqueño Institute of Migrant Assistance, she mentioned that although Lucía’s office serves primarily Mexican emigrants, she has proven invaluable to COMI in its appeals for help. The administrator provided the researcher with a helpful referral to a very informative interview that took place that same day. In a separate interview, Carlos Anaya Moreno of SEGOB mentioned that at one point, when Sin Fronteras was unable to participate in a meeting on migrant issues, he stepped in to present for them. According to Anaya, Mexican civil society may not yet be strong in numbers, but its organizations are very active and many are well organized. They are quite capable with a well qualified staff. This is especially the case with organizations advocating on behalf of migration issues (personal communication, 2008).

The importance government attaches to the participation of civil society was underscored by the first government-sponsored regional encounter, “Dialogue for Local Development,” held in November 2008 in the state of Yucatán. This conference was organized by the Committee to Enhance Activities (Comisión de Fomento de las Actividades)—the Committee in charge of implementing the Law of Enhancement— together with the technical consulting body of the law, the Consejo Técnico Consultivo, and the University of the State of Yucatán. A three-day event for academia, civil society and the state, this conference had as its objective the enhancement of analysis, feedback and communication between actors to bring about an exchange of ideas and proposals regarding the role that each could have in the region’s development. Specifically, they set out to analyze development projects and generate new strategies that would allow civil
society actors to cooperate on development issues in the states of Campeche, Quintana Roo and Yucatán.

The elaboration of proposals was not the sole objective of this event. A portion of the meeting’s agenda was devoted to the actual evaluation of the policies, activities, administration, direction and operation of the government’s consulting mechanism, Consejo Técnico Consultivo. As for transparency, conference discussions were open to any organization desiring to participate. Ordinary citizens were also welcomed (“Primer Encuentro,” 2008). As of this writing, a brief of the event is under preparation.

This conference is only one of several steps the government has taken in compliance with the Law of Enhancement’s mandate to directly engage civil society and enhance its participation in the planning, execution and monitoring of public policies through processes of consultation and monitoring. Its significance is further highlighted in the conference’s announcement of its intent to generate additional collaborative strategies and formulate proposals to develop the inter-institutional articulation necessary to “influence public policies at the local and federal level” researcher’s emphasis (“Primer Encuentro,” 2008).78

On the whole, the procedures and institutions necessary for a fruitful state-civil society relationship are in place. Civil society organizations are well aware of the existence of these tools. They must be fully utilized, however, in order for civil society to reap maximum benefit. Until now, progress has been hindered by significant obstacles, again most notably corruption—a reality mentioned by all the interviewees.

78 Translated from the Spanish: “formular propuestas para la articulacion interinstitucional que siente las bases para la concentracion de los esfuerzos orientados al desarrollo, así como la incidencia en las politicas publicas a nivel local y federal” (“Primer Encuentro,” 2008).
6.4 OBSTACLES:

Civil society now has many opportunities to participate with government in the policy process. It has indeed been taking advantage of them and continues to do so. This participation is not without its problems, however, as civil society remains dependent on the institutionalization of the existing mechanisms and spaces that allow for dialogue and negotiation. Certainly political opportunities are available. The potential of these opportunities is limited, however, by the inherent culture of corruption previously fed by Mexico’s authoritarian regime. Under the authoritarian regime, the relationship between civil society and the state was dominated by clientelism: “organizations that supported the ruling party benefited from access to government programs and resources, while independent organizations were excluded and harassed” (Tapia & Robles, n.d.). Thus independent organizations remain skeptical of receiving public funding and continue to doubt that their engagement in policy development is for the most part window dressing. Moreover, apathy and disbelief continues to dominate the mindset of the Mexican populace with regard to the legitimacy of the country’s democracy.

Based on the findings of national surveys conducted in 2001, 2003 and 2005, SEGOB’s report on civic culture confirms these attitudes and indicates that they have a direct bearing on social participation in the policy process. Entitled Encuesta Nacional Sobre Cultura Política y Prácticas Ciudadanas (ENCUP), these surveys were conducted with the purpose of identifying obstacles to the development and consolidation of Mexico’s democratic culture, as well as impediments to and areas of opportunity for citizen participation. The results are very revealing. While 6 out of 10 citizens 18 years of age and older believe that it is up to them to try to solve community problems, 45%
indicated that it was difficult to organize as citizens and work toward common causes. In addition, only 26% saw organizing as the best expression of participation. Not surprisingly, only 1 in 10 made note of any involvement in a neighborhood organization or any type of civil organization (SEGOB, 2007, p. 308). While 31% responded that they felt Mexico was a democracy, 11% stated it was only partially a democracy and 23% said it was definitely not a democracy. Thirty-three percent either did not know or provided no response. Despite this negativity, just under half of those surveyed—47%—stated their confidence that citizens will have more opportunities to influence government in the future (SEGOB, 2007, p. 19).

According to Gutiérrez López (SEGOB, 2007), the adoption of the notions of tolerance and respect for legality, plurality, solidarity, national dialogue, responsible participation and negotiation—all critical to a democratic order—are sorely lacking and in need of solid reinforcement (p. 201). In the survey of 2001, although 73% of respondents stated that they believed people have the ability to change the law if they deem it necessary—a right inherent in Article 29 of the Constitution—only 27% thought that all laws should be obeyed even if they are unjust; 56% agreed that people could disobey the law if the law is unjust. Interestingly, by 2005 this last number (56%) dropped to 12% with 37% indicating that an unjust law should be contested and its reform promoted. In the same report, Crespo is cited as stating that these percentages are indicative not of a legalistic culture, but of the revolutionary culture of the Mexican people. According to Crespo, this is a natural outcome of the political indoctrination inherent in an education system that promotes the notion that the greatest changes in
Mexico were brought about by the revolution, when the people stood up to an unjust order.

Mexican participation in the political process is clearly nascent, but growing. It continues to be hampered by the risks inherent in taking on a given issue, particularly if that issue has economic or political implications for the government. A recent example is the repression suffered by several environmental groups in the state of Guerrero, where they were fighting to stop the clear cutting of the Sierra Madre forests. One of the group leaders, Felipe Arreaga, who had previously led a group of farmers in a successful protest against logging trucks, was accused of murdering the son of a wealthy landowner who opposed the activists. According to human rights organizations, these were false charges. Arreaga nevertheless spent 10 months in prison before he was released and acquitted (Walker, 2005).

6.5 CONCLUSION:

Brinkerhoff stated in his article, “Exploring State-Civil Society Collaboration: Policy Partnerships in Developing Countries,” that “in industrialized, transitional and developing countries, interest in cooperation between state and non state actors has grown appreciably over the past decade or so” (1999, p. 49). Mexico is no stranger to the worldwide realization that societal problems cannot be solved by governments acting on their own. The country is also well aware that the market alone cannot be relied upon as an alternative to the state. Mexican citizens, both individually and within organized associations, have taken it upon themselves to participate not merely in the provision of needed services, but in the policy process itself. They are making and implementing
decisions on matters of general and individual concern. The civil society sector has been documented as alive and growing, particularly in the last few decades with the political liberalization of Mexico. While it stands outside both the state and the market, this sector is increasingly strengthening its relationship with each in various ways and demonstrating great potential in the process.

Civil society in Mexico faces numerous stumbling blocks however, not the least of which is the inability to generate a deep civic awareness—or conciencia cívica, (“Future of Civil Society,” 2002). Mexico has a very weak tradition of philanthropy and few displays of civic awareness from wealthy citizens. It is the church—chiefly the members of the more ascetic religious orders—that for most of Mexico’s history has been the most prominent source of charitable and social works. Accordingly, a primary focus of civil society organizations today has been the very articulation of shared norms and values, the advancement of a common understanding of civic awareness, and the spread of the importance of civic involvement at all levels of Mexican life. This chapter has demonstrated that civil society is working toward this agenda and on the development of laws and regulations that will enhance their own participatory process as well.

According to many members of civil society, a good number of their proposals amount to nothing more than a demand that the government obey the law, protect and promote the civil rights of association, freedom of expression and security, as well as the civic rights of participation in public life along with social, economic, cultural and environmental rights. In the process, civil society has been promoting its commitment to “demand” that government give appropriate attention, follow-up and response to these proposals (Agendas Ciudadanas, 2007).
All in all, the participation of civil society organizations in the policy process has been high where civic issues are concerned (Wada, 2007). Their involvement in issues affecting migrants or foreigners on Mexican soil is particularly illustrative of their efforts and potential impact, as the next chapter will demonstrate.
The degree of influence that civil society and its actors have on policy development and implementation varies according to the political sensitivity and salience of particular policy sectors, as well as the nature of the political opportunities available to them (Thouez, 2004; Bozzini & Fella, 2008). Regime type is a significant factor affecting these political opportunities. Although the previous chapter argued that civil society has existed and grown under Mexico’s previous authoritarian regime, it also emphasized how in today’s democratic Mexico, civil society has progressed from a provider of services to a significant actor in a variety of policy making sectors (Fox, 1996; Wada, 2005).

Having established civil society as a player in Mexican politics, this chapter also highlights its existence in the area of migration advocacy and emphasizes that civil society has had, and is having, a significant degree of participation and influence on Mexican immigration policy. Civil society has influenced how Mexico deals with foreigners on its soil. Among the political developments—political opportunities—that have fostered this participation are the various legal mechanisms which have been recently made available to civil society—the 2002 Federal Law of Transparency (officially known as the Federal Law of Transparency and Access to Public Information) and the 2003 Federal Law of Enhancement (officially known as the Federal Law to Enhance the Activities Undertaken by Civil Society Organizations)—and the resulting

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79 Political opportunities, as defined by Tarrow (1998) are “consistent—but not necessarily formal or permanent—dimensions of the political struggle that encourage people to engage in contentious politics” 1998. For more on political opportunity theory, see Tarrow, 1998, *Power in Movement*.
new institutionalized spaces for dialogue between state and civil society organizations, such as the various federal civil society liaison offices.

Assessing the strength of this relationship is based on the identification of these organization’s demand-making capacity, policy dialogue functions, and policy monitoring, as well as on their identified ability to interact with public policy makers and implementers to promote accountability and transparency. Success and therefore influence, is based on having identified their participation in advisory committees, drafting of policy proposals, submitting recommendations and in the establishment of transparency mechanisms—process related outcomes. Most importantly, goal-related outcomes were also identified, meaning actual changes and implementation of policies, such as legal reforms and programs to address problems of human rights violations (See Table #7.1).

This relationship began, as it has worldwide, with refugee advocacy as its focal point (Thouez, 2004). In Mexico’s case the chief concern was Central American refugees, although it was also advocacy against Jewish asylum seekers that modified migration policy during the 1940s. The resolution of the refugee crisis in early 1990s was a catalyst in the creation of Sin Fronteras (1995). As the organizations once involved in the crisis were no longer active, Sin Fronteras’ founders realized that a need existed for a permanent organization that would focus on migrant and human rights advocacy and that was centered in Mexico City, the locus of policy development. Sin Fronteras was founded not only to provide services to the migrant population but to participate and encourage participation in the establishment of appropriate policies, legislation and migration programs.
Although a relationship exists between civil society and the state, it has been limited primarily to a few migrant advocacy organizations, namely *Sin Fronteras* (Without Borders) and the Catholic Church’s *Casa del Migrante* (Migrant House), in Tapachula Chiapas. Also significant in this regard is the Church’s *Hermanos en el Camino* shelter (Brothers on the Path), which, though not a continuous participant within the official mechanisms, undeniably serves as a regional influence inhibiting further human rights violations in the Isthmus region of Oaxaca. *Hermanos en el Camino* has greater visibility than most other shelters as it also has the support of the media.

Today’s state-civil society relationship has been enhanced by Mexico’s regime liberalization process, but the saliency of the migration issue—fueled by Mexico’s migration relationship with the U.S.—has also been a significant factor. As both state and civil society in Mexico seek solutions to emigration and a shared responsibility for emigrant programs, they have been forced to look at Mexico’s own immigration woes. Since President Fox’s administration (2001-2006), a series of incremental changes and reforms has been developed and implemented (see Chapter 5) in pursuit of a comprehensive policy that would better reflect Mexico’s reality as a country of complex migration. \(^{80}\)

Many state officials have recognized the need for a comprehensive migration policy, one which would address more than the migrant “flows” and incorporate instead the complex and multi-dimensional aspects of the migration issue. As it stands today, Mexico’s migration policy is considered “discretional, occasionally restrictive with

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\(^{80}\) The various immigration policy and institutional reforms that Mexico has been making since 2001 are being conducted within Mexico’s larger reform agenda. Mexico’s period of democratic transition continues today in Calderón’s administration as nearly every sector of the state is undergoing major reforms—from solid reforms in energy, education, and transportation to consideration of reform in the oil industry.
unequal standards of admission…bureaucratic and passive” (“México como país,” 2004). Despite an existing consensus regarding the need for a comprehensive policy, there is yet no agreement as to how best to move forward or how to update Mexico’s legal framework—the Constitution of 1917 and the General Law of Population (GLP). Some have argued for an overhaul of the laws, i.e., the establishment of a separate Law of Migration and Foreignness, a separate “Ley de Estado” (State Law), and although they believe this to be ultimately the route to be pursued, the small steps taken thus far within Mexico’s existing legal framework are an important beginning (Ramírez Martínez personal communication, 2009). Meanwhile, a proposal for a new law of immigration is currently under development within INM. This proposal or “anteproyecto de ley,” as it is called when in the draft stage, appears\textsuperscript{81} to be separate immigration law, separate, that is, from the General Law of Population (GLP), and one congruent not only with international conventions, but with Mexico’s current challenges as a country of complex migration. According to an initial 2004 INM working paper titled “Mexico como país Destino” (Mexico a Country of Destination) the new law would need to incorporate an integral migration policy for the State to ease and regulate immigration, one that would serve as legal protection of the human rights of immigrants in Mexico, giving Mexican policy a sense of congruence in front of the human, civil and labor rights that it allocates to non-nationals that reside or transit through its territory [researcher’s translation].

\textsuperscript{81} There is no official statement out yet on the details of this proposal and although 2004 documents refer to this proposal, not only is a new administration in place which can affect the outcome, but items discussed are still subject to debate and thus inclusion or deletion form any final draft (2009).
These notions of a comprehensive and contemporary migration policy highlight Mexico’s acknowledgement that its migration reality has changed. Addressing the problems inherent in its new complexity requires an approach inclusive of the various types and reasons for migration—economic, political, commercial, retirement, environmental, and so on. The task of building on the “rights/trade/migration interlinkage,” as Colleen Thouez (2004) has termed it, is indeed difficult. How Mexico proceeds with respect to this challenge as it debates a “State Law” will further test civil society’s participatory role as conceptualizer and agenda setter of immigration policy, a role so far initiated (as discussed below) when it worked to address the incorporation of the concept of refugees in to the General Law of Population and with the development and implementation of the Law of Enhancement.

7.1 HISTORICAL EVIDENCE OF CIVIL SOCIETY PARTICIPATION AND INFLUENCE ON MIGRATION POLICY (1915 -1973):

The historical literature on foreigners in Mexico (González Navarro, 1994; García, 2005; Castillo, 2006; Salazar Anaya, 2006) and their influence on the country’s society and culture revealed early indications of civil society expressing an interest in political matters. One such early indication dates back to 1915. It is, in fact, the only occasion identified by the researcher where the first American Society of Mexico took a political stand, though chiefly with a charitable focus. In 1915 a New York Times correspondent was asked by the American Society of Mexico, said to be acting on behalf of the international community as represented by seventeen different nationalities, to respond to previously printed claims by Charles R. Hudson, former Vice President of the National Railways of Mexico, that “things” in Mexico were fine. American Society
President R. M. Raymond responded that these claims were not at all reflective of Mexico’s reality at the time and argued instead that the American people and the international community should be made aware that Mexico was actually facing famine as both the revolution and the “separate factional governments fighting each other relentlessly” had had very negative consequences, especially for the very poor. According to this communiqué, the American Society’s aim was twofold: “[To] act for mutual protection and defense of menaced foreign interests and to adopt measures for the relief of the prevalent distress among the poor classes” (Raymond, 1915). The American Society was looking for help from the Americans, and while this may have been a charitable appeal, the American Society voiced publicly not only their concern for the poor, but their disapproval of the way the revolution was evolving.

Today, however, the American Society’s mission is to foster friendship, including greater cultural and civic ties, between citizens of the U.S. and Mexico, as well as with countries having diplomatic relations with these countries. Interestingly, today’s American Society dates itself to 1942 and is a different organization than the one mentioned above, despite the fact that its purpose is the same (Kaplan, personal communication, January 2009).

Later, in the 1930s, civil society directly influenced a decision made by the Mexican President\(^\text{82}\) regarding immigration. This second example is particularly interesting because it demonstrates that civil society does not always pursue civil and benevolent interests. During the Mexican revolution, the Chinese, and later the Jewish

\(^{82}\) Although in this case business organizations were part of the organizations involved and this research separates the market from its definition of civil society, this continues to be a relevant example of an early influence in migration policy, because not all the organizations involved were part of the market sector but there were those promoting a cultural and ethnic interest.
population, began to suffer as significant outbreaks of xenophobic violence occurred, among them the massacre of Torreon in 1911, when approximately 300 foreigners, most of them Chinese, were killed at the hands of military forces (HuDehart, 1980). It was at this time that such organizations as the National Pro Race League and the National Anti-Chinese and Anti-Jewish League were formed. These organizations promoted their racial concerns—in conjunction with paramilitary groups—not only with the notion that these nationalities would be unable to assimilate, but under the guise of economic concerns, arguing that Chinese and Jewish businesses should be boycotted to improve the economy and alleviate Mexico’s unemployment crisis. President of the Revolutionary Block in the Chamber of Deputies, Rafael Melgar presented their proposals to the Chamber, where they were approved, allowing for the expulsion of 250 Jewish merchants from the La Lagunilla market. Anti-Jewish sentiment persisted even after the revolution. When President Cárdenas attempted to provide asylum in Mexico to Jewish refugees, those that were admitted did so initially with a tourist visa as a result of pressure from anti-Jewish organizations (Liwerant, as cited in in Salazar Anaya, 2006).

According to Bokser Liwerant, the legislation of this time took into account many of the concerns expressed not only by merchants, professionals and industry representatives, but by those who felt racially threatened (as cited in Salazar Anaya, 2006, p. 387). During the Cárdenas Administration (1934-1940), the groups opposing Jewish immigration grew stronger and more diverse, as in the case of the Comité Pro-Raza (National Pro Race League) and the Mexican Nationalist Youth, which mounted an intense campaign against the Chinese and Jewish populations as “undesirable” through boycotts, propaganda, public protests, and letters to the Secretary of the Interior. It was
Cardenas’ intention to include immigration as part of his population program. He was willing to accept in 1938 the call of the Evian Conference to receive political refugees from Germany and Austria. Ultimately, however, he capitulated to the “economic,” i.e., anti-Semitic argument in his formulation of the country’s immigration policies by restricting their entrance. In contrast, no restrictions were put in place for Spanish refugees who were admitted openly.\textsuperscript{83}

A third and much more poignant example of participation in migration policy began during the 1980s with the arrival of Guatemalan refugees\textsuperscript{84} and culminated in 1990 with the inclusion of the term “refugee” in the \textit{Ley General de Población} (General Law of Population). The significance of this event is reiterated by Luis Ortíz Monasterio, head of COMAR from 1981-1983, who has stated that this was “the first time in the history of Mexico’s Congress that an initiative originating from the NGO community was approved by all parties and members” (2005). Prior to this amendment, Mexico was not legally bound to accept refugees. Mexican legislation recognized only the category of “persons granted asylum,” and even this occurred rarely. When asylum was granted, it was done so only in the case of those who applied from outside the country who could demonstrate that they had been persecuted strictly for political reasons. Other categories—fleeing from war, for example, did not apply (García, 2006, p. 46). Regarding the sudden arrival of the Guatemalans south of Mexico, Ortíz Monasterio further stated:

\textsuperscript{83} It is important to mention that once Cárdenas’ government settled in and the Second World War came to an end, Cardenas was able to address the aggressive sentiments against the Chinese and the Jewish populations (Romero Castilla, as cited in Salazar Anaya, 2006).
\textsuperscript{84} For more detail on Mexico’s refugees, see Cristina García (2006), \textit{Seeking Refuge: Central American Migration to Mexico, the United States and Canada}, and Ferris (1984), “The Politics of Asylum: Mexico and the Central American Refugees.”
[This] triggered permanent dynamics in the context of the emergence of a robust civil society in contemporary Mexico. As public opinion learned about this at-risk group, a remarkable current of solidarity arose. International and national agencies started to materialize…. In the long term, these events resulted in the blossoming of a strong and welcome NGO movement that today forms the backbone of the movement for civilian monitoring of human rights.

(Ortíz Monasterio, 2005, p. 3)

Thus, after years of lobbying the Mexican Congress, civil society was involved in a significant way in the conceptualization and authoring of Mexico’s human rights agenda. The new law defined a refugee as an individual who, in order “to protect his life, security, or freedom, threatened by generalized violence, foreign aggression, internal conflict, massive violation of human rights, or other circumstances that have seriously disturbed public order robed in his country of origin, is forced to flee to another country” (García, 2006, p. 77) (see Chapter 5). It is appropriate to clarify that refugees are considered “non-immigrants” and, as such, are expected to return to their country of origin. The incorporation of this figure in Mexican legislation, however, and the resulting commitment to voluntary repatriation served as headway to the creation of a special program to allow Guatemalans to obtain legal status. Another result of this first ever program was the regularization of 25,000 Central Americans who decided to stay in Mexico, inclusive of the naturalization of 4,700 (García, 2006, p. 83). This regularization program can itself be considered another successful outcome of civil society’s participation in migration policy.
The organizations involved, including those under the auspices of the Catholic Church, banded together with the media and public officials to create a strong network of solidarity in support of refugees. This network ultimately created the impetus behind the establishment in 1980 by then President of COMAR López Portillo, of an office of the UN High Commissioner for Refugees (UNHCR) in the southern region and, later, in 1990 of the Comisión Nacional de Derechos Humanos (CNDH) (National Human Rights Commission), mandated to “protect, observe, promote, study, and disseminate the human rights protected by the Mexican legal system” (Human Rights Watch, 2008, p. 12). These were important steps not only in terms of Mexico’s reexamination of state policies and its role as a country of asylum, but also in terms of the country’s effort to grasp the refugee phenomenon within a human rights context. For example, one of the first cases the CNDH was assigned to investigate was the murder of activist Norma Corona in May of 1990. Because Corona had documented abuses committed by the judicial police, her murder was thought to be an attempt to silence the human rights community in Mexico.

By 1999, the Commission was separated from the Executive Branch and placed under the direction of the Mexican Senate to guarantee more independence. Appointments to the Commission are also required to be made in consultation with civil society organizations (Human Rights Watch, 2008).

During the height of the refugee situation in Chiapas, the UNHCR was in no position to say much politically, as Mexico remained sensitive about its national sovereignty. Instead, the UNHCR concentrated on channeling funds to local organizations servicing the established camps. The defense of refugee rights, particularly with respect to non refoulment and forced relocation from Chiapas to other states, was
taken on primarily by the more liberal sectors of the Roman Catholic church with Bishop Samuel Ruiz García⁸⁵ leading the way together with solidarity movements like the Movimiento Mexicano de Solidaridad con el Pueblo de Guatemala (Mexican Solidarity Movement with the People of Guatemala). Four of Mexico’s political parties made statements in defense of refugee rights and Mexico’s newspaper, La Jornada, published sympathetic articles and editorials on their behalf (García, 2006). In the end, their efforts failed to force the government to change regulatory policy. It did, however, force it to compromise and relocate only those who agreed to be relocated. In addition, the network of faith-based organizations, coordinated by the Comité Cristiano de Solidaridad (CCS) (Christian Solidarity Committee) and created by the Roman Catholic Dioceses of San Cristobal de las Casas and of Tapachula, not only distributed aid and delivered services to refugees inside and outside the camps, but also helped them integrate, become self-sufficient and learn how to represent their own interests to government officials. Many of their programs, particularly the distribution of emergency aid and other services, served as an example to COMAR for its assistance programs. Today COMAR continues to work on a number of projects with church representatives (Somohano, personal communication, 2008).

It is important to highlight that these efforts were not easy for the church. It paid a heavy price for its involvement in the defense of human rights for indigenous people in Mexico. Fearing the power of the church, in 1992, the Mexican government placed a

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⁸⁵ Father Ruiz remained Bishop of Chiapas until 1999 when he retired. He also participated as mediator between the Government and the Zapatista rebels in 1994. In 2000 he has received various international awards, including the Martin Enals Award for Human Rights Defender, the UNESCO International Simón Bolívar Prize, and in 2000 was awarded the “Nuremberg Human Rights Award” (University of Oregon News, October 7, 2005).
number of restrictions on clerical activities in the Constitution, namely Article 130, Section 9, which prohibits the church from speaking out against the laws of the country and government officials. Anyone associated with the church and its efforts to document human rights abuses became a target of reprisals, especially if they were foreign-born. In July 1990, Father Marcelo Rotsaert of Belgium was deported for allegedly supporting the land reclamation movement and refugee support for the Guatemalan National Revolutionary Unit (GNRU) (García, 2006).

Despite many difficulties, the Catholic Church has continued its defense of refugee rights and of migrants in general, as demonstrated below.

7.2 THE CONTEMPORARY STATE-CIVIL SOCIETY RELATIONSHIP TO MIGRATION POLICY: THE FINDINGS (1973 to PRESENT):

The successful participation of civil society during the Guatemalan Refugee crisis was a turning point for its overall participation in the political process. Prior to the 1980’s, the input of civil society can be assessed as “minimal” (Ferris, 1984). Other turning points include the 1985 Mexico City Earthquake and the 2001 triumph of electoral organizations in Mexico’s first free election (see Chapter 6). These turning points infused civil society with a new vitality and a fresh desire to pursue a more formal role in all types of policy, including migration.

Migration advocacy has also been fueled by the U.S. post-9/11 policy of intensified border security and the resulting crackdown on, and deportation of, illegal Mexican immigrants in the U.S. This migration policy has encouraged the Mexican government to initiate a variety of institutional and legal reforms to address its negative image drawn from its treatment of foreigners on its soil. While developing these
reforms—from the proposal phase to actual implementation—the Mexican government has encouraged the participation of civil society organizations through a variety of dialog forums. Note however, another important consequence of 9/11 in this regard. As Mexico attempts to improve its international image, both rhetorically and legislatively, it has intensified its restrictive entrance policies as it tightened up inspection sites in response to U.S. border security demands.

7.2.1 Participatory Process Measure

For some time now—approximately eight years—Mexico has been making modifications to its migration policy, though admittedly by means of a piecemeal approach. It has made changes within the state institutions and has hired new employees. It has established new training and service programs and set up regulations for the migrant detention centers. It has even instituted legal reform, as in the case of the decriminalization of illegal immigration. As mentioned above, in 2008 it began the formal process of drafting a new immigration law. The INM has begun working on a law of immigration that would regulate migration rather than leaving policy to be interpreted by those articles in the GLP pertaining to the issues. It remains an internal INM project but according to INM sources civil society will be engaged once the initial draft is completed. It is important to mention that the involvement of civil society in migration policy can actually be traced back to their contributions to authorship in the development

86 Following a piecemeal approach is consistent with how the way Mexico sets forth its development agenda—in a Plan Nacional de Desarrollo (National Development Plan)—which it formulates every six years with each incoming administration. These action plans are beneficial in the sense that they make planning an obligation, but the disadvantage lies in focusing on short short-term planning without a vision for the future, something not conducive to the proposal for a comprehensive immigration policy.
and formulation process of two key legislative changes that lay the formal groundwork for civil society to participate in all policy issues. These laws, mentioned earlier, are the Law of Transparency and the Law of Enhancement. According to SEGOB (2008), the Law of Enhancement is actually the direct result of a civil society initiative.

With respect to migration policy, the involvement of migrant civil society in the migration policy process has been identified at the highest level of the dialogue forums. This level of participation was first observed in the dialogue that led to the joint initiative: “Mexico and the Migration Phenomenon” between the Executive Branch, the Mexican Senate and the Chamber of Deputies, an initiative as a message to the U.S. in a document entitled “A Message From Mexico on Migration” (n.d.). In keeping with its intent to improve Mexico’s image in the U.S. the message indicates that Mexico’s migration policy is based on the principle of open doors “to those who wish to visit, conduct business in Mexico, work in a documented manner or collaborate in whatever way towards its national development.” In order to facilitate this, the document states that Mexico must develop and enforce its migration laws and policy with full respect for the human rights of migrants and their relatives, their nationality and migration status notwithstanding, as well as full respect for refugee and asylum rights in accordance with the applicable international instruments.

Of particular significance is that the document was produced by a workgroup of federal authorities responsible for the management of migration together with senators and congressmen, members of academia, experts in migration issues, and representatives of civil society. Of notice here was the participation of Sin Fronteras. The group agreed to make an effort to create a national migration policy that would be founded on shared
diagnoses and platforms. The document was adopted by both Houses of Mexico’s Federal Congress as a Concurrent Resolution on February 16th, 2006. To implement the policy, the group recommended the creation of permanent working mechanisms within the Executive and Legislative Branches for the development and fulfillment of Mexico’s migration agenda. The regular participation of academic and civil society representatives was considered a must. This was a historic initiative in which consensus between significant government and social entities was reached regarding an official government stance on an issue of national interest (Venet, personal communication, 2008; Rodríguez Chávez, personal communication, 2008).

Another example of migrant civil society participation at the executive level is evident in INM’s Consejo Consultivo (Advisory Body). When creating this advisory body in 2007, INM Commissioner Cecilia Romero Castillo invited certain members of civil society—including Casa del Migrante and the representative of Mexico’s World Organization for Migration—to participate in the creation of proposals aimed at formulating projects, strategies and activities, that would enrich the migration question. The importance of civil society’s participation was highlighted by the newly established President of this body, Professor Rafael Fernández de Castro, when he stated that “the only way that democracy will flourish in Mexico is through the active participation of the citizenry” (INM Social Communiqué, 2007e). This advisory body continues to meet today and is seen by civil society as an example of how Mexico is following the steps of other democratic societies where civil society is allowed to question the state. 87

87 According to Father Rigoni this is a case in which Mexico “es típico…, México se dejó interpelar por la sociedad civil (“this is how it should be…, Mexico has allowed itself to be questioned by civil society”) (personal communication, 2008).
Civil society also made its presence known at the executive level of government in connection with early efforts of President Fox to research, debate and propose a comprehensive state migration policy. In 2001 both emigration and immigration were featured clearly in the agenda of the Fox administration. SEGOB and INM conducted 17 forums throughout Mexico and in Los Angeles, California to “compile as much information as necessary and opinions that would help promote and improve the migration policies of the country” (SEGOB & INM, 2002). Six volumes with 275 proposals presented by diverse parties came out of these forums with a focus on various issues associated with immigration—from human rights issues and programs for social development and education to questions pertaining to the protection of migrant women and children, remittances, employment of foreigners, tourism, and more. A proposal regarding how best to ensure the provision of basic needs—food and shelter—of migrants was presented by the Catholic Church as represented by Father Carlos Gómez Ortíz of the Pastoral de la Movilidad Humana de la Arquidiócesis de Xalapa (Xalapa Catholic Pastoral Care Center in Veracruz). Although many of these proposals have not been further developed, they have served as the basis for the aforementioned new law that INM is currently working on. Moreover, of great interest was the fact that President Fox first proposed his immigration plan from the Casa del Migrante in Tijuana, the first migrant house built (1985) and run by the Scalabrinians. At that time the shelter had serviced 350,000 migrants—both foreign and Mexican—and kept records that were considered by a SEGOB officer to be beyond reproach and thus providing civil society with “el poder del testimonio” (the power of testimony) (Rigoni, personal communication, 2008). This experience contributed to importance now given by the
Catholic shelters to maintaining detailed records on the migrants they serve, particularly in cases of human rights violations, which they now then submit to the state to encourage collaboration. Migrant shelters across Mexico consider their record keeping as critical in the alleviation of their plight as it provides the evidence needed to back their arguments. Thus, given the constitutional separation between Church and State in Mexico, religious civil society is focusing its participation in the policy process through the sharing of information and knowledge under the framework of defending human rights.

In addition to the aforementioned examples of high level cooperation, significant institutional mechanisms have been put in place to enhance the dialogue and participation of migrant civil society within and, in some cases, between relevant state agencies. All of these organizations—the President’s Office, the Interior Ministry (SEGOB), The Commission for Aid to Refugees (COMAR), the Migration Institute (INM), the Foreign Ministry (SRE) and both the Senate and the Deputies Chambers have a link on their web sites to the Law of Transparency and to the corresponding civil society liaison offices. Coordination between SEGOB through INM and such organizations as SRE, *Procuraduría General* (Attorney General’s Office), *Centro de Investigación en Seguridad Nacional* (CISEN) (National Security and Investigation Center), and the *Secretaría de Trabajo* (Labor Department) has also been established. Coordination mechanisms with other state institutions with which immigration shares some common ground, however, are still lacking. According to civil society’s “Citizen Agendas” report, the establishment of these connecting mechanisms should be included in future plans. This would include mechanisms to connect INM with the Secretary of the Economy.

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88 According to Father Rigoni, if data gathering is conducted diligently and accurately, it can lend more strength to their claims than mere protest (personal communication, 2008).
Social Development and with Mexico’s equivalent of the U.S. Tax and Finance Department (*Hacienda y Crédito Público*). There are currently no existing connections with the Legislative and Judicial branches (“Agendas Ciudadanas,” 2007, p. 79).

Mexico’s executive level rhetoric relies heavily on emphasizing the participatory function that civil society now enjoys as INM and SEGOB follow legal and institutional directives. INM speaks highly both of its successes and its relationship to civil society, particularly for the year 2007-2008 and especially in relation to its intent to pursue a more humanitarian policy. Examples are replete in INM and SEGOB press releases, but a particularly poignant example is in INM’s recent mention of the newly established *Mesa de Diálogo Interinstitucional sobre Niños, Niñas y Adolescentes no Acompañados y Mujeres* (Inter-institutional Dialogue Committee on Women and Non-Accompanied Children and Adolescents). In this article, INM made reference to civil society organizations working hand in hand with government entities for the purpose of creating programs to benefit this vulnerable population and even training 170 officers specializing in migration, children’s, and human rights concerns (*Officiales de Protección a la Infancia*) (OPI’s). According to INM, this inter-institutional committee has also worked to improve service delivery mechanisms for migrant women and children and in 2007 serviced 21,366 migrant children and adolescents throughout Mexico. The Chiapas program alone (in Tapachula) serviced 488 children and adolescents mainly from Honduras, El Salvador, Guatemala and Nicaragua (INM Noticias, 2008j). Even Margarita Zavala, President Calderón’s wife and Director of the *Sistema Nacional para el Desarrollo Integral de la Familia* (DIF) (National System for the Integral Development of the Family) emphasizes the importance given by the state to its relationship with civil
society when stating that “this would not have been possible if civil society had not made these children’s plight visible” (Franco, 2008).

7.2.1.1 Additional Spaces for Participation and Collaboration

In addition to the institutional mechanisms created with the federal government, there are other spaces for state-civil society collaboration worthy of mention. In January of 2005, the CNDH (Comité Nacional de Derechos Humanos)(National Committee on Human Rights) created an office specifically to address human rights violations suffered by migrants. Since that time, eight more offices have been opened across the country. Specialized civil society organizations such as Sin Fronteras were recruited to conduct sensitivity training for the CNDH staff. The creation of these offices is seen by Human Rights Watch as “a critical step toward addressing this complex problem in a meaningful way after years of limited action” (2008, p. 15). Last year, in cooperation with civil society, CNDH accomplished a major feat by inhibiting the military practice of conducting checkpoints in the Southern region outside its jurisdiction. Civil society had argued against the use of the military and provided the necessary documentation—pictures, interview transcripts, etc. documenting the violations taking place at the hands of the military (personal communication, 2008)⁸⁹.

Although the CNDH has played an important role in identifying and documenting human rights violations in Mexico, a Human Rights Watch assessment released in February of 2008 argues that CNDH has come short by looking the other way in a number of instances of documented abuse. The CNDH does not consistently publicize its

⁸⁹ Interviewee wished to remain anonymous.
findings, which makes crucial information about abuse victims, inaccessible. It also lacks meaningful oversight and has failed to engage with a diverse array of actors who can contribute to the improvement of the human rights situation in Mexico. For example, it tends to exclude victims from the conciliation process. Such limitations have only hindered the development of trust that civil society has in Mexico’s government.

Because Mexico is a signatory to several migration and human rights-related international conventions (see Chapter 5 for a listing), INM often states that it is working to align its national migration policies accordingly and that it sees this alignment as an important component to any comprehensive migration policy (Rodríguez Chávez, personal communication, 2008). For example, in the context of a discussion of human rights concerns at the November 2006 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), sponsored by UNANIMA, Mexico officially recognized that migrant women are subjected to some of the worst violations and that efforts must be coordinated with other government entities, civil society organizations and international bodies to address this problem. To this end, they argue that they have been developing a series of diagnostic tools to be used by the regional delegates of INM. In April of 2007, INM called upon civil society to collaborate with the Institute for the improvement of services provided to migrants in such programs as its detention centers. In a meeting attended by 19 representatives from a number of non-government organizations, INM requested that civil society participate in the annual national Programa de Conversión Social (Social Conversion Program) run by the Instituto Nacional de Desarrollo Social (National Institute for Social Development) (Indesol). The intent was to encourage collaboration on issues of mutual concern like human rights and
women services, as well as course offerings and workshops for the immigrants themselves. INM also called for the involvement of civil society in arranging for medical and psychological attention, informational and formational workshops, talks, and legal services for this population (INM Boletín No. 060/07).

There is a vast difference, however, between a call for action and the implementation of such action. This difference was clearly laid out in a civil society report jointly prepared by María Cristina Hawley and the missionary group, Misioneras Catequistas de los Pobres de Coahuila (Catechism Missionaries of the Poor of the State of Coahuila) and presented at the CEDAW meeting: “[A]ll of this is very good,” but these reforms are impeded by the deep problem of corruption. In light of this corruption, the missionaries urged that training programs “be offered to the police and local authorities because they are often the ones that treat women migrants worse than animals” (Hawley, 2006, p. 4). Sin Fronteras, in a collaborative effort with the state, does offer workshops aimed at educating immigration officials in human rights issues. However, as the Missionaries stated this service needs to be extended to the local police.

Mexico’s migrant civil society has recognized the potential of working together not only with organizations interested in migrant issues, but with all types of civil society organizations at the national, regional and global levels. At the national level members of civil society, who had previously worked independently to promote their interests, gathered at the time of Mexico’s last three presidential elections changes—in 1994, 2000 and 2006—to develop a set of proposals and priorities pertaining to security, microfinance, human rights, the bolstering of civil society, migration and development. It was their intent that these proposals would be made a priority in the programs of the new
administrations. The migration portion of this Citizen Agenda’s report, coordinated by Sin Fronteras, produced a detailed proposal titled “Agenda of Public Policies on the Issue of Migration” with many specific recommendations for change on the subtopics of security: migration and borders; migration and development; migration legislation; migration and the northern border; and migration and the Southern border. The proposal was presented at the Global Forum on Migration and Development, the First Meeting of Legislative Committees on Migration Issues⁹⁰ and the offices of INM per INM’s request.⁹¹ One of the changes proposed in the report, the decriminalization of illegal immigration has, in fact, been implemented.

The participation of civil society at the international level, and thus its representativeness, is an important measure of its strength and organizational capabilities. Mexican migration organizations participate in many diverse forums, presenting their testimonies, proposals and research findings both in Mexico and abroad. As mentioned above in connection with Sin Fronteras and INM, they have even relied on other institutions to introduce their findings when they are unable to attend. The significance attached to participation in such forums is evident in the number and diversity of the forums they attend. Among noteworthy examples is the previously mentioned joint effort of Hawley and the Chatequist Missionaries to raise awareness of the plight of migrant women in 2006 in New York City. Another important example is the establishment in 1998 by Mexican colleges of a seminar—Permanent Seminar on International Migration—to serve as a venue in which to share the advances and findings of research.

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⁹⁰ Of which Congressman Ramírez Martínez is a member.
⁹¹ INM’s Center for Migration Studies Director Rodríguez Chávez referred to this project as a very comprehensive and significant proposal conceived and presented by Mexico’s migrant civil society (personal communication, 2008).
on migration issues. The colleges involved are El Colegio de la Frontera Norte (el Colef), El Colegio de Mexico (El Colmex), and the Sociedad Mexicana de Demografía (SOMODE)(Mexican Society of Demographics). The objective here was to open a sphere of exchange with policy makers in a continuous forum where research advances and findings could be presented and discussed. At the most recent seminar, sessions were attended by 44 government officials from agencies including the INM, the Ministry of Foreign Affairs, the Attorney General’s Office, the Senate, the National Institute of Statistics, Geography and Informatics, the National Human Rights Commission, and SEGOB, among others.

Mexican society organizations are members of the Regional Network of Migration Civil Society (RNCOM), a network of networks in 11 countries that came out of the 1996 Regional Conference on Migration—also known as the Puebla Process—as the result of a Mexican initiative to strengthen the presence of their organizations and their influence on migration policy development. This forum is comprised of North and Central American Countries and the Dominican Republic. It is important to mention that this first Regional Conference on Migration held in Mexico in 1996 marked a significant turning point in terms of Mexico’s state-civil society relationship on immigration. Civil society’s participation in the dialogue process improved at that point as a result of Sin Fronteras’ diligent efforts to be heard during that conference. Because civil society had not been invited to participate in the conference, a separate meeting comprised of members of civil society and of academia was arranged to develop their proposals. Although denied the opportunity to meet directly with participants in the Regional conference, they took advantage of the fact that they personally knew some of the
officials and convinced them that they were interested in dialogue rather than a protest. As a result, they were granted the opportunity to present their proposals to individual delegations. Their proposals were well received and their input was encouraged (Venet, personal communication, 2008).

Motivated by positive experiences resulting from the contributions Canadian civil society made to immigration issues, Canada invited civil society organizations to an informal dialogue with Vice-Ministers under the auspices of the Third Regional Conference on Migration chaired by Canada in 1998 in Ottawa. As a consequence of this meeting, the desire to include civil society organizations to address migration issues, promote cooperation and dialogue between countries of origin and destination, and eliminate factors leading to forced migration was formally expressed in a joint declaration of the countries at the conference. Since their initial involvement, civil society organizations have taken on a consulting role in the various participating governments on the many issues affecting migrants, and have been involved in the preparation and coordination of seminars. RNCOM has created its own Plan of Action within the Puebla Plan of Action, focusing on such issues as regulatory frameworks and protections, development and migration, and monitoring of the Plans. According to Peter Duschinsky of the Canadian government, “the information that is brought to the table by civil society organizations is imperative to making informed decisions and to establishing policies that will be most effective in addressing issues at hand” (2000, p. 4). While in the past governments viewed civil society as too small and weak to deal with serious migration issues, democratic states have begun to recognize that because some of the most important challenges posed by the migration phenomenon are social challenges at the
grass roots level, civil society—given its smaller size, knowledge of local conditions, and understanding of the immediate, practical problems migrants face—is in a better position to address such challenges than larger, more impersonal government institutions (Duschinsky, 2000). Mexican government officials have also echoed this sentiment as they are cognizant of the particular advantage that civil society has by being close to the issue.\footnote{This sentiment was echoed by del Río of INM in her statement that “because of their particular position and points of view, civil society organizations in Mexico make a valuable contribution to the decision making process” (personal communication, 2008).} A very recent example of civil society’s awareness of the importance of international forums and international cooperation, demonstrating the significance INM attaches to the activities of migrant civil society—inclusive of the Catholic Church—is the First International Forum on Migration and Peace in Guatemala, held on January 30\textsuperscript{th}, 2009. This forum was organized by the International Scalabrini Migration Network. INM Commissioner Romero Castillo was in attendance and participated in the workshop on Migration Policies and the Processes of Reconciliation in Central America. It was in this context that she emphasized the importance of cooperation and shared responsibility in addressing an issue as global as migration (INM, 2009).

Mexican civil society’s participation in and organizing of these national and international forums has furthered an understanding of the complex and varied social processes of migration in Mexico as they have shared their findings not only with other civil society organizations, but with Mexican policy makers attending such events as well. This networking, in turn, emboldened the administrative and organizational capacity of civil society. It has enhanced and encouraged its political participation and expanded its vision beyond that of a service provider to a focus on promotion of policies.
and “pushing, even demanding” policy reforms (Rodríguez Chávez, personal communication, 2008; Venet, personal communication, 2008).

As civil society expands its focus and size, so too has the competition to generate funds. Although competition is argued to generate effectiveness and organization, in a country where technical capacity and funds are limited to begin with, the drive to generate funds may take over and dominate the program’s focus (Thouez, 2004). Despite a wide disparity in funding and manpower (consider, for example, COMI vs. Sin Fronteras), migrant civil society nevertheless demonstrates a well developed organizational and administrative capacity. This capacity has been fueled by its relationship with other organizations both in Mexico and abroad, but most especially with those in the U.S. and Canada. An additional factor is the expanded use civil society makes of the internet. Understandably, the more established organizations have greater access to highly capable staff and substantial funding from international sources. Among such funding sources are the Ford Foundation and the John D. and Catherine T. McArthur Foundation. The Civic Agenda report, produced by a network of all types of civil society organizations to address issues of self empowerment, for example, was funded by the Ford Foundation, and the John D. and Catherine T. McArthur Foundation is currently sponsoring a $300,000 project initiated by Sin Fronteras in support of activities to strengthen human rights protection for migrants and refugees in Mexico over the next three years (See http://macfund.org, 2008).

Because of the very real financial challenges civil society faces in Mexico, Mexican civil society organizations have become accustomed to “doing a lot with very little.” They have engaged in their own efforts to enhance their productivity and they
continue to learn to share strategies and information regarding how best to take advantage of the opportunities presented by the new Mexican regime (Rodríguez Chávez, personal communication, 2008; Venet, personal communication, 2008).

7.2.1.2 How the State Views Mexico’s Migrant Civil Society

Another measure of the strength of the migrant state-civil society relationship can be found in the opinions each interviewee expressed of the next. It can be argued that civil society’s internal mobilization and strength has gained the respect of certain state officials, who see their contributions as valuable. Government officials refer positively to civil society, positive references are made in particularly with regards to *Sin Fronteras*, which is seen as a well organized organization with highly capable and qualified individuals.93 A strong example of collaboration and the degree of respect earned by civil society organizations was provided by SEGOB’ National Registry Office (RENAPO) when *Sin Fronteras* was invited to participate in the Interamerican Program for a Universal Civil Registry and the Right to an Identity, a project promoted by the Mexican government. Representatives of *Sin Fronteras* were unable to attend the meeting of the Organization of American States (OAS) in December of 2007, but because RENAPO felt it was important that they participate, a presentation was made on their behalf by the Director. A review of the OAS documents resulting from the project (AG/RES 2286 (XXXVII-O/07)), showed that several of the proposals made by *Sin Fronteras* were reflected in them though not directly credited to the organization. The proposal to use and

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93 RENAPO’s Director Carlos Anaya and COMAR’s Director Katia Somohano spoke very highly of *Sin Fronteras* and Director Somohano mentioned that because COMAR does not have the ability to directly service the refugee population, they do so in cooperation with *Sin Fronteras* (personal communications, 2008).
regulate the use of mobile units to register children (see OAS, 2008), for example, was credited to the Secretary General per the workgroup’s request. That RENAPO’s Director agreed to present *Sin Fronteras*’ proposals is significant in that it shows the extent of the relationship established between a significant state entity and a civil society organization. Recognition of the existing mechanism and a willingness to coordinate activities on a national or international level is underlined in the very proposals submitted to RENAPO by *Sin Fronteras*. *Sin Fronteras* specifically cites their relationship as an example of existing good practices in the following statement regarding Mexico’s RENAPO:

> Regarding good practices, in Mexico’s case [you have] the passport and mobile registration experience created by the government of Guatemala in Chiapas, the collaboration between *Sin Fronteras* and…state civil registries for the training of government employees, the review and suitability of rules and procedures, the writing of instruction fliers and the establishment of mechanisms for case work streamlining and service. At the same time, we can consider that the best practice is the communication that exists between *Sin Fronteras* and RENAPO, as well as RENAPO’s own *solution approaches to specific cases* [bold added]. (*Sin Fronteras*, 2007, p. 8)

*Sin Fronteras* has gained significant respect from all levels of government institutions, particularly the leadership of its last director, Fabienne Venet. Interestingly, when Cruz Vásquez of Oaxaca learned from the researcher that *Sin Fronteras*’s was undergoing a change in directorship, her response was of concern that such leadership would not be easily replaceable (personal communication, 2008). Although it is still early
to evaluate the performance of the new director, all interviewees expressed high expectations.

This “opinion measure” is also relevant in connection with the religious sector of civil society. Representatives of the migrant shelters have expressed confidence in many of today’s state officials who they believe are truly interested in progress and in moving Mexico along democratic values properly. This respect goes both ways. As the picture in Figure #7.2 suggests, Casa del Migrante is a shelter highly regarded within the Executive ranks of government. In this picture, México’s First Lady, Margarita Zavala, announces the release of the Shelter’s Director, Father Rigoni’s book, Reflexiones en el Camino del Migrante (Reflections Along the Migrant’s Path). Also in 2006 the Mexican Human Rights Award was given to Father Rigoni by President Calderón for his activism on behalf of migrants from Central America.94

94 During the award ceremony, President Calderón referred to Father Rigoni, a native of Italy, as “a Samaritan” for helping people “he doesn’t know” (Scalabrinian Priest, 2006). Casa del Migrante was also invited by INM to be present when the first work visa with an electronic chip between Central America and the four Mexican states on its borders—Chiapas, Tabasco, Quintana Roo and Campeche—was initiated. Father Rigoni considers this another example of the fruit of the relationship between migrant civil society and the state in Mexico (Rigoni, personal communication, 2008).
Figure #7.2. Father Rigoni with Mexico’s First Lady Ms. Margarita Zavala. Zavala is President of the National System for the Integral Development of the Family (DIF), and was announcing the release of Father Rigoni’s book Reflexiones en el Camino del Migrante (Reflections During the Migrant’s Walk) (Franco, 2008).

Government officials and members of civil society have expressed that the relationship is not without contention. Often civil society representatives, some more than others, are considerably more vocal and open to criticism. Open to the press, civil society has submitted many official complaints against human traffickers, the police and INM officials. Sin Fronteras openly accused INM of violating the right of the organization’s attorneys to enter detention centers to assess the physical condition and legal status of the migrants detained. The organization also complained about the harassment that the migrant shelters have suffered at the hands of Mexico’s public security forces. Together with other organizations, such as the Mexican Committee for the Defense and Promotion of Human Rights, Sin Fronteras submitted legal complaints in a number of cases. They have also tried to enlist the help of the Organization of American States (OAS), the U.N. and the Interamerican Committee on Human Rights. According to Sin Fronteras soon after President Fox took office, as the number of detentions and inspection operatives across the country increased, it became more difficult for their staff to enter the migration centers and consult with the detainees.
As stated by an INM official, working with the Shelter Brothers on the Path, in particular, has not been free of problems. At times the shelter’s tactics are seen as a strain on the state-society relationship. According to this unnamed official, the Mexican government agrees that human rights issues are important, but maintains that acquiescing to all the requests presented by civil society organizations—particularly those encouraging an ease of restrictions on immigrant entrance—is not feasible. The government must also maintain order and security.

The pressure exerted by civil society on the government relies heavily on the media, as stated by Father Solalinde Guerra, “the media has been friendlier to migrants than even the migrants themselves…[T]he media has helped in the move to counterbalance the government” (personal communication, 2009). Recently the Brothers on the Path shelter has been disseminating information to the public through a weekly radio show aired on Saturday mornings and has started a blog. This is also an effective way to reach out and educate the public, solicit support for the migrants in Mexico.

Despite the tension, the pressures of the civil society have led to its recognition as a force to be reckoned with. The need to address their opposition is recognized by the government and attempts are made to do so. One such case was when regional delegate Gómez Mont accompanied representatives of Brothers on the Path to the offices of Oaxaca Attorney General, Evencio Martínez Ramírez to present four cases of abuse against immigrants. Although Ramírez agreed to look into the cases, nothing has been done since, but despite the lack of follow-through, this is an indication of cooperation among state and civil society. Moreover, in response to the particular outcry after the disappearance of two migrant women in Oaxaca on November 5, 2008, the Oaxaca state
legislature, in conjunction with the regional offices of INM, signed an accord to find these women, guarantee the safety of the immigrants in the Shelter Brothers on the Path’s and protect the staff from further threats (Solalinde Guerra, personal communication, 2009).

Another poignant example of the significant influence that civil society is gaining, took place when in a meeting celebrating the Week of the Migrant in Ciudad Ixtepec, Oaxaca, the Municipal President and a Member of Congress, claimed that the City was a sanctuary for migrants. As reports of abuse had been taking place, the Shelter Brothers of the Path publically voiced its opposition to such claim. Interestingly, although the Municipal President was outraged, the Senator later visited the shelter to express his interest in working with it and address these claims of human rights abuses (Solalinde Guerra, personal communication, 2009).

Overall civil society representatives are in agreement that they have served as a block against even greater numbers of human rights abuses. Thus, despite and even perhaps as a result of their confrontational attitude civil society has enhanced collaboration with government and remains part of the dialogue and decision making process.

7.2.2 The Outcomes Measure

The civil society relationship is effective when objectives are met. As we have observed already, Mexican migration civil society has sometimes reached significant

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95 As Father Solalinde Guerra put it, “I have been more than an obstacle to those who abuse human life. I have also served as a block” (as cited in Luna, 2008). In his interview he stated that he and his staff have been able to “inhibit crime” (personal communication, 2009).
goals, as for example, in the case of the refugee crisis. There have been other significant achievements, albeit not without stumbling blocks. Among them are the reforms to the General Law of Population and the redrafting of migrant camps regulations after civil society organizations voiced their disapproval of the original draft.

Evidence of the influence of civil society organizations is reflected in the statements made by legislators in their actual proposals—proyectos de reforma—to reform the General Law of Population. Civil society organizations have caught the ear of legislators, motivating them to propose legislative changes even before this last legislative session (60th). Perhaps the best example of this is the accomplishments of members of the Congressional Committee on Population, Borders and Migration Issues, particularly Congressmen Edmundo Ramírez of the Partido Revolucionario Insitucional, who along with members of Congress—Andrés Bermúdez, José Nicolás, Morales Ramos, and José Jacques y Medina—submitted a bill to the Sixtieth Legislature in 2007 to reform the migration-related articles of the GLP.96

This reform is but one example of the many forums on migration in which civil society has had a part that are paying off. Regarding the success of these forums, some dating back to Fox’s administration, According to the Casa del Migrante Shelter: “están dando fruto…y hemos llegado al menos a la despenalización de la migración y esto es un aspecto que hemos logrado como sociedad civil” (“[they] are paying off…and we have arrived at least at the decriminalization of immigration and this is something that civil society has achieved”) (Rigoni, personal communication, 2008). This statement

96 In 2007 a document generated in a legal clinic of the Technological Institute of Mexico proposed the need to decriminalize illegal migration.
emphasizes the belief that civil society itself has regarding its influence and achievements thus far.

A review of the legislative proposal for the GLP reform highlights previous communication between them and the legislators sponsoring the reform. Civil society provided the legislators with the information necessary to promote it. Direct reference is made by Congressman José Jacques y Medina to the data received from civil society. Sin Fronteras and other human rights organizations submitted information on bribes conducted by government institutions to allow the trafficking of human beings through various entry points. As a result, the reforms were unanimously approved in both Houses. Ultimately, the reform bill was signed and published by President Calderón in July of 2008, but only after civil society organizations, legislators and the U.N. exerted significant pressure (Solalinde Guerra, personal communication, 2009). The delay was not so much the result of a difference in opinion as the fact that he was addressing other significant reforms (Rodríguez Chávez, personal communication, 2008). The new reforms eliminated Articles 119, 120, 121, 123, 129 and 127, which called for up to 10 years in prison for illegal entry in addition to a fine. According to Article 118, migrants can regularize their stay in Mexico on their own rather than waiting for sporadic regularization programs. These new reforms also provide the option of community service instead of a fine (See Chapter 5).

Part of the motivation for promoting the aforementioned reforms stemmed from a remark made by a U.S. Congressman, who suggested that the U.S. should copy Mexico’s immigration legislation which criminalized illegal entry. According to Congressman Ramírez Martínez, this was a “slap in the face with a white glove” (personal
communication, 2009). From that moment on, he worked hard to submit an appropriate bill to reform Mexico’s laws in this regard. Even though the law was not properly enforced and most detentions resulted in deportation without prison time, it was appropriate to enhance the quality of deliberations with the U.S. Perhaps more importantly, civil society succeeded in raising awareness that the articles served as a “tool” for bribery and manipulation of the migrants (Rigoni, personal communication, 2008; Solalinde Guerra, personal communication, 2009).

Obstacles remain where these reforms are concerned. These reforms have not trickled down to the local level, since those responsible for enforcing the laws, such as the local police, as previously stated have not been trained or even properly informed of the changes. Moreover, as pointed out by National Director Gutiérrez of the Movilidad Humana, other articles, such as Article 67, are in need of reform.

Article 67…allows any authority to request documents on migrant status from any foreigner during any transaction. This transaction could even be initiating a complaint to the Public Ministry against any other authority that had committed a crime against an undocumented individual. (Martinez, 2008)

According to Congressman Ramírez Martínez, however, he intends to lay the groundwork this year for further immigration law reforms. Even if he is no longer in Congress after this summer (Congressional elections took place in July of 2009), he will remain an influential member in his party and will continue pursuing such a project.97

97 This is fully possible in the sense that Mexican legislative proposals submitted by one legislator do not necessarily get approved or die; they can “float around” or get moved into the background by party committees only to be picked up later by another legislator.
Other outcomes that allow us to assess the state-society relationship are those resulting from the revised amendments to regulations for the deportation centers. The first draft of these regulations was met with substantial resistance from such organizations as Sin Fronteras. They were revised in late 2008. Civil society has continuously expressed great concern regarding visitation rights for detained migrants and access to them by legal representatives, let alone civil society members, this despite the favorable results of a survey conducted by INM of 12 of its centers between April and June of 2007. On a scale of 1 to 10, these centers were given an 8.6 rating for satisfaction in terms of services provided: food, safety, fair treatment, medical attention (Revista INM, 2007b). However, gaining access to the centers became more difficult than in previous years as previously mentioned. Sin Fronteras had been quite vocal about their opposition to the first set of amendments and claims that migration policy in the last two years of Fox’s administration and during the first few years of the Calderón administration has actually become more restrictive, particularly with regard to the migration centers and most particularly at the Mexico City center in Iztapalapa. Unable to enter to visit the migrants, “they were denied access with excuses and they would limit access to the Sin Fronteras lawyers, imposing requirements that are not normatively established” (Venet, personal communication, 2008). Lawyers should be granted access not as family members, but with the tools necessary for legal representation, such as pencils, for example (Torres Ruiz, 2007). As a result of this opposition, a new set of reforms was issued in late 2008. However, more needs to be done (Venet, personal communication, 2008).
An additional significant outcome measure is exemplified at the regional level with the redirection of the Coordination for the Attention to the Migrant of Oaxaca’s resources to investigate the plight of Central American migrants in Mexico. The Coordination, as previously mentioned, has as mission mainly providing services to Mexico’s emigrants. However in 2005, in part as a result of investigations the Coordination conducted into the regional implications of illegal immigration in Oaxaca, working with organizations such as COMI, the Coordination published a very informative book *Migrantes por la Puerta Sur (Migrants Through the Southern Door)*, which details what Central American migrants face as they enter Mexico through its southern border. With a foreword by then Oaxaca Governor José Murat, the book highlights the work of *Sin Fronteras* in general and of the church-run migrant shelters in particular. Interestingly, the introductory pages feature a poem on migrant dreams by Casa del Migrante’s Director Father Rigoni. The book does not mince words when addressing the human rights violations perpetrated by both the police and immigration officials. Consider, for instance the boldness of the following excerpt:

Instead of acting against the delinquents, it would seem that the police centers its efforts on detaining the undocumented, even if it is not always in their purview. When they detain them, they hand them over to the immigration authorities or, in some cases, they just take away their money and belongings. [researcher’s translation] (Cruz Vázquez & Ruiz García, 2005, p. 33)
7.3 OBSTACLES FOR A MORE FRUITFUL MEXICAN STATE-CIVIL SOCIETY RELATIONSHIP:

Civil society organizations, most notably Sin Fronteras and centers run by the Catholic Church, have brought to light the human rights violations suffered in Mexico by many Central American immigrants and foreigners in general. News reports of the horrific experiences of immigrants transiting Mexico abound. Accounts of foreigners subjected to deportation after participating in political rallies are not uncommon. Such was the experience of a young American working at the Universidad de la Tierra (University of the Earth) in Oaxaca in 2007. Despite media coverage, however, the public outcry against these abuses has been insufficient to cause the Mexican government to change their practices or protect non-Mexican migrants. Efforts made by civil society have not as yet generated a meaningful conscience in the Mexican citizenry and only in 2004 did the state of Oaxaca become officially recognized as a state of migrant transit. This development occurred after many Oaxacan families began asking for government assistance as they pursued the path of migration to the U.S. Prior to that time there was virtually no mention of immigration on radio or television or in the printed press. It is only since the Coordination’s creation in 2004, that Oaxaca has spoken out and is now being considered part of the Southern border region (Cruz Vázquez, personal communication, 2008).

A consequence of this limited public awareness, immigrants are not seen as a group in need of, or worthy of, representation. The results of Mexico’s first national survey on discrimination—Primera Encuesta Nacional sobre Discriminación en México (First National Survey on Discrimination in Mexico)—which was conducted in 2005, are very revealing in this regard. Only 1.3% of the population saw foreigners as an
unprotected group in Mexico, 0.6% believed that foreigners suffered as a result of their status, and 2% believed it was difficult for foreigners to gain employment. Not surprisingly, the country’s social perception of foreigners does not include immigrants residing in Mexico. This further contributes to the invisibility of the limitations and discrimination experienced by this population. That immigrants in Mexico—and globally, for that matter—are numerically small, making up approximately .5% of the Mexican population and 3% of the global population, is a factor that structurally limits their social significance (Becerra Gélover, 2000). It is with this in mind that Alejandro Becerra Gélover, Director of Liaisons, International Issues and Compensatory Programs of the National Committee to Prevent Discrimination, made the following observation:

There is no problem more difficult to solve than that which you cannot perceive. Such is the case of international migrants in Mexico, and in light of this, treating them with respect or enhancing their social integration is not an issue of national significance. The integrationist dialogue of migrants does not translate into votes, hence the complexity of the issue [researcher’s translation]. (Becerra Gelóver, 2005, 198)

The limited outcry from the Mexican public can also be linked to an undercurrent of xenophobia in the general populace. An international poll on the public perception of migrants conducted in 2004 by the Associated Press/IPSOS98 found that Mexicans held negative opinions of this population: 53% of the respondents indicated that they felt immigrants were having an adverse effect on the country, while only 36% indicated a perceived positive effect. Eleven percent indicated they did not know. More than half of

98 For more detail on this survey, see Chapter 8.
all Mexicans—70%—agreed that homogeneity in terms of traditions and customs was best for the country, though when asked specifically about religion, 65% agreed with the statement, “It is best for a country to have a variety of people with different religions.” The same poll was conducted in the U.S., Canada, France, Germany, Italy, Spain, the U.K. and Japan. A comparison of the responses across countries clearly shows that it was Mexicans who expressed some of the most negative opinions.

Anti-immigrant sentiment not unlike that expressed in the U.S. toward Mexicans immigrants was addressed in an editorial by Cruz López (2007), who complained that young Guatemalan girls were taking over (“aberrotan”) Miguel Hidalgo Town Park in violation of the GLP—a violation he argued INM is ignoring. These girls, or Central American “Chachas,” as Cruz López called them, “have made the park their own.” According to Cruz López, several housewives called the newspaper, Diario del Sur (Southern Journal), with complaints about the illegal girls, “who are there from the early hours of the morning, especially on Sundays, which leaves practically no room for our own nationals” (Lopez, 2007).

Discrimination and xenophobia are problems that have gained visibility in Mexico only recently. In this sense, the regulatory and constitutional fight to address the situation has only just begun. Alejandro Becerra Gelóver posits that it was only after the elections of 2000 that the Mexican government recognized discrimination as a problem in Mexico. A national survey on discrimination conducted by the Ministry of Social Development in 2005 revealed just how deeply ingrained discrimination is in Mexico. Nine out of 10 members of vulnerable populations—the poor, the indigenous, the disabled, women, homosexuals and the elderly—believe that they are subject to discrimination because of
their identity or status. Three out of 10 felt they had been discriminated against during the previous year; 76.5% of the general population said they would fire a teacher for being a homosexual, and 24.4% would request a pregnancy test from a woman before hiring her. As for ethnic diversity, 4 out of 10 Mexicans indicated a willingness to organize themselves in order to prevent people of a different ethnic group from living near their home. 42.1% of the general population was not receptive to the idea of having a foreigner live in their home, while only 1.3% would favor a foreigner over a Mexican national qualified to work for them, and 19.6% indicated they would never hire a foreigner (Becerra Gelóver, 2005).

This is only a sample of the numbers that highlight the discrimination problem in Mexico. Unfortunately for immigrants, this is a problem that translates into an inability to integrate, arbitrary detentions, family separations, discretion application of the law and inhumane treatment and conditions during their stay in deportation and migrant centers. Only as of 2001 did the Mexican government officially⁹⁹ accept the reality of discrimination and that only after the issue had been raised during the 2000 presidential debates.

In conjunction with the government’s recent recognition of discrimination, efforts to address the issue are now underway. Such efforts are relevant to immigration in cases where immigrants are subjected to severe discriminatory practices. In 2001, for example, a committee was established to study how to combat discrimination. Comisión Ciudadana de Estudios contra la Discriminación (Citizen Committee on Anti-

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⁹⁹ The Mexican government may have accepted that the country’s economic inequalities are the cause for the social marginalization, but it did not officially recognize that Mexico had a problem of discrimination until then (Becerra Gelóver, 2005).
Discrimination Studies) was formed by government officials and legislators as well as academics and representatives of civil society. Their deliberations led to a project aimed at establishing a federal law which would prevent and eliminate discrimination. This project resulted in the unprecedented incorporation of a paragraph prohibiting discrimination practices throughout the nation in the Mexican Constitution. It also served as the basis for the unanimous Congressional approval in 2003 of today’s *Ley Federal para Prevenir y Eliminar la Discriminación* (Federal Law on the Prevention and Elimination of Discrimination). The Federal Law was drafted in accordance with the 1990 International Convention on the Protection of the Rights of Migrant Workers and their families, the intent of which was the protection of the basic rights of migrant workers, including freedom from discrimination. In 2004, a National Committee for the Prevention of Discrimination (*Consejo Nacional para prevenir la Discriminación*) was formally established, which institutionalized the anti-discrimination law. Because the Committee considers discrimination a cultural phenomenon, its focus is on the general promotion of the rights of vulnerable groups and values of inclusion, tolerance, and respect for all of Mexican society, including migrants. The Committee has the large goal of changing Mexico’s social culture (Becerra Gelóver, 2005, p. 201).

Only four years after the aforementioned IPSOS survey and a few months after Cruz Vázquez’ bleak remark that no one cares, there are indications that the Mexican people are gaining an awareness of the “duality” or hypocrisy of their human rights demands on the U.S. The town of Rafael Lara Grajales in the state of Puebla is a recent example, as it took action to stop the mistreatment of about two dozen bruised and injured kidnapped migrants, who began spilling into the town’s streets and patios on
October 12th, 2008. Although the townspeople initially hesitated to come to their aid because of police involvement, according to journalist Traci Carl (Times Union, 2008), they “thought of their own relatives living illegally in the U.S. [and] of the times they had fallen victim to government and police corruption.” With that, they got on cell phones and bullhorns and mobilized, though certainly it would have been easier to lock their doors and let the foreigners fend for themselves in the neighboring cornfields, particularly since the police had been involved in the kidnapping of the migrants. After a violent uprising, 21 migrants were taken into custody and 15 have been deported. Six others are being held to serve as witnesses to the events of October 12 against four officers who were off duty that day.

Civil society certainly mobilized in this case and, as a result, the CNDH is investigating how the police and government handled the case. State and federal officials across Mexico have been called to do more on behalf of the migrants. This event received national attention when Traci Carl’s Associated Press report titled “Mexico Town Aids Abused Migrants” was printed in newspapers across Mexico and around the world. As Mariana Solis, a Rafael Lara Grajales resident suggested, the town should serve as a model for the rest of Mexico and the world: “We all have people in the U.S., and we don’t want the same thing to happen to them” (Carl, 2008).

7.3.1 Article 33 of the Constitution: An Outdated Obstacle

In keeping with the aforementioned discussion of the town Lara Grajales, Esteva Figeroa, Director of the University of the Earth, described Mexico as a hospitable society. It is for this reason that in his opinion, Article 33 of the Constitution should be modified.
Despite the concerns laid out in the literature and echoed by civil society, there has been no such modification. Article 33 of the Constitution explicitly forbids immigrants from engaging in the politics of Mexico and grants the Executive unlimited power to deport foreigners “immediately and without any previous legal action” (Vargas, 2007a, p. 11). Their activities are heavily restricted, and, in accordance with Article 11, they must report to SEGOB any changes in their immigration status, nationality, civil status, domicile, profession or occupation and any activities performed within 30 days of such change (for more detail see Chapter 5).

But again according to civil society, Article 33 is not a true reflection of the relationship between immigrants and the host society. During the Zapatista movement of 2004, the realization that foreigners could ease the plight of Mexico’s indigenous population was widespread. Once Mexicans realized that foreigners could attract international attention and support, this has served as the motivating force to reform Article 33 of the Constitution. Civil society’s perception of this significance was reinforced during the teacher rebellion of 2007 in Oaxaca, where an American reporter was killed in the crossfire. In Esteva Figeroa’s words, “Oaxaqueños and most Mexicans have realized the value that foreigners, Americans, Canadians, French, etc., have for their cause, since they can highlight for the world when human rights violations are taking place” (personal communication, 2008).

An awareness of the implications of Article 33 was apparent throughout most of the researcher’s field work, although comments on its implications sometimes generated surprise. Some interviewees expressed a sense that Western immigrants could usually get away with anything in Mexico. During the interview with COMI representatives for
example, the researcher learned that the center’s administrator was American. Father Cruz Montes emphasized that the Center’s work as well as that of the foreigners who work there, was purely humanitarian and in keeping with the law. The Center does not engage in political protest of any sort. Most significant in this regard, however, is the fact that many Westerners are still victims of an abuse of authority on the part of local police forces, if even “suspected” of engaging in a political activity. According to Figeroa, this is precisely what happened in the case of one of his University students, who, at the time of the interview—February 2008—had just been released from jail. The student was accused of participating in a political protest, when he was just in the wrong place at the wrong time.

Article 33 thus remains a weighty regulation in need of reform. The last identified attempt at reform was a proposal submitted in 2001 by then PRI Congressman Jesús Alí de la Torre. The proposal was overturned and no other reform proposal has been presented since that time. Congressman Alí de la Torre’s thinking on the Article is that although the restrictions placed on foreigners in Mexico—immigrants and non-immigrants—are both reasonable and congruent with Mexico’s national security, sovereignty and economic interests, the discretionary powers granted to the Executive presuppose an “infallibility that, unfortunately, cannot be attributed to any human being.” De la Torre further claimed that the language of Article 33 is problematic in that it allows for the rendering of a judgment based on a determination of the presence of an individual as inconvenient and/or pernicious without the benefit of a hearing. The breadth of this power, he argues, is incongruent with the declaration made in Article 1 of the Constitution that “every person in the United Mexican States shall enjoy the guarantees...
granted by this Constitution, which cannot be restricted or suspended except in such cases and under such conditions as herein established” (Vargas, 2007a, p. 9).

Then there is Article 14 of the Constitution, which states that no one can be denied his rights without a trial and due process. This “Garantía de Audiencia” imposes the “obligation upon state authorities vis-à-vis an individual of executing all of their official acts in full compliance with the requirements imposed by the due process notion prior to implementing any deprivation or cancelation of rights affecting said individual” (Vargas, 2007a, p. 11). That foreigners are denied the opportunity to request due process lies at the heart of the call for this reform. Alí de la Torre’s proposal called for a modification of the second paragraph and, specifically, for the removal of the phrase stipulating that there is to be no recourse against the Executive determination except in cases affecting national security, where the ultimate say belongs to the Executive. This proposal did not eliminate the paragraph stipulating that foreigners cannot participate in the political process issues of the country.

Interestingly, Alí de la Torre’s bill also pointed out the need for Mexican policy to be in congruence with the international conventions to which Mexico is signatory, namely the Universal Declaration of Human Rights (1948), the American Declaration of the Rights and Obligations of Man (1948), and the International Convention for the Protection of the Rights of All Migrant Workers and their Families (ratified by Mexico in 1999). These conventions establish all individuals as equal before the law, enjoying the same rights to be protected from the judiciary, particularly against acts of discrimination. All individuals are granted legal recourse and no one can be arbitrarily expelled from any territory.
Article 33 has also been on the minds of Mexico’s migrant civil society members, as evidenced in the aforementioned “Citizen Agendas.” Article 33 is mentioned in the report also in the context “of the need to protect and respect legal guarantees, in this case due process that should be granted to any individual prior to deportation or expulsion” (2007, p. 85). The denial of due process to migrants and foreigners in general is an inconsistency often raised by organizations and individuals in the U.S. intent on highlighting the duplicity of Mexico’s human rights claims with respect to its emigrants (see Waller, 2006; Hawley, 2008).

The significance of Article 33 to migrants is not waning. As previously stated (Chapter 5), numerous cases of deportations have been documented over the past 10 years. In 1998, three Americans were deported for alleged collusion with the Zapatista rebels. In 2002, 18 Americans were deported for participating in May Day Marches in Mexico City and Guadalajara. Three years ago, in 2007, four Spanish tourists were detained for five days in Mexico City after an arrest for “public misconduct,” i.e., for participating in political activities in the city of Oaxaca. Two of these tourists were members of a Zapatista solidarity group in Barcelona and according to their claims they were mistreated by the police and robbed of their passports (Garcia, 2007). Most recently, May 2009, National Autonomous University of Mexico’ sociology professor Miguel Angle Beltrán Villegas, was expelled and flown to his native Colombia after being accused of having links with Colombia’s Revolutionary Armed Forces’ (FARC) guerrilla leader Raúl Reyes (Petrich, 2009). The Congress, at the request of the Party of the Democratic Revolution, is reviewing this case under humanitarian concerns—as his life
back in Colombia could now be in danger—and has requested that INM explain why such fast track deportation took place (Becerril, 2009).

Article 33 of the Constitution continues to remain untouched despite the many times it is raised as a problematic indication of Mexico’s outdated and unwarranted sense of nationalism. Its enactment dates back to the revolution, when fear of foreign intervention was strong. Interest in reform is minimal at best and the Mexican people are not yet ready for the debate necessary for Constitutional reform. Such a weighty debate must be gradual (Rodríguez Chávez, personal communication, 2008).

Two of the most influential civil society organizations have been led by naturalized Mexicans, Sin Fronteras and Casa Migrante. Both directors agreed that nationalization enhanced their ability to promote the work and interests of their organizations. As mentioned earlier, however, Sin Fronteras’ new director is from Spain, where he lived until he was hired by Sin Fronteras. His freedom to continue the work begun by his predecessor remains to be seen. He may fare best if he continues to operate under the umbrella of a non-governmental organization and his leadership adheres to the constitution, pursuing matters via dialog with government rather than by protests (Anaya, personal communication, 2008).

Several other articles of the GLP are in need of revision and, as nearly all those interviewed attested, even if these articles are not consistently enforced, they cast a negative light on Mexico. Articles 74 and 140, for example, call for a fine and up to 36 hours of imprisonment for those who hire an illegal immigrant. Given Mexico’s heavy reliance on the informal sector of the economy, tracking down these employers is not altogether feasible (see Chapter 5 for a list of these articles). Although these articles are
not often mentioned, they have been highlighted in the American media (Hawley, 2006, 2008).

7.4 CONCLUSION:

Since Mexico’s first free elections in 2001, the associational and participatory capacity of Mexicans to influence Mexico’s immigration policies—statements, actions and legal framework—has been enhanced, especially as backed by such legal norms as the Law of Transparency, the Law of Enhancement and even the Law to Prevent and Eliminate Discrimination (see Chapter 1). As Casey has argued, “to establish the causality between civil society activities and political outcomes, we must attempt to peer inside the black box of legislative and executive decision making” (as cited in Mitchell & Munger, 1991, p. 536). Table #7.1 highlights the key measures identified by this research which in turn establish the existence of a significant state-civil society relationship vis-à-vis migration policy in Mexico. Representatives of migrant civil society participate at the Executive and Legislative levels of government in dialogue, proposal outlines, and provision of data on the issues. Their efforts have led to significant legislative and institutional outcomes, beginning in the 1990s with the inclusion of the concept of refugee in the GLP and its resulting regularization program. More recently, with the revision of the rules regulating migrant centers, the revisions to the GLP’s articles on criminalization, the creation of programs such as that servicing unaccompanied children, adolescents and women directed by Mexico’s First Lady Margarita Zavala, and the interest expressed by Congress to continue with a immigration reform platform despite a recent change in legislature (summer 2009). Within the Mexican society itself an
awakening has taken place regarding the presence immigrants on its land, as exemplified by the events of October 12, 2008 in the town of Rafael Lara Grajales in the state of Puebla.

Table #7.1

Measures of Civil Society's Influence

<table>
<thead>
<tr>
<th>PARTICIPATORY MEASURE</th>
<th>OUTCOME MEASURE</th>
</tr>
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<tbody>
<tr>
<td>High level dialogue – i.e. <em>Consejos Consultivos</em> (Advisory Boards)</td>
<td>Reforms to the GLP – inclusion of the concept of refugee, leading to a regularization program</td>
</tr>
<tr>
<td>Respect/Mutual inclusion of government officials and civil society representatives</td>
<td>Reforms to the GLP – decriminalizing immigration</td>
</tr>
<tr>
<td>Participation and diffusion of immigrant concerns in national forums</td>
<td>Issuance of electronic work permits for Central American nations</td>
</tr>
<tr>
<td>Participation and diffusion of immigrant concerns in international forums</td>
<td>Demilitarization of the Southern Border</td>
</tr>
<tr>
<td>Recording and sharing of statistics/data by civil society organizations</td>
<td>New programs to service children, adolescent and migrant women</td>
</tr>
<tr>
<td></td>
<td>Revision of the norms regulating INM’s detention centers</td>
</tr>
<tr>
<td></td>
<td>Raising public awareness of the immigrant’s plight</td>
</tr>
</tbody>
</table>

Civil society itself makes reference to the many laws and rules in operation today that regulate an impressive amount of instances and spaces for participation. They are of the mindset that “there is a considerable amount of citizen advisories, benefit committees, forums for consultation, requests for information, competitive public funds, commissions and public audience in political arenas, as there is in terms of social and rural development, gender politics, etc.” (researcher’s translation) (“Agendas Ciudadanas,” 2007, p. 58).
The interviews conducted for this research uncovered the ease of communication and flow of information among and between state and civil society organizations which federal websites and documents inadvertently concealed. As the interviews progressed, they brought to light the existing relationships between state officials and civil society representatives. Nearly all of the interviewed officials had regular contact with civil society representatives and knowledge of their activities, and vice versa. The state has been willing to aid civil society in their cause. This familiarity and cooperative spirit was also evident from the referrals. It was often thanks to government officials that the researcher gained important access to civil society representatives. Mexican migrant civil society has clearly learned the power of networking with each other and their international counterparts in order to make the best possible use of these spaces as effective areas of participation.

Unfortunately, however, the state-civil society relationship is somewhat conflicted. A gap between what the state proclaims as policy and actual implementation practices persists (Hollifield, 1992, 2000), resulting in a relationship disrupted by intermittent periods of conflict. News reports and stories of abuse and corrupt practices in general and on the southern border in particular are still common. Abuses are committed not only by everyday criminals, but by those responsible for law enforcement. State accountability is a problem in this regard, but as all these civil society representatives emphasized, “Complaining is necessary in order to bring about change.” Change is indeed possible with more and more honest government officials cropping up, especially among the younger generation of officials (Rigoni, personal communication, 2008).
As Mexico seeks to implement official migration policy, it faces a very real challenge in the form of U.S. pressure to secure its borders. INM Commissioner Romero Castillo underscored the existing gap between policy and implementation in her description of Mexico’s “open but secure door policy” (INM Comunicación Social, 2008c). In response to the U.S. pressures to secure its borders, and limit the flow of illegal immigrants (see Chapter 5), Mexico has continued to increase the number of national inspection sites. This, in turn, resulted in a periodic increase in the number of deportations and more restricted access to deportation centers. However, despite the growing strength of the state-civil society relationship, the state is forced to balance a number of concerns when making decisions. It cannot always deliver on everything civil society recommends. There are many times the state has to make decisions that civil society does not agree with (personal communication, 2008). In this sense, Mexico’s policies continue to favor “useful” migrants, i.e., those who are economically and otherwise capable of contributing to Mexico’s development.

Mindful of Casey’s remarks (1991)—when he warned that despite any apparent transparency in the process, much of the decision making is likely to remain hidden, both in the sense of the ideologies and structural inequities that determine the distribution of power and in the possible interests of participating actors to conceal their role in the process, (p. 9)—this research is confident of the accurate assessment of the state-civil society relationship in Mexico based on the candor of the subjects interviewed. All interview participants were open and candid about Mexico’s bureaucratic process and its failure to implement existing laws. Each of them was cognizant of the degree to which

100 Interviewee wished to remain anonymous.
corruption plagues the country from the highest to the lowest level of government and society, and of the challenges involved in eliminating centuries of corrupt practices. All confirmed, however, that a positive change is taking place. All acknowledged the presence of good and uncorrupt elements. Given the degree of frankness on the part of all those interviewed, this research has established that migrant civil society in Mexico is and has been making a valuable contribution to the policy decision making process while raising public awareness of the issues at the same time. Today increasingly more organizations are at least part of the dialogue as compared with just 10 years ago.
SECTION IV - A COMPARISON AND FINAL REFLECTIONS

CHAPTER 8. IMMIGRATION AND CIVIL SOCIETY IN SPAIN AND ITALY: A COMPARATIVE PERSPECTIVE WITH MEXICO

Scholarship on the relationship between civil society and immigration, although growing, is minimal. This limits our ability to fully understand how migration policy develops and responds to varying political and social circumstances. By comparing Mexico’s state-civil society relationship experience101 to that of other countries, namely Spain and Italy, our understanding of the factors contributing to this relationship is enhanced.

Both Spain and Italy share key commonalities with Mexico, particularly as countries of emigration and immigration. Like Mexico, the governments and societies of Spain and Italy find themselves grappling with both the policy and social implications of these realities. Both countries have a relatively long history of emigration, each beginning in the late 1800s. Most recently these countries have been experiencing a reversal—with many former emigrants returning home and large numbers of immigrants coming in from other countries. Although Mexico’s numerical experience with immigrants is minimal—accounting for only 0.5% of its population—the country has dealt with immigration in legislative and policy terms since its inception. Mexican immigration policy has been closely tied to its struggle to attract foreigners to promote its own economic development. Mexico had a significant immigration experience of a different sort in the 1980s, however, when it received large numbers of Central American refugees, and today

101 See previous chapters of this dissertation for detailed research of this topic.
Mexico serves as a country of transit to other Latin American immigrants making their way to the U.S.

Mexico, Spain and Italy share other significant similarities. Although immigration policy tends toward a skewed perception of immigrants as poor and subordinated, the diverse profile of immigrants to these countries actually includes significant numbers originating in wealthy nations, as in the case of U.S. immigrants to Mexico and British immigrants to Spain and Italy. Among these individuals from developing countries, some arrive with substantial social, educational and economic capital (Calavita, 2005). Despite a struggle with high rates of unemployment and poverty, particularly in their respective southern regions, these three countries are increasingly integrating themselves into the world’s top capitalist economies. Given their economic circumstances, these countries desire to increase foreign investment and attract economically stable and/or highly skilled foreigners while implementing restrictive policies on migrants who, according to Mexico’s General Law of the Population (GLP) are not “useful,” i.e., not economically solvent, educated or skilled. To accomplish this objective, all three countries are tightening border security measures either by increasing border patrols—as in the case of Spain and Italy—or by expanding internal controls through numerous inspection stops, as in Mexico’s case.

As countries of immigration, Mexico, Spain and Italy are pursuing the “ambiguous mix of inclusive and exclusive” policy measures expected of countries with liberal economic policies (Freedman, 1995, p. 894). Gaps between policy and implementation (Cornelius et al., 2004; Hollifield, 1992, 2000) are not insignificant as, for example, in the case of employer sanctions that are rarely if ever enforced (Calavita,
2005). In their analysis of Spain and Italy, Cornelius et al. (2004, p. 13) point out that the active civil societies and independent judicial systems of liberal democracies further constrain the states’ capacity to fully control immigration, often granting immigrants significant economic and social rights. International political pressure—from the U.S. in Mexico’s case and the EU in the case of Spain and Italy—further contribute to the gaps between migration policies and their implementation. This gap phenomenon can be seen at work in Mexico with the recent decriminalization of illegal immigration and simultaneous expanded system of internal inspection controls.\(^\text{102}\)

Like Mexico, whose first democratic elections were held in 2001, Spain and Italy have also undergone significant political and economic changes. After decades of authoritarian government, Spain transitioned to a democracy in 1975 and although to a lesser degree, Italy also restructured its party system. After a series of corruption scandals in the early 1990s (Adolino & Blake, 2001), Italy adopted a hybrid, single-member, district/plurality-proportional representation electoral system. Moreover, in the decades following WWII all three countries experienced periods of economic expansion and retraction. In keeping with the rest of the EU nations, Spain has made significant strides in terms of narrowing the gap between real wages and standard of living, but still lags behind Italy. Although Mexico is still considered a developing nation with poverty differentials, its economy ranked 13th in 2008 after making significant economic progress by boosting its GDP per capita growth and joining the Organization for Economic Cooperation and Development in 2004.

\(^{102}\) In 2008 the General Law of Population articles 118 to 127—that called for up to 10 years in prison for illegal entry in addition to imposing a fine—were either eliminated or reformed and today illegal entry is only an administrative infraction. See Chapters 5 and 7 for detail.
Table #8.1

*Economic and Demographic Comparison by Country: Spain, Italy, Mexico*

<table>
<thead>
<tr>
<th>Country</th>
<th>SPAIN</th>
<th>ITALY</th>
<th>MEXICO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Population in 2000</td>
<td>40,491,052</td>
<td>58,646,000</td>
<td>107,029,000</td>
</tr>
<tr>
<td>Immigrant Population</td>
<td>4,519,554</td>
<td>3,600,000</td>
<td>492,617</td>
</tr>
<tr>
<td>Documented in 2000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percentage of Total</td>
<td>11.2%</td>
<td>6.2%</td>
<td>0.5%</td>
</tr>
<tr>
<td>Population</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GDP Per Capita in USD</td>
<td>$36,500</td>
<td>$31,000</td>
<td>$14,400</td>
</tr>
<tr>
<td>Unemployment Rate in 2008</td>
<td>13.9%</td>
<td>6.9%</td>
<td>4.1%</td>
</tr>
<tr>
<td>Fertility Rate in 2008</td>
<td>1.3%</td>
<td>1.3%</td>
<td>2.37%</td>
</tr>
<tr>
<td>(Estimated)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Note.* Sources: CIA (2009); Spain’s *Instituto Nacional de Estadística* (National Statistics Institute) (n.d.).

These three countries’ immigration experiences serve as a backdrop to understanding the role of civil society in the policy decision-making process not only as participants in the provision of services, but as insiders in the development of reforms.

The analysis that follows is based on a review of the scholarly literature available on the topic, as well as on government and journalistic documents. With respect to Spain and Italy, the analyses of Casey (1998), Zincone (2006), and Bozzini and Fella (2008) were particularly helpful. In the Mexican case, the current analysis of the state-civil society
relationship also relies heavily on interviews conducted with Mexican government officials and civil society representatives.\\textsuperscript{103}

Examining the three countries through the lens of emigration and immigration and highlighting their similarities and differences (per Most Similar Systems Design Method—MSSD\\textsuperscript{104}), certain distinct and instructive patterns emerged. In its assessment of the relationship between civil society and immigration policy, this study first provides an overview of Spain and Italy’s immigrant characteristics to provide an adequate case profile.\\textsuperscript{105} The analysis then proceeds with an overview of their respective immigration policies and the role of civil society therein, and concludes with a comparative assessment vis-à-vis Mexico.

8.1 SPAIN AND ITALY: COUNTRIES OF IMMIGRATION:

Prior to the early 1970s, both Spain and Italy sent millions of nationals abroad in search of employment and a better life. Today, however, both are experiencing a reduction in emigration accompanied by a significant rise in immigration. In addition, while many immigrants are currently using both countries as a trampoline in their attempt to reach other parts of Europe, still others are opting to stay. Immigration first exceeded emigration in 1975 in Spain and in 1972 in Italy. Although this was a relatively quick development, the contributing factors had been in place for some time: “[B]oth countries

\\textsuperscript{103} See Chapter 7 for a detailed analysis.
\\textsuperscript{104} Based on Mill’s (1843) method of difference, MSSD seeks to compare cases sharing several common features in an effort to neutralize some differences while highlighting others. It seeks to identify key features differing among similar cases that would account for an observed political outcome (Landman, 2003).
\\textsuperscript{105} For an extensive overview of Mexico’s immigrant characteristics, see Chapter 2.
experienced rapid economic growth … [aided by the supply of labor that] lax…[or] nonexistent immigration control mechanisms and intense migration pressures from nearby countries” (Freedman, 1995, pp. 893-94) allowed.

Like Central Americans arriving in Mexico—some also staying some while others in transit to the U.S.—the immigrants new to both Spain and Italy, have been arriving in greater numbers since the 1980s, motivated by the political instability and critical poverty of their home countries (push factors). Wage and living standard differentials are also significant, ranging from 4:1 between Spain and Ecuador or Italy and Peru to the staggering 15:1 between Spain and Senegal (Carling, 2007). In Mexico’s case, Central Americans experience far worse living conditions and far fewer options for work at home than in Mexico. Mexico’s GDP, for example, is $14,400 while Guatemala’s is $5,400 (CIA, 2009). To be more specific, in Spain an immigrant earning 500 Euros a month for taking care of an elderly woman earns more than a doctor earns in Paraguay working twice as many hours (Monjas, 2008).

In the post-World War II era, both Italy and Spain experienced “economic miracles” of their own. Spain saw significant spurts of economic growth with the creation of over two million jobs between 1986 and 1990 and a narrowing of the breach between its standard of living and wages as compared with the rest of Europe. By the mid-1970s, Italy narrowed a similar gap with its northern European neighbors and, like Spain, expanded greatly its social protections, health and education (Calavita, 2005). Earlier, between 1950 and 1962, Italy witnessed an annual growth rate of almost 6% and a doubling of its GDP as it transitioned from an agricultural economy to an industrial powerhouse. Economic problems began to affect Italy by the mid-1970s, however, and it
has yet to regain previous levels of growth. Nevertheless, in 2008 Italy ranked 7th among
the world’s top 10 largest economies (CIA, 2009), thus retaining its status as a member of
the Group of Eight (G-8) industrialized nations. The “Made in Italy” label remains a
fixture of upscale international trade (Calavita, 2005, p. 53).

Spain, too, experienced an economic growth that fueled a demand for unskilled
labor, but is currently reeling from the collapse of a housing bubble, which for the
previous 15 years had allowed its economy to post some of the highest growth rates.
Today millions of once prosperous Spaniards are having difficulty making ends meet,
though in 2008 Spain’s economy still ranked 9th. Interestingly, Mexico also witnessed an
“economic miracle.” This economic boom peaked in the 1960s only to fizzle as a result
of a drop in oil prices. Since the 1980s, however, Mexico’s economy has been growing.
Mexico has joined the ranks of the top 20 largest economies, ranking 13th.

According to Ortega Pérez (2003), Spain’s and Italy’s progression into countries
of immigration is part of a larger regional phenomenon. They became receiving countries
and remain so—despite recent economic woes—as a result of several factors: “the end of
the [European] guest worker programs, the closing of the borders of traditional receiving
countries, such as Germany, Switzerland, and France, the political evolution from
authoritarian regimes, their proximity to the sending countries in the Maghreb106 and the
intense historical and economic bonds between both shores of the Mediterranean”
(Ortega Pérez, 2003, pp. 1-2). Among other significant influencing factors are: (a) the
admission of Spain and Italy into the European Community, which, according to Ortega
Pérez, made them both "gateway" countries and “frontline states” (2003, p. 2) and (b) the

106 Countries of the Maghreb include Morocco, Tunisia and Algeria.
extent of the underground economy\textsuperscript{107} in Spain and Italy, which relies on illegal immigration. Most immigrants work in the low wage sectors of Spain’s and Italy’s economies, often in positions that natives do not fill—generally in construction, tourism, agriculture, hospice, catering, domestic services, and in Italy’s case, increasingly in the manufacturing sector. It is important to note here that the labor market in Spain is highly segmented and thus, according to Cornelius et al., immigrants in Spain “occupy the least skilled, most physically demanding, most dangerous and most temporary jobs, with no promotion ladder” (2004, p. 398). Because these positions are undesirable to nationals, the need for immigrant labor presents no obstacle or contradiction in terms of the countries’ current high levels of unemployment. Immigrant labor, in fact, is somewhat of a contingent labor supply for both Spain and Italy. Mexico shares this phenomenon in its Southern region, a region sorely in need of the labor provided by Guatemalans, particularly on coffee, banana and mango plantations. Given the linguistic, physical and cultural resemblance between Central Americans and native Mexicans, Mexico’s vast and loosely regulated underground economic sector actually facilitates Central American labor and frequently goes undetected.

Because of the relative newness of their immigration experience, both Spain and Italy have only recently begun to formally address questions of immigration control, regulation, and social impact. Mexico, on the other hand, presents a contrast\textsuperscript{108} in that, despite historically small numbers of immigrants, it has treated immigration as a way to promote its economic and demographic development. Mexico has done so by means of

\textsuperscript{107} In both Spain and Italy, where the formal economy is highly regulated, the underground economy, which has a strong tradition in the Southern European countries, increased its demand for labor and thus gained a more important role in each country’s economy.

\textsuperscript{108} See Chapter 4 for a detailed account of the Mexican immigration experience.
constitutional or general law provisions and colonization programs implemented since the
time it gained its independence from Spain in 1821. In all cases, however, it is only
recently that civil society has begun to participate in the development of the immigration,
regulatory, and institutional framework of each respective country. Before going any
further with the assessment of the state-civil society relationship, however, it will be
helpful to take a look at Spain’s and Italy’s immigrants.

8.1.1 Spain’s Immigrants

Figure #8.1. Spain. Source: CIA (2009).

Since the 1980s, Spain’s birth rate has plummeted and its population nearly
stagnated due to one of the world’s lowest sub-replacement fertility rates (1.3 children
per woman), on a par with Italy’s and second only to Japan’s. However, as this rate was
diminishing, Spain’s immigrant population was experiencing its first large wave in
modern history. By the year 2000, this immigration flow prevented Spain from falling into a negative population growth pattern.\textsuperscript{109} According to Spain’s Instituto Nacional de Estadística (Statistics Institute) (INE), in 2007 a record 4,519,554 foreign residents accounted for 11.3\% of Spain’s total population, which increased from 40 million in 2000 to over 46 million by January 1\textsuperscript{st}, 2008 (Kern, 2008). Foreigners from the EU make up a growing portion of Spain’s foreign born,\textsuperscript{110} with 527,019 from Romania, 314,951 from the United Kingdom, and 164,421 from Germany. Ecuadorians are the third largest group, numbering 427,099, while Colombians and Bolivians rank fifth and sixth with 261,542 and 200,495, respectively. Totaling 582,923 in 2007, however, Spain’s number one immigrant group is from Morocco. Other significant foreign communities include the French, Argentines, and Italians. Although Mexicans and Americans do not account for a high percentage of the foreign born, they were a substantial group in Spain in 2006 with 40,576 Mexicans and 32,626 Americans, respectively (Instituto Nacional de Estadística’s Inebase Database, 2008).

The numbers cited here may well be higher, as they do not include the many immigrants entering Spain illegally. These official estimates account only for those foreigners with a resident permit, as the INE produces its statistics based on immigrants who register at the local town hall. According to Soeren Kern (2008), both legal and illegal immigrants have an incentive to register at the municipal level, since according to Spanish law anyone who does so is entitled to emergency medical care. Spain now has the second highest immigration rate in the EU, second only to Cyprus, and the second

\textsuperscript{109} According to U.N. population projections, Spain’s fertility rate of 1.29 will lead to a loss of 9,408,000 people between 1999 and 2050 (Cornelius et al, 2004, p. 403).

\textsuperscript{110} It is important to note that foreign born from European Union countries are not considered immigrants under the Schenegen Agreement.
highest absolute net migration in the world, second to the U.S. (*Fundación* BBVA, 2007). In October 2003, the non-governmental organization SOS *Racismo* estimated the illegal population at 600,000 (Cornelius et al., 2004, p. 388n). The most common mode of entry into Spain for the illegal population, and particularly for illegal Latin Americans, is a tourist visa, which subsequently expires. The second most common mode of entry is via the Strait of Gibraltar from the city of Tangier on the Moroccan coast or Ceuta, a Spanish enclave surrounded by Moroccan territory. Makeshift rafts designed to carry approximately 10 people often carry four times that number, running the risk of overturning. According to Cornelius, between 600 and 1,000 victims of drowning are recovered on the beaches of southern Spain each year. Not surprisingly, organized smuggling is a thriving business. In the year 2001, smugglers charged an average of $1000 per head to cross the Strait of Gibraltar and $500 to reach the Canary Islands, another popular entry point (2004, pp. 395-396).

Spain’s current immigration flows differ from earlier flows. Prior to the mid-1980s, immigrants were largely affluent tourists and retirees from England, Germany or Scandinavia. Today’s immigrants include younger workers whose racial, religious and linguistic characteristics set them apart from the Spanish national, as, for example, in the case of immigrants from sub-Saharan Africa and China. A significant number of Spain’s immigrants are unskilled and have little education within a vast range of demographic, educational and economic differences overall. North African immigrants tend to be unskilled, for instance, while East Europeans tend to be skilled workers or professionals. Women comprise an ever growing portion of the immigrant flow in response to a need for labor in the domestic service sector (Cornelius et al., 2004).
8.1.2 Italy’s Immigrants

With a population of just over 58 million, Italy’s foreign nationals—about 6.2%—have increased steadily since 1989. From 1989 to 1999, the number of immigrants more than tripled from 490,000 to 1,500,000. Over the last decade, Italy recorded over 100,000 new arrivals in 1999, 2000, and in 2001 in employment contracts alone (Bertozzi, 2002). As pointed out by Italy’s General Director for Migration Policies, Mr. Andrea Bertozzi (2002), an “additional interesting feature of migration in Italy and an important one as Italy attempts to forge adequate integration111 policies” is that no particular nationality is predominant in Italy, as compared with Mexico, where Americans make up over 60% of its immigrant population, and Spain, where immigrants

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111 Although it is a vague term, “integration” is used in migration jargon to refer to social and cultural inclusion and tolerance for diversity. Programs devised to promote integration include language and socialization courses aimed at assimilation (Calavita, 2005, p. 5), legal regularization or amnesty.
are mainly Moroccan and Ecuadorian. As of 2001, the majority of Italy’s immigrants had come from countries outside the EU, specifically from Morocco (11.6%) followed by Albania (10.6%), Romania (5.5%), Philippines (4.7%), China (4.1%), Tunisia (3.4%), America (3.2%), and then Yugoslavia (2.7%), Germany (2.6%) and Senegal (2.5%) (Caritas, 2002). By 2007, however, the legally resident Romanian population was estimated to have risen about 50% to more than 500,000, surpassing both Albania and Morocco to become the leading country of origin (“Italy,” 2008).

Italy serves as a natural Mediterranean bridge to Africa, the Balkans and the East. Consequently, as Bertozzi (2002) observes, Italy has the “most vulnerable external border of Europe.” Although all places of migration inherently lead to illegal entries and illegal stays, this vulnerability is pronounced in Italy’s case, as its coastline spans 7,600 kilometers and becomes a gateway in the Schenegen zone for illegal immigrants. Again, it is always difficult to assess with certainty the size of the illegal population, and some argue that for each legal entry into Italy there is a corresponding illegal entry, suggesting a markup of 50% (Caritas, 2002). According to the OECD (“Italy,” 2008), 22,000 illegal immigrants were intercepted along the southern Italian coast in 2006. Many used other methods to enter. Sixty percent entered with a visa that later expired and 25% entered with false documentation.

As in the case of Mexico and Spain, immigrants in Italy are economically diverse with an almost even distribution between affluent and poor countries of origin. Although a good portion contribute to the informal economy and are lauded for the flexibility they afford the economy, wealthy foreigners from developing nations also opt to settle in these countries. Accounting for 45% of the legal immigration flow into Italy, the number of
women, in particular, is on the rise. As in Spain’s case, women are attracted by the availability of domestic work (Calavita, as cited in Cornelius et al., 2004).

In the year 2000, the U.N. reported that Italy’s population was projected to drop from 57 million to 41 million over the next 50 years. For a long time, Italy has been affected by extremely low population growth, dropping to a low of 1.2 births per woman in 2007. As a result of its decreasing population, Italy has given a mixed message of welcome and rejection toward immigrants. In 2000, for example, the BBC News ran an article on the warm welcome received by Kurd refugees in the ghost town of Badolato, as about 400 young Kurdish asylum seekers were greeted by local Italians with food and housing in the town’s long abandoned school (“Italy: Immigration or Extinction,” 2000). Badolato soon became an example of the benefits of replacement migration policies, for without this, the retirement age would have had to be increased to 77 in order to maintain the ratio of four workers to every pensioner (“Italy: Immigration or Extinction,” 2000).

As Calavita observes, however, Italians have demonstrated a suspicious attitude toward migrants (2004). Most associate illegal immigrants with terrorism and crime, as discussed below.

The economic diversity of Spain and Italy’s immigrant population is also a characteristic shared with Mexico. Several groups have registered a historical continuity in Mexico, mainly from the U.S., Cuba, Guatemala, Spain, France, Germany, Italy and Japan, and most legal immigrants from the mid-19th century onward have been immigrants of means and educated. From the 1950s on, American, Spanish and Canadian retirees became a significant part of Mexico’s immigration landscape as they took residence there looking for a warmer climate where their income would go farther.
According to the 2000 census the U.S. remains the country with the greatest representation, reaching 342,591, followed by Spain with just over 21,000. Meanwhile the increase influx of Central Americans, particularly from Guatemala, that Mexico has been experiencing since the 1980s has also meant that as Spain and Italy, Mexico is also facing a flow of poorer, less educated and illegal migration.

8.2 IMMIGRATION POLICIES:

In stark contrast to Mexico, both Spain and Italy have only just begun to address immigration issues in terms of proposed policy. In Freeman’s words, both Spain and Italy had a “near absence of any institutional mechanism or administrative experience as to planning or regulating immigration” (1995, p. 894). Prior to 1985 in Spain and 1986 in Italy, neither a comprehensive statutory rule nor regulations for the admission or exclusion of foreigners existed. “[T]he sole existing text regulating the entry of foreigners on Italian soil was a police decree of the thirties under fascism, which gave the police the discretionary power to give or to refuse a sojourn permit …” (Martinello as cited in Freeman, 1995, p. 894).

Although immigration became part of the Spanish government’s official agenda in 1985, it was not until mid-1995 that immigration became a matter of vital importance and was deemed the second most important national issue for Spaniards, second only to terrorism (Ortega Pérez, 2003). With Spain’s admission to the EC (now the EU) slated for 1986, Spain was under pressure to conform to EC legislation, which restricted non-EC citizen immigration. Italy has followed a similar time frame both in terms of its formulation of immigration policies and its recognition of the saliency of immigration
issues. In their approach to immigration policy, both Spain and Italy have essentially responded to pressures from the EU to establish a policy in harmony with the rest of the European belt.

Mexico on the other hand, has had extensive legislative experience with respect to immigration. Recently, however, it has been subjected to international pressure that has forced it to review and update its policies, particularly those pertaining to the security of its borders and those impacting human rights violations. This review has also come about in response to the relatively new influx of Central American migrants to Mexico via its Southern border—the refugees of the 1970s and 1980s and the economic migrants of the 1990s and 2000s—and in response to a growing interest in improving conditions for Mexico’s emigrants to the U.S. As a country with a significant emigrant population—more than 11 million Mexicans now reside in the U.S.—Mexico has a vested interest in establishing a U.S.-Mexico guest worker program for its own nationals and encouraging foreign investment by promoting expensive development projects. Meanwhile, the U.S. post 9/11 is pressuring Mexico to implement stricter controls at its Southern Border.

As demonstrated below, the current challenges faced by Mexico, Spain and Italy exemplify the difficulties encountered in the process of formulating an immigration policy framework that addresses the acute need to strike a balance between the voices that link crime to immigration and the voices in search of human rights protection. All while promoting an adequate labor force supply for the host economy.
8.2.1 Spanish Policies

Like Mexico, Spain is relatively new to democracy. In 1975, after 40 years of a right wing dictatorship, the death of Francisco Franco ushered in a period of democratization and economic expansion that radically transformed a country that had fallen behind its industrialized European neighbors. Spain held its first democratic elections since the Civil War of 1936-1939 in 1977 and the Spanish people approved their new Constitution a year later. Today, despite the activities of the Basque separatist terrorist group ETA, Spain is considered a democratic country. This accomplishment was officially recognized by the rest of Europe in 1982 but especially in 1986 when Spain joined the EU.

The process of democratization in Spain has encouraged decentralization and the regionalization of government institutions and responsibilities. Seventeen regional governments—Comunidades Autónomas—were established, each with varying degrees of responsibility. In these early transitional years, policy actors have remained organized largely around the traditional cleavages of government institutions, political parties, unions and business, and relatively low levels of organizational participation (Casey, 1998). This is particularly evident when Spain is viewed against other industrialized nations.

Spain’s lack of administrative infrastructure and corresponding incapacity to deal with its new status as a country of immigration was evident in its first immigration law, 1985 Ley de Extranjería (Law on the Rights and Freedoms of Foreigners in Spain). This law framed immigration as a temporary issue and conceptualized migrants primarily within one category, i.e., that of workers in need of regulation. The law’s main focus was
thus to control immigrants already in Spain. It is for this reason that it failed to adequately address issues of family reunification and integration (Ortega Pérez, 2003). Ironically, although this law centered on the restriction and control of immigration, its chief weakness was its ineffective enforcement of employer sanctions. In countries where the informal sector plays a significant role in the economy, enforcing employer sanctions is difficult. Mexico’s underground economy is also substantial, according to INM (2008), 27% of its population is employed in this sector as shoe shiners, food vendors, farm workers, etc. The problem of enforcing sanctions is also an issue in Mexico, where hiring employees is often arranged according to a verbal agreement to avoid the hassle of paperwork and paying taxes. Spanish employers also often prefer to hire under the table rather than cope with the cost, paperwork and time investment required to process worker permits.

Because the overall intent of this 1985 law was to comply with EC security and border policies in an effort to negotiate Spain’s membership, no attempt at humanizing immigration or allocating rights to immigrants entered into the thinking behind it. Instead, for those entering from outside the EC, it outlined the grounds for deportation and visa requirements based primarily on demonstration of employment. In 1996, however, the law was amended to provide immigrants with a set of “subjective rights,” i.e., “rights to education, equality, legal counsel and an interpreter when dealing with authorities” and to address issues of family reunification and residency requirements (Ortega Pérez, 2003, p. 4). Subjected to further modifications in 1996 and 2002, this amendment formally established Spain’s quota system based on nationality in an effort to direct migrant flows to regions and employment sectors experiencing labor shortages.
According to the quota system, a determination of unavailability of Spanish nationals must be made before foreign labor is to be hired and when foreign labor is accepted, it must be from countries that have signed bilateral agreements with Spain, namely Morocco, Colombia, the Dominican Republic, Ecuador, Nigeria, Romania and Mexico. Although the number of permits offered under the quota system has averaged approximately 30,000 per year since 1994, two thirds of the permits are for short-term employment and the law requires workers to return to their home countries to reapply for work. As pointed out by Cornelius et al. (2004), many do not return, opting to stay illegally instead.

This law’s policies pertaining to entry, residence and work permits are regulated by the two federal agencies in charge of immigration—the Ministry of the Interior and the Ministry of Labor and Social Issues—and, again, are applicable only to those “other than EU nationals.” When Spain joined the EU, the rights of EU immigrants to enter, settle and work in Spain were withdrawn from the negotiations on immigrant flows (Casey, 2007). Therefore, and as mentioned above legally speaking, EU nationals are not foreigners, and as such they enjoy the same rights as Spanish citizens other than suffrage in national and regional elections and access to certain areas of public sector employment. Spanish immigration policy is thus geared towards the immigration of non-EU nationals (Casey, 2007, p. 112).

The law of 1985 eliminated the rights held by Latin Americans under Franco that granted them the freedom to reside in Spain. However, Spain continues to have preferential treatment with other countries with historical ties to it, such as the Portuguese, Filipinos, Andorrans and Equatorial Guineas. These countries enjoy
preferential treatment with regards to visa issuance and require only 5 years of residence for nationality. To comply with EU policy however, Spain did impose visa restrictions even on countries with which it has colonial ties, such as Peru, Dominican Republic, Cuba, Colombia and Ecuador. This was a politically bold move, as Spain had dual nationality agreements with several of these countries who also share linguistic and cultural ties.

As the immigrant population in Spain grew in the late 1990s and the Socialist party remained in power, representatives began to address the issue of integration and even provide social and political rights to foreigners from outside the EU. Interestingly, despite its promotion of the rights of its emigrants in the U.S., Mexico has not even contemplated anything comparable in its immigration policy. However, although in 2000, the Law on the Rights and Freedoms of Foreigners in Spain and their Integration (Law4/2000) was approved by a wide consensus, this shift was short-lived. That same year the conservative Popular Party (PP) of Prime Minister José María Aznar López gained a majority in the national legislature. Aznar López denounced the Law4/2000, disdainfully referring to it as “the NGO law” because it was immigrant advocates who were behind its framing and passage (Calavita, 2005). In its place Aznar López enacted Law8/2000, which reversed all rights to public services and barred legal immigrants from receiving free legal aid or participating in municipal government processes. Immigrants were not denied access to education or health care services.

In 2003 Aznar López’s administration imposed further restrictions, asserting that Spain’s “capacity for receiving [immigrants] is not unlimited.” The new restrictions included a system to fast-track expulsions, facilitate detention procedures and extend the
possibility of expelling foreigners who had pending criminal charges against them. In addition, it established provisions according to which individuals were to receive authorization to work and reside in Spain only while in their countries of origin. According to civil society organizations, this provision follows the pattern of the quota system and thus limits the employment scope of the new visa/authorization to specific areas and activities for which Spanish nationals are unavailable. In other words, it institutionalized foreigners as “disposable labor reserves,” since even foreigners with humanitarian concerns or long-time residents now needed an employment contract in order to obtain a visa (“Spain: Immigration Law,” 2003).

The Aznar López reforms also sought to enlist the participation of airlines and civil society organizations in its policy of control. Accordingly, airlines are required to pass on passenger data to authorities on request, toughen their document inspections and send passenger data to the Spanish border police prior to takeoff. Should an airline resist, it is subjected to a sanction of up to 60,000 euros. In addition, the Interior Ministry and the International Organization for Migrations (IOM) have committed themselves to creating "a network for alerting and reporting from society, with the participation of organizations and local operators" to detect the "new presence of undocumented immigrants" and to "combat illegal migration." The government and IOM were to involve civil society organizations in the network, encouraging them to make available information on undocumented migrants (“Spain: Immigration Law,” 2003).

Because EU members have generally considered Spain to be the weakest link in the EU’s security perimeter, Aznar López’ restrictive policy intensified surveillance and border patrol activities on Spain’s maritime borders. As a result, in 1999 Spain installed a
state-of-the-art surveillance system known as the Integrated System of External Vigilance (SIVE). SIVE’s technical aspects gained international recognition. Operated by the Guardia Civil—a joint military and civilian police force—SIVE focuses on the following steps: early detection, alerting the control center, tracking the vessel, estimating the course and time of arrival and, ultimately, interception and apprehension of those entering (Carling, 2007). However, stepping up patrols with watchtowers, video surveillance, and motion detectors along the southern coast and in the Canary Islands has done little to deter immigrant smugglers who have either modernized their vessels, making them faster and larger, and/or have found other routes with less surveillance, such as via Lanzarote, a new crossing point and the easternmost of the Canary Islands. In 2002, for example, 9,929 immigrants reached the Canary Islands (France-Presse, 2006). This figure dipped to less than 5,000 in 2005 and then jumped to 31,000 in 2006 (Carling, 2007). Entering Spain by way of a vessel reportedly costs about $200 for minors, $500-$800 for Moroccans and $800-$1,200 for Francophone and Anglophone Sub-Saharan Africans. Smugglers charge as much as $1,600 for entrance into the North African Spanish enclaves of Ceuta and Melilla. Entering by way of these enclaves is a more attractive option since they do not involve crossing water or the possibility of drowning (Kimball, 2007, p. 121).

Once immigrants enter Spanish territory, moving around is easier. This is not the case for immigrants in Mexico, where Mexican internal controls are intense and dispersed throughout the country. Spain dismantled its internal custom patrols in 2000 in accordance with the 1990 Schenegen Agreement.
Another effort made by Spain to curb the increasing flows of illegal immigrants was the establishment of large regularization programs initiated in 1986, 1991, 1996, 2000 to 2001, and 2005, respectively. When these regularization programs failed to manage Spain’s complex flows, integration programs were also attempted. This, in turn, led to the establishment of the four-year GRECO program (The Global Program to Regulate and Coordinate Foreign Residents’ Affairs) in 2000. This program was designed to address integration at the local level on the basis of EU membership. It was therefore restrictive in nature, as integration services, such as language education programs, were offered only to immigrants paying Social Security and income taxes, which excludes illegal immigrants but there are also many legal immigrants working in the underground economy, who are thus excluded (Cornelius et al., 2004). Spain’s latest and largest regularization conducted in September of 2005, with one million immigrants receiving legal status, was as much an economic as an immigration program as it focused on satisfying Spain’s need for foreign labor through legal venues. It accomplished this by expanding job placement programs, while strengthening immigration enforcement mechanisms. Its purpose was “to encourage a good portion of the informal economy to integrate with the formal labor market, thereby ensuring equal competition between economic agents, increasing contributions to the public coffers, and limiting worker exploitation and abuse” (Arango & Jachimowicz, 2005, p. 2). However eligibility remains based on demonstrating having employment. A one-year renewable work and residence permit is granted to those eligible, and an application for renewal of employment does not need to be filed in the country of origin. Instead, the local Spanish employer must participate in the regularization process of his/her workers. This approach
commits the employer to paying into the social security system. Interestingly, a catalogue listing the jobs that are difficult to fill or that natives find undesirable was created under this program. It includes such areas as domestic work, restaurant service and transportation, for example. In addition, after one year of demonstrated legal status, immigrants can request that their families join them. This regularization was viewed as a success with the registration of 700,000 applicants and the enforcement of more stringent document identification requirements. Only original documents or notarized copies of documents are deemed acceptable to the Spanish government (Arango & Jachimowicz, 2005).

8.2.1.1 Spain’s Current Pursuit of an Immigration Policy

Spain’s current approach to immigration is far from comprehensive. As a result of its own unique version of the global economic crisis of 2008, Spain is offering financial incentives to its immigrants to return home despite a need for labor. Irrespective of these incentives, the restrictiveness of Spanish law, and heightened border controls, immigrants continue to enjoy the generous health and education benefits made available to all immigrants and their children. Spain’s National Health Service offers free health care to 100% of the population without regard to legal status. Public education for immigrants, however, is generally limited. According to Spain’s Civil Code, at least one parent of a child must be a Spanish national in order for that child to be considered a Spanish citizen. Because non-citizens are eligible only for elementary school education, children of immigrants are thus often denied access to higher education. In other words, Spanish nationality reflects a limited mix of *ius sanguine* and *ius soli*, whereby a child born in
Spain is only a citizen by right if one of his/her parents was also born in Spain. Although that child can apply for Spanish nationality after a minimum of 10 years of legal continuous residence (Casey, 1998, p. 104), children of illegal immigrants are often unable to enter the formal labor market and become entrenched instead in the underground economy (Cornelius et al., 2004). In either case, as Javier Monjas (2008) points out, living conditions and options for employment in Spain are still better than the living conditions of their native country. The potential to receive these benefits reduces the incentive to repatriate. Between 2003 and 2007, only 3,700 repatriated (Monjas, 2008).

It is often difficult for immigrants to return home, particularly in the case of immigrants from Sub-Saharan countries with whom repatriation agreements do not exist. Migrants can be detained in a Spanish detention center for up to 40 days, but if they cannot be sent home within this time frame, they must be released. Although they are legally barred from employment (Carling, 1998), they can still take advantage of Spain’s prominent informal economy.

While immigration has been linked to Spain’s economic boom, it is now seen as problematic at a time when Spain is in the midst of an unprecedented economic crisis. In the current housing bubble burst, 100,000 Spanish homeowners faced mortgage default in 2008 (Kern, 2008a). Moreover, by the end of 2008, Spain had the highest level of unemployment in the Euro zone.¹¹² Five hundred thousand were added to the ranks of the unemployed in the past year alone, bringing the total to 2.5 million total or 11.9% as of

¹¹² The Euro area included Belgium, Germany, Ireland, Greece, Spain, France, Italy, Cyprus, Luxembourg, Malta, the Netherlands, Austria, Portugal, Slovenia and Finland (Eurostat Euroindicators, 121/2008, 29 August 2008, available at http://www.epp.eurostat.ec.europa.eu).
July 2008. As “hundreds of thousands of construction, real estate and service sector workers are made redundant,” predictions for the upcoming year are generating questions regarding how to cope with the many immigrants who are now drawing from Spain’s financially unsustainable social security system (Kern, 2008b, p. 2). Accordingly, 15% of Spain’s immigrants are without work.

As Spain grapples with these economic problems its migration policy remains ambivalent. According to Cornelius (2004), even Spanish officials describe immigration policymaking as a delicate balancing act between maintaining control over the illegal flows to prevent public backlash and maintaining the low-cost labor force necessary to support a growing economy and attract foreign investment (p. 390). Disagreement on how to achieve balance is evident even among high ranking officials. For example, despite statements made by Celestino Corbacho, Spain’s Labor and Immigration Minister, that Spain would all but eliminate the provision of worker visas in 2009, since it “doesn’t seem reasonable that with 2.5 million unemployed we [can] continue to recruit workers from abroad,” in June of 2008 Corbacho signed an immigration accord with Mexican President Calderón. A month later, Corbacho was quoted as saying that the Spanish economy still needed foreign labor in its domestic and service sectors, and even in the medical field, despite the economic crisis the country was experiencing (INM Noticias, 2008d). Spain’s Vice President María Teresa Fernández de la Vega, in fact, openly rejected Corbacho’s initial statements and has promoted instead the need for foreign labor, this “despite fears that Spain will return to the past, with its own nationals emigrating to France to harvest grapes” (as cited in Kern, 2008).
8.2.2 Italian Policies

Prior to 1986, Italy generally made decisions regarding immigration on an “as needed” basis and through a series of ministerial directives that lacked a unifying vision. The Italian government responded largely to the periodic requests of employers for labor, focusing on control and regulation based on the issuance of work related permits, amnesties and, to some extent, integration programs. In less than 30 years, however, several major legislation pieces have been implemented in addition to a series of amendments and decrees brought about by shifts and reversals in policy orientation. These policy shifts are closely related to the fragmentation of authority inherent in the Italian system of government, a fragmentation that remains an issue despite the country’s restructuring of its party system in the 1990s after a series of corruption scandals.

Most policy development in Italy takes place within very loosely coordinated government ministries. With respect to immigration issues, it is the Ministry of the Interior that plays a prominent role. The legislature, however, also plays a significant role in the making of immigration policy with committee leaders having a high degree of influence. As a result, legislation ends up taking the form of loose framework policies (Adolino & Blake, 2001). Today Italy’s system is strongly represented by the right wing Forza Italia (Go Italy!) launched by billionaire Silvio Berlusconi. The right wing, together with the National Alliance and the Northern League, has gained momentum under the leadership of populist demagogue Umberto Bossi, starting with its victories of 1994, then later in 2001 and 2008. Ultimately, Italian politics has been pushed to the extreme right and the tone of immigration policy in Italy is largely set at this point by the restrictive orientation of the right wing political parties that have capitalized on the
economic, security and cultural fears Italians have experienced post 9/11. Of particular relevance here is the aversion toward immigrants that these fears have provoked. The arrival of a boatload of 928 Iraqi Kurds on the shores of Sicily in March of 2002 further exacerbated these fears, particularly when Berlusconi’s administration responded by declaring a national state of emergency and granting the Italian police the authority to expedite deportation procedures and destroy the smugglers’ boats (Calavita, 2005, p. 35).

In 1986 a year after Spain, Italy introduced its first immigration law which was a somewhat liberal law. The “Foreign Workers and the Control of Illegal Immigration” law was issued in response to pressure from the EC, as well as from unions and opposition parties contesting the exploitation of illegal immigrants. This law embraced a large legalization program and granted all legal foreign workers in Italy the same rights as national workers. Family reunification, housing and health benefits were also provided. Employer sanctions were included, however, calling for a fine equivalent to $1,000 to $5000 and one to five years in prison for violators (Calavita, 2005). This law represented Italy’s first attempt to regulate labor inflows by tying immigration controls to the country’s labor needs (Adolino & Blake, 2001).

In the late 1990s, another liberal law was passed when Italy acknowledged the drop in its fertility rate and recognized its need for foreign labor. Promoted by a coalition of center and left forces known as the Olive Tree, this law was touted as one of the most liberal laws in Europe at the time. The Turco-Napolitano Law of 1998 established a more precise mechanism for a quota system based on the degree of cooperation in repatriation agreements held with countries of origin. According to this law, the request for workers had to come from the employers. In the event that the annual quota had not yet been met,
the employer would receive the requested workers. The application had to be filed from
the workers’ country of origin, however. Foreign workers who entered as part of the
quota system were granted the right to renew their permit indefinitely and to do so while
in Italy. A sponsor system was also put in place, according to which any public entity—
including immigrant advocacy groups and labor unions—could sponsor immigrants to
come to Italy to look for work provided the sponsor could guarantee a source of
livelihood and the quota was not violated.

Integration played a significant part in the Turco-Napolitano law with the creation
of the category of permanent legal resident, providing universal health care, making
children eligible for attendance at public school and laying out a plan to establish a
network of immigrant centers for provision of emergency food and shelter, as well as
language instruction, to legal and illegal immigrants (Calavita, 2005). In July of the same
year (1998), this law was supplemented by the Single Act 286, which introduced a
stricter detention and expulsion regime. Up to this point, the Kurdish and other boat
people had simply gone free after having been given formal notice to leave Italy by a
certain date. This situation was of particular concern to the EU. Italy was subsequently
forced to introduce more restrictive measures in compliance with the Schenegen
Convention and in response to pressure from Germany. According to Zincone,
the need to comply with EU requirements was keenly felt by then Minister of the
Interior Giorgio Napolitano who, as a prominent figure of the former Italian
Communist Party, a convinced pro-European and a reformist, was highly
concerned with the duties and responsibilities connected with his new
appointment. (2006b, p. 25)
Despite its motivation, the law continued to allow illegal immigrants access to many benefits that were soon withdrawn. Just as Prime Minister Aznar López of Spain had done a year before, Italy’s Silvio Berlusconi of the right wing coalition party reversed the liberal provisions of the Turco-Napolitano law in 2002 and passed in its stead the highly restrictive Bossi-Fini law named after its principal sponsors, Reform Minister Umberto Bossi of the Northern League and Deputy Prime Minister Gianfranco Fini of the National Alliance Party. The Bossi-Fini law capitalized on the national anti-immigrant sentiment stirred up by the aforementioned arrival by boat of the 928 Iraqi Kurds and authorized police to expedite deportation procedures. It also eliminated the sponsor system and stipulated that only immigrants possessing a work contract who fell within the annual quota could enter Italy. Although this law did not criminalize illegal entry, it did criminalize re-entry after deportation with a prison time from 6 months to a year. It also required fingerprinting of all entry applicants, legal or not. In general, work was seen as the only legitimate reason to enter Italy. In Bossi’s words, “[I]mmigrants are to come to our country for one purpose only: work. Otherwise, they will be sent back” (as cited in Calavita, 2005, p. 35). If employment was terminated, they had no choice but to leave.

Berlusconi was not immune to national economic interests or pressures. The Bossi-Fini law, for instance, made provision for the legalization of some sectors of the underground economy, namely domestic helpers. Employers were allowed to request legal status for hired help at a cost of about $300 per worker, and as immigration policies continue to emphasize employer requests for labor—particularly for low skilled occupations—official quotas have been raised in order to meet employer demands. For
example, although in 2006 and 2007 the quota was set at 170,000—twice the 2005 figure—253,000 applications were actually approved in 2006 and in 2007, a recorded 684,000 applications were filed (“Italy,” 2008).

Although illegal immigrants are guaranteed access to public health care, public education and free legal representation in the courts under the Boss-Fini law, immigrant support centers are reserved for legal immigrants. The Boss-Fini law stipulates that all social integration measures are limited to legal immigrants, thus officially denying such organizations as the Catholic network Caritas the right to assist or host illegal immigrants. Also, in contrast to the Turco-Napolitiano law, the Bossi-Fini law prohibits local agencies from providing housing assistance to illegal immigrants even in cases of an emergency. This law also extended the legal detention time from a maximum of 30 days to a maximum of 60 days. In cases where officials are able to identify the immigrant’s country of origin, the immigrant must be deported immediately. These regulations are enforced by the various repatriation agreements Italy has made with other countries, as well as by collaboration agreements between Italian law enforcement agencies and those of other countries. Between 2003 and 2005, the Libyan government accepted 7,737 repatriated immigrants from Italy and, with the financial backing of the EU, a project called “Across Sahara” was implemented to control the borders of Italy, Libya and Niger (Pantella & Farano, 2006).

Of particular importance is the situation faced by Italy’s two million Muslims. After the terrorist attacks in Madrid (2004) and London (2005), the Danish cartoon controversy and the 2006 honor killing in northern Italy—where a Pakistani immigrant killed his daughter—the Italian government decided to modify its integration programs.
Prior to leaving office in 2008, Interior Minister Amato proposed a “Charter of Values, Citizenship and Immigration” aimed at minorities in general and Muslims in particular. In order to signal their readiness to be fully integrated into Italian social and political culture, immigrants were to subscribe to this charter. The charter stipulates, among other things, that polygamy is contrary to the rights of women and immigrants desiring Italian citizenship must speak Italian and study Italian history (Castelfranco, 2008). This charter has, in fact, been signed by some of the immigrant communities.

Over the past few years, anti-immigration sentiment in Italy has intensified. During his 2008 campaign, Prime Minister Silvio Berlusconi promised to address the issues of crime and illegal immigration. In the minds of some, illegal immigration is associated with various crime incidents, the latest of which involved the rape of three teenagers in February of 2009. According to a *New York Times* article, Italian politicians and the news media have “latched” onto the crime and immigration connection, “trumpeting calamities,” when “in reality crime overall has not risen since 1991” (Kimmelman, 2008). University of Milan Sociology Professor Maurizio Amborsini made an astute observation in this regard: “[F]amilies are both perpetrators and victims … They want tough laws on illegal immigration, but they are the reason that many immigrants come to Italy illegally” (as cited in Povoledo, 2008, p. 2). Amborsini’s allusion here is to the Italian welfare system, which encourages bringing aids into homes to assist the elderly rather than placing them in nursing homes. As a result, Italians depend heavily on foreign domestic workers who have no need of a formal contract and whose salary can be lower than that of an Italian national. In turn, this dependency has
forced Berlusconi’s administration to support legalizing helpers and caregivers, a population previously part of the underground economy.

Soon after Berlusconi took office in 2008, the right wing of his party, the Northern League, proposed one of the strictest anti-immigration laws on the continent. This law provoked heated opposition from human rights organizations, the Vatican and the United Nations (Povoledo, 2008). As part of their anti-crime package, the Northern League proposed a reform to Parliament that would allow them to check the income of immigrants from the EU and make illegal entry a prosecutable crime (Castelfranco, 2008). When these reforms were approved by the Italian Parliament, it was also stipulated that illegal immigrants convicted of crimes could be held for up to one third longer than Italians convicted of the same felony. In addition, in July of 2008 Berlusconi passed a decree authorizing the deployment of troops to monitor the country’s 16 immigrant deportation centers and 3,000 soldiers to control crime in several cities where crime which has been increasingly linked to immigrants. Italy’s policy is thus based on a state of emergency declaration for the country (“Italy’s Immigration,” 2008). More recently, in February 2009, Berlusconi issued another restrictive decree, in this case allowing for the creation of citizen patrols to monitor crime. The Italian Senate recently passed a measure calling on doctors to alert the police if they suspect that they are treating an illegal immigrant. This measure is still pending in the lower chamber (“Catholic Weekly,” 2009).

Slanted towards issues of control, the narrow focus of Italy’s immigration policy is also evident in the conspicuous absence of specific legislation for refugees and asylum seekers. Asylum is often regulated through Article 1 of Italian Law of 1989 N. 39 and a
few articles of the 2002 Bossi-Fini law. According to the 1989 law, which is in alignment with the Geneva Convention, refugee status is limited solely to individuals from authoritarian countries in Europe. In 1997, when the Dublin Convention of 1990 came into effect in Italy, a second norm was introduced, according to which a request for asylum can be rejected if another country guaranteeing political and civil rights has already approved the request.

It is important to highlight, however, that despite its overall restrictive focus, Italian policies with respect to family reunification have been very generous. Family reunification for spouses and underage children is possible for those possessing a renewable stay permit for at least one year. Family members are also allowed to seek employment. However, under the Bossi-Fini Act of 2002, family reunification is restricted to the parents of immigrants, and only those families that can demonstrate that no other child in the country of origin can support the parents qualify. Children—including adult children—are also eligible for reunification (Caritas, 2002). In addition, the central government continues to contract with local regions to implement integration programs, e.g., language courses, after school programs and cultural mediation.

8.3 CIVIL SOCIETY:

8.3.1 Civil Society in Spain

Under Franco’s long dictatorship—1936 to 1975—associative activity was largely repressed,\textsuperscript{113} which means associations arrived on the Spanish scene late in the game. They did not actually register a significant social presence until the mid-1970s. However,

\textsuperscript{113} Under a 1964 law of associations, the Catholic Church was allowed to conduct charitable activities, but it operated under strict state supervision (Casey, 2007).
according to Pascual i Ruiz (2002), in some territories—such as Catalonia and the Basque region—the public spirit of association managed to survive despite the fascist climate and the repressions they often suffered at the hands of the central government. By the end of 1996, there were 174,916 associations registered with the Ministry of the Interior, a significant rise from the late 1980s. As Pascual i Ruiz points out, however, civil society in Spain remains limited. Civil society in Spain is (a) highly dependent on state resources, (b) fragmented and affected by pressures of particularism and clientelism, and (c) highly suspicious and distrustful of the State (2002, p. 168). According to Casey’s (1998) study of non-governmental institutions (NGOs), despite a growth in activity, NGOs “have been ignored by Spanish commentators in discussions on policy making or at best they are seen as marginal actors.” Casey argues that in addition to the three factors enumerated above, Spain’s low level of civil society development is affected by the presence of “few organized channels of communication between government and associations” (1998, p. 88) and by what Font calls in his study on environmental civil society in Spain the “impermeable” policy process and decision making system that is heavily dominated by EU directives and business interests.

In strictly numerical terms, however, Spanish civil society has grown. This growth has been linked to an increase in the demand for new, diversified and more efficient delivery of services that the Spanish welfare state cannot handle due, in part, to the economic downturn Spain has been experiencing in the last two decades. The increase

114 Casey’s definition of non-governmental institutions corresponds to this research’s understanding of civil society in the sense that his definition emphasizes their separation from both the government and the market, and places them within the spectrum of the third sector, “lacking the coercive power of government and the driving self-interest of the marketplace,” but providing for individual choice and public goods” (Gies et al., 1990; Casey, 204, p. 45).
in numbers has also been linked to a rise in education levels, as well as to the development of new values of solidarity and volunteerism in Spanish society. In spite of its economic miracle, Spain remains among the poorest of the EU countries with one of the lowest per capita GDPs. Despite a 3.8% growth in its economy in 2008, growth for the year is nevertheless considered negative (Kern, 2008a) with an unemployment rate of 13.9% (CIA, 2009).

Despite the numerical growth of civil society organizations in Spain, which are legal according to Article 22 of the Spanish Constitution, association continues to be regulated by the 1964 Ley de Asociaciones (Associations Law) of the Franco era. Although this law was modified in 1979, it is outdated nevertheless. In addition, according to Casey’s study, the existing state organizations that were designed to enhance associational activity—the Catalan Institute for Volunteers (INCAVOL) and the Agencia Municipal de Servicios a las Asociaciones (The Municipal Agency for Services to Associations)—which have admittedly increased the activity level of civil society through training programs, have also “become a double edge sword given that they reinforce government control and weaken independent structures of cooperation and mutual dialogue” (1998, p. 93). According to a regional comparative analysis (Moren-Alegret, as cited in Zincone & Caponio, 2002), Spanish cities like Barcelona have introduced local advisory councils, but the participating immigrant organizations “are usually co-opted actors who are funded by local administrations.” In addition, a local level study conducted by Marques (as cited in Zincone & Caponio, 2004) found “virtuous patronage cycle” at play, by which immigrant organizations can influence local policy making processes only provided they have the right to vote in administrative elections.
and they are organizationally strong. Voting rights give immigrant associations contractual power, since the party in office will attempt to gain their votes for the minority population by promoting favorable policies (as cited in Zincone & Caponio, 2004, p. 13).

The impact of Spanish civil society on immigration policy has also been hampered by the political culture in Spain ‘post Franco,’ which is characterized as state-centered and dominated by strong political party affiliations and the construction of a welfare state. This environment has inhibited the successful participation of civil society. Unfortunately, civil society serves as more a point of coordination and communication rather than in an advisory capacity. As a result of these limitations, civil society in Spain has a “tendency to more radical collective action, more confrontational, outsider tactics which in [the] absence of broad based support, [and] resources for effective mobilization” and a lack of formal access to decision making forums “tend to marginalize them from state-centered policy process” (Casey, 1998, p. 121; Bruquetas-Callejo et al. 2008). In addition, there is a lack of receptivity towards civil society. It is not as well respected by those outside civil society as perhaps the organizations in Mexico, e.g., Mexico’s Sin Fronteras, appear to be. On the contrary, employment in civil society organizations in Spain is thought of as a last resort option, an option for those who do not make it in state government.

On the other hand, consulting and advisory bodies at the federal and regional level are in place in Spain—as is the case in Mexico—such as the Inter-Ministerial Commission on Immigration created in 1992 and the Forum for Social Integration of Immigrants created in 1994. Serving as liaisons between various social agents and the
current administration, these advisory bodies came about as a result of civil society’s experience during the 1991 amnesty program. It was at this time that Spain recognized the limited availability of services the country had to offer new immigrants and sensed the need to promote changes. 1991 thus served as a turning point in terms of the level of pressure applied to the government to make up for the lack of services and make changes to policies impeding immigrant integration\textsuperscript{115} (Casey, 1998). According to Bruquetas-Gallejo et al., Spanish civil society’s efforts have had at least two visible results: placing immigrant integration on the political agenda (Girona Report,\textsuperscript{116} CAONGCG 1992) and swaying public opinion to favor migrants and support the granting of equal rights to foreigners on grounds of residence (in particular, the right to benefit from welfare state provisions). (2008, p. 25)

This has noticeably shaped the issue of integration in terms of human rights and equality of opportunities for migrants. However, apart from general declarations regarding the need for more state responsibility in integrating immigrants, the Forum has been limited in its ability to influence actual policy due to the aforementioned political restrictions—control and patronage—as well as internal political battles within the Forum itself.

Although the Spanish immigration situation has not been as intense as the Italian, as discussed below, immigration has nevertheless been a contentious issue in Spain,

\textsuperscript{115}Integration policy, i.e., policy pertaining to residency and citizenship, family reunification, and immigrant’s right under permanence, is a category of immigrant policy that falls within regional jurisdiction as opposed to state jurisdiction, making it easier for organizations to access representation (Casey, 1998).

\textsuperscript{116}This document backed the statement that public administrations should develop a comprehensive integration policy beyond a mere contention of problems. It also acknowledged the need to give specialized attention to immigrants. This societal insistence produced the first national Plan on Social Integration of Immigrants, launched in 1994 by the Ministry of Social Affairs (Bruquetas-Gallejo et al., 2008, p. 21).
sparking fears of race riots. There is plenty of evidence to suggest that xenophobic attitudes have grown in Spain in recent years and that the negative perception of the impact of migration on employment, social services, etc. is prevalent in Spain. Incidents of violence have been observed for some time now, as in the case of the race riots of September 2008 in the southern Spanish resort town near Almería. Sparked by a dispute between Spanish Gypsies and African immigrants, a fight ensued in the town of Roquetas del Mar, resulting in the death of a 28-year-old Senegalese man. “Outraged immigrants went on a rampage, setting fire to the home of the man they said was responsible” and rioting continued for about two days (Kern, 2008). While this negative environment has unquestionably led to an articulation of anti-immigration policy resulting in restrictive policies in Spain, according to Agrela (2002), a solidarity movement among legal and illegal immigrants under the motto “ningún ser humano es illegal” (no human being is illegal) has also been forming. Illegal immigrants in particular have dubbed themselves “los sin papeles” (the ones without documents) and have begun to participate in public debates. As Agrela further posits, “the ‘silen[t] immigrants’ are … [making themselves] heard by sit-ins, strikes and protest walks as a structured incipient ‘organized-group’ that slowly is arising in defense of their interest[s] within the immigration policy making process” (2002, p. 17). Immigrant organizations have joined forces to advocate on behalf of their population, as in the case of the Metropolitan Forum of Non-EU Immigrant Associations, an umbrella group of 50 immigrant associations. This organization has set up a web site, offers free consultations by Internet, and even accompanies people to the police station to process documents, but its primary concern is advocating improvements to the law among government officials (Calavita, 2005). Most of these organizations were
created in response to the social, political and economic needs of immigrants, however, and were formed by members of the host society despite the constitutional right of immigrants to associate and participate in political events.

As in both Mexico and Italy, much of the service and advocacy support provided to immigrants in Spain has its foundation in the work of Catholic charities, particularly Caritas, which pioneered the provision of neighborhood social services for new immigrants. According to Casey, “the Spanish bishops were among the only non-government actors who directly intervened in the debates around the 1985 law in particular in their Manifesto for a just immigration law” (Casey, 1998, p. 108). The Church has had some help, however, from other organizations, such as the Red Cross, the Information Center for Foreign Workers (CITE), Servei Gironi Social Pedagogy Foundation, The Research and Animation Group of Cultural Minorities (Ser.Gi-Gramc) and SOS Racism. They have also attempted, largely without success, to unite under a single platform under the name Catalunya Solidaria in the region of Catalonia. Still, their level of influence is on the rise, particularly when one considers pre-1985 standards. The aforementioned case of Labor and Immigration Minister Corbacho, who was forced to retract his statement regarding worker visas, brought to light the influence that civil society is gaining in Spain. Soon after Corbacho’s statement that in 2009 the worker program would essentially be closed, a flood of criticisms from political parties, syndicates and pro-immigrant associations caught the government off guard (Arizpeola, 2008).
8.3.2 Civil Society in Italy

Italy has only recently had to deal with immigration questions. Its immigration discourse has been enveloped in a political debate shaped primarily, although not exclusively, by the exclusionist slant of the Northern Alliance party. Even the liberal rhetoric of the center right expressed in the Turco-Napolitano law imposed firm policing measures and established detention centers. However, it is the differences between the left and the right coalitions, as expressed in their respective legislative framework—the Turco-Napolitano law, Bossi-Fini law, and recent government decrees—that set the stage for the participation of Italy’s civil society. In other words, the differences between these policies have come about as a result of the different types of actors involved in their development (Zincone, 2006a; Bozzini & Fella, 2008). Although these policies barely diverge in terms of control of flows, they present a contrast in terms of social integration and immigrant rights (Calavita, 2005; Zincone; 2006; Bozzini & Fella, 2008).

Interestingly, civil society was much engaged in the process of deliberations for the Turco-Napolitano law, whereas the Bossi-Fini law, initiated by the center right coalition, came about as the result of political activity and motivations under an administration that excluded civil society from all its deliberations (Zincone, 2006). Despite this exclusion, Catholic organizations succeeded in pressuring Italy’s small Catholic parties to soften some of the more radical anti-immigrant programs of the Bossi-Fini law (Zincone & Caponio, 2004) and thus introduce another amnesty program.

Civil society’s participation in policy had the greatest impact in connection with the Turco-Napolitano law, which formalized the welfare services and social assistance that independent organizations provided to immigrants in the late 1980s and early 1990s.
It also established forums for consultation on the prevention of discrimination, which included a comprehensive set of rules for cooperation with civil society members in the development of immigration policy. GAIA—an inter-faith discussion group comprising the Italian Workers’ Christian Association (ACLI), the Scouts, and evangelical associations—together with Caritas and ARCI (previously an ancillary recreational organization of the Italian Communist Party) played a significant role in the decision making process of the Turco-Napolitano law (Zincone, 2006a).

The Turco-Napolitano law actually institutionalized a forum for dialogue with the creation of the Council for the Problems of Foreign Immigrants and their Families and the Commission for Iteration Policies, which consisted of several ministries and immigration experts (Bozzini & Fella, 2008). Neither body has been reinstated under the Berslusconi administrations of 2001 and 2008, which has essentially amounted to doing away with important channels for dialogue between civil society and government and a reversal of the impact that civil society previously had in terms of institutionalizing such channels. Although there are laws regulating and promoting Italian civil society in place, namely the Law to Promote Social Organizations no. 283/2000, the enhancement of civil society’s participation in policy development has not been formally institutionalized.

Since immigration is a particularly contentious issue in Italy, it has become a significant theme in public and political debates, where crime is directly linked to immigration and terrorism—and specifically to Muslim immigrants. Discrimination has hit the Roma population hardest despite their status as EU citizens, earned in January of 2008 with the entrance of Bulgaria and Romania into the EU. During its most recent campaign, The Northern League—the right wing of Berlusconi’s ruling coalition—
distributed posters showing a Native American next to a warning that Italians will end up penned in reservations like the Native Americans, if immigrants are not stopped from taking over (Kimmelman, 2008). In May of 2008, several hundred Italians attacked a Roma gypsy camp in Naples, brandishing sticks and throwing homemade incendiary devices after a 16-year-old Roma girl was accused of trying to steal a baby. In May of the same year, the Italian police conducted a raid and arrested approximately 400 immigrants across the country, of which 32 were Romanians, and in 2009 the Italian government has been destroying unauthorized Roma camps. As aptly stated in the New York Times, “anti-immigrant sentiments are becoming hard to square off with the European Union’s open border policy,” albeit a policy limited to EU members (Rosenthal, 2008).

Minister of Institutional Reforms and Federalism Umberto Bossi has justified the government’s measures as a response to popular concerns, explaining as follows: “People ask us for safety; and we must give it to them” (as cited in Rosenthal, 2008, p. 1). Clearly, the administration has not considered engaging civil society in its policy deliberations. In such an environment, the input of civil society is not viewed as relevant or in any way representative of the Italian people.

According to Bozzini’s and Fella’s (2008) study on the state-civil society relationship in Italy, the response to international security concerns post 9/11 has hampered relations and diminished consultation with civil society on the issues. In fact, the center right has opted to consult only certain actors within civil society, namely those who are more prominent and influential, such as Caritas, and only with regard to issues of control or in response to economic concerns, i.e., meeting shortages in the labor market. Other significant, though new anti-racism organizations include Italy’s European
Network Against Racism (ENAR), the Center for Immigration Studies (CESTIM), and the research and training organization Lunaria. Although none so far is as influential in terms of immigration advocacy as the Caritas network, in 2005 the Muslim community successfully organized and promoted the creation of the aforementioned Council for Italian Islam, an advisory body for Muslims living in Italy and put forward by Interior Minister Pisanu. In cooperation with Muslim organizations and in response to the extensive complaints of discrimination and exclusion of Muslims from Italian public life, the Council was reorganized in 2008 by Interior Minister Amato as a Federation of Italian Islam with legal status (Vidino, 2008; Castelfranco, 2008). As Bozzini and Fella (2008) state, the two main Italian immigration laws—the Turco-Napolitano law and the Bossi-Fini law—reflect the country’s lack of experience as a country of immigration. When the immigration issue was new, the government engaged pro-immigrant civil society organizations in the dialogue, but as anti-immigration sentiment grew in Italy, civil society—and especially less organized civil society organizations—was largely excluded.

At those times when civil society has influenced policy it was due largely to the strong relationship between the government and the Catholic Church, a relationship expressed through Italy’s Catholic parties in both center right and center left coalitions. Civil society’s claim to influence Italian policy is, therefore, strongly affected by its government system of party coalitions. This influence, as indicated above, was particularly evident in connection with the Bossi-Fini law, when the Catholic parties within the coalition successfully pressured key government members to include another amnesty program. This amnesty, in fact, provided resident permits to over 60,000 new legal immigrants and did so without encroaching on immigrants’ social rights, including
those rights afforded to illegal immigrants. In response to pressure from the EU, however, the Bossi-Fini law retained some of the anti-discriminatory articles from the Turco-Napolitano law. Similar pressure was evident in 2004, when Berlusconi’s administration was forced to create within the Ministry of Equal Opportunities the new National Anti-Racial Discrimination Office. This office was to monitor incidents of racial discrimination, provide legal support to victims, and work with civil society to establish programs to fight racism.

In its struggle against the country’s generally negative immigration discourse, Italy’s civil society has been researching and disseminating its findings on the positive impact of immigrants on Italian society. The Catholic Church has joined international organizations (IOM), the EU, and the Italian state—Italian Ministry of Welfare and the National Council for Economy and Labor—in this effort. In 2004, for example, the Council it produced a report entitled “The Impact of Immigration on Italian Society,” and a statistical dossier on immigrants is published annually. In a meeting in Rome in early February of 2009, Caritas promoted the positive results of its study in conjunction with another Catholic aid group, Migrantes (Migrants). According to this report, the number of immigrant entrepreneurs is growing rapidly in Italy and they are making a significant contribution to the country's growth and international development…. There are now 165,000 immigrants who own a company in Italy and their number has tripled since 2003 and is growing at a rate of around 20,000 per year—while the number of Italian-owned firms is declining. (as cited in AKI, 2009, p. 1)
According to this report, immigrants now contribute 9.2% of Italy's gross domestic product and the remittances they sent back to their countries in 2007 reached 6 billion Euros (as cited in AKI, 2009, p. 1).

8.4 CONCLUSION: A COMPARATIVE ASSESSMENT VIS-À-VIS MEXICO:

No single model or set of definite actors can be said to dominate the state-civil society relationship across countries. The case study analysis has confirmed that this relationship is shaped instead by the countries’ respective historical, economic, social, cultural and political experiences. As a result of this variation, Adolino and Blake aptly assert that “states tend to differ in how they approach a given policy area; however groups of countries may traditionally handle a given issue in a similar way” (2001, p. 31). Spain, Italy and Mexico have shown, in particular, that immigration policies are influenced not only by differing immigration histories, but also by the political and social salience of the immigration issue itself, the existence or lack of appropriate channels of communication and participation between actors, and the degree of respect existing between actors.

Immigration has been a significant part of Mexico’s policy history from the time the country gained independence from Spain in 1821. Policies aimed at either attracting or controlling foreigners have been incorporated within major legislation pieces, such as the Constitution of 1917 and the General Law of Population (GLP). To this day official statements recognize the influence—whether negative or positive or both—that immigrants have on the country. Add to this the cultural impact of immigrants and it is clear that despite the numerical insignificance of immigration (accounting for only 0.5%
of Mexico’s total population), Mexico is not only a country of emigration, but of immigration, refuge, transit and return migration. Spain and Italy, on the other hand, although previously chiefly countries of emigration, are now countries of immigration—an assessment based largely on the numerical significance of their immigrants (11.2% and 6.2% of the total population, respectively). This new reality has propelled each country into the realm of immigration policy. Today, all three countries find themselves either formulating or revising immigration policies and as they do so, civil society participation in the process has had mixed results. While civil society participation in the dialogue process in Mexico and Spain is growing and has made significant strides in terms of institutional, regulatory and policy reform and implementation, Italy’s civil society participation is more limited.

The three countries share economic and security concerns that dictate their interest in attracting foreign investment and labor while simultaneously securing their borders from criminals or terrorist incursions. As both Spain and Italy face an aging population and increasingly low fertility rates, immigration policy in both countries is strongly linked to employment. As a result, despite strong public opinion against illegal entries, many regularization programs have been established in Italy to satisfy the need for cheap foreign domestic help (Zincone, 2006b). Although not to the same degree, Mexico also has an interest in attracting low-skilled Guatemalan laborers to work in its Southern region in particular. To this effect it has established biometric identification cards that allow Guatemalan laborers to work in Mexico for a year. However, as Mexico battles with the lack of a highly skilled work force, it has an additional interest in attracting immigrants who are deemed “beneficial” according to the GLP, i.e., those who
can facilitate the country’s economic progress. As Kaplan, a recruiter from the American Society stated, Mexican companies continue to prefer employing foreigners over Mexican nationals because “it is hard to find qualified Mexican nationals” (personal communication, 2009).

Secure borders are of paramount importance to all three countries. This priority has led these countries to implement restrictive policies—whether by increasing border patrols, as in the case of Spain and Italy, or by tightening internal controls, as in the case of Mexico and Italy. In order to restrict immigration flows, all three countries have resorted at times to the deployment of military troops to work in conjunction with police forces and border patrols. A restrictive nature in connection with immigration policies is particularly evident in Spain and Italy, as they are anchored by temporary and contingent permit systems that often need to be attained prior to entrance. Spain, for example, has expended many resources on its SIVE program to prevent migrant-laden boats from reaching its shores and frequently deports those who make it to shore (Abend & Momigliano, 2008). Italy has called a state of emergency and is relying on military troops to monitor its detention centers and patrol certain cities.

With respect to Italy and Spain, Calavita suggests that their migration policies intend to maintain the “precarious and fleeting quality of legal status as a way to preserve the advantages derived from a marginalized and vulnerable work force” (2005, p. 11). The various legalization and quota programs that both Spain and Italy have implemented are justified by their need for labor, but fraught with low turnout and administrative delays since those who manage to get legal status often return to illegality one to two years after their permit expires. Thus, a pattern developing in all three countries is what
Aristide Zolberg identifies as the “wanted but not welcome syndrome,” which confines immigrants in some contexts to “economic citizens” while excluding them from “social or political citizenship” (Calavita, 2005, p. 11). This is particularly evident in the case of Mexico’s Constitutional Article 33, which limits the rights of immigrants to participate in political activities. Article 33 gives the Executive the right to expel foreigners it believes are a threat to the stability of the country and can expel without due process. Other Articles also limit the type of employment that all foreigners can engage in while living in Mexico. For example foreigners cannot serve in Mexico’s military forces during peacetime and foreign born Mexicans can’t hold seats in either house of the federal congress. In addition naturalized Mexicans can also lose their naturalization while Mexicans by birth never can, which relegates them to a kind of “secondary citizenship” (Fitzgerald, 2005b). However it is important to mention that some changes with regards to such restrictive policies have begun in Mexico. For example as of 1999 Mexico’s president is no longer required to be at least a second generation native born. Today candidates who have one foreign born parent, such as President Vicente Fox (2001-2006) whose mother is from Spain, could hold such office. Moreover, at the present time (2009) Mexico is working on drafting a new immigration law that hopes to incorporate the country’s contemporary migration experiences. The intent is to align Mexican immigration policy with the policies it is promoting in the U.S. with regards to Mexican emigrants, as well as with the various international conventions that it has ratified (Rodríguez Chávez, personal communication, 2008).

117 For more on the restrictive regulations see Chapter 5 of this dissertation.
118 For more on this proposed law see Chapters 5 and 7 of this dissertation.
International conditions have also influenced how these countries pursue immigration policy. Mexico tightens its borders in response to U.S. concerns of terrorism and increased illegal immigration into its territory, and Spain and Italy respond to similar concerns expressed by the EU. Any country hoping for EU membership must first make visible efforts to reinforce its borders, adopt EU immigration policies and demonstrate the capacity to control the EU’s frontier (Kimball, 2007). In Italy’s case, however, policies have become too restrictive in the minds of some, particularly since they violate human rights and are in violation of international conventions or EU anti-racist directives (Bozzini & Fella, 2008).

Some argue (see Soysul, 1994) that human rights concerns in democratic countries have allowed immigrants to demand and enjoy the same rights that citizens of the host state enjoy. As we have seen, however, this is not always so in any of the cases studied, as these countries simultaneously attempt to incorporate “useful or beneficial immigrants” while marginalizing them at the same time (Calavita, 2005, p. 46). Random acts of violence against immigrants are occurring not only in Italy and Spain, as detailed above, but in Mexico as well, particularly against Central Americans making their way to the U.S. Many victims are subjected to bribes and physical abuse not only from the criminal element, but also at the hands of local police and immigration officials. Human rights violations are a constant complaint in Mexico, though not officially sanctioned. It is under this umbrella that Mexican civil society has gained ground. According to Venet (personal communication, 2008) and Father Solalinde Guerra (personal communication, 2009), it is largely in the name of human rights promotion that civil society has
influenced policy reform in Mexico, though there is an unfortunate gap between policy and policy implementation.

Acts of xenophobia and negative feelings toward immigrants in general are also a contributing factor in the measure of success between state and civil society. Xenophobia is currently strong in Europe in general and in Italy in particular (2009). Acts of discrimination against immigrants are common to these three countries. According to Cruz Vazquez of the Instituto de Atención al Migrante Oaxaqueño (State Coordination for the Attention to the Oaxacan Migrant), these acts are significant factors behind the limited growth of civil society: “It is difficult to engage the public when it is not interested” (personal communication, 2008).

The Italian case exemplifies Cruz Vazquez’ argument quite well: when public interest is negative, the policy response is negative. According to a poll conducted by Ipsos Public Affairs in 2004, 53% of Mexicans, 50% of Italians and 47% of Spaniards believe that immigrants are having a bad influence on the way things are going in their respective countries. When asked if they felt that immigrants took jobs away from citizens, 40% of Mexican respondents indicated they feel their citizens lose jobs to immigrants, while only 20% of Italian and 14% of Spanish respondents concurred. Survey participants were also asked whether or not they agreed that it is better for a country to have a variety of people with different religions. Responses to this question were similar in all cases: 65% of Mexicans, 62% of Italians and 70% of Spaniards, respectively, indicated that diversity is best. The importance of sharing customs and traditions appears to be more important to Mexicans: 71% of Mexican respondents indicated that shared customs and traditions are beneficial for the country, whereas only
45% of surveyed Italians and 53% of surveyed Spaniards indicated they think likewise (see Tables #8.3 - 8.6).

The recent events of 2008-2009 demonstrate an increase in negative perception of immigrants in Italy, a perception reinforced by a 2008 comparative survey conducted by the German Marshall Fund of the U.S. According to this survey, Italians were the most sensitive to illegal immigration with 68% indicating their belief that most immigrants were in their country illegally—15 percentage points higher than other surveyed countries (U.K., Netherlands, Poland, Germany, France and the U.S.). Italians were also the most likely to support a variety of measures to combat illegal flows: 91% supported reinforcing border controls and 93% supported increasing employer sanctions. According to this study, domestic backlash was not significant during Italy’s four previous amnesty programs, the first of which was in 1986 and the most recent in 1998. However, given Italy’s current political atmosphere, future legalizations are highly unlikely—particularly since 58% of Italians surveyed favored return requirements for illegal immigrants and only 27% supported another legalization measure (2008, p. 17).

Public opinion on immigration has been influential in all three cases. In Mexico’s case, the importance of public opinion is also instructive, although a small change may be taking place since the Ipsos poll was conducted in 2004. This change can be seen in the statements made by Father Solalinde Guerra of Mexico’s Hermanos en el Camino shelter (Brothers on the Path) and Fabien Venet, previous director of Mexico’s Sin Fronteras, regarding their use of the media to highlight human rights violations. Both acknowledged that the media has been their greatest ally in recent years. A change in public opinion was also exemplified by the October 12th, 2008 events in the town of Rafael Lara Grajales in
the state of Puebla, where the townspeople hid and protected about two dozen bruised and injured kidnapped migrants from criminals and the police, who began spilling into the town’s streets and patios. This change in public opinion has expressed itself most directly in the recent decriminalization of illegal immigration in one of Mexico’s most important legal statutes, the General Law of Population, a reform that was unanimously approved by both chambers of Congress.

In all three cases, very few organizations can be said to have influence. Those organizations that are part of the Catholic Church are among the most influential in all three countries—Caritas in Spain and Italy, and Migrant House and the Pastoral Center in Mexico. Among others, Mexico’s Sin Fronteras has managed to gain significant ground, securing itself a position in the state dialogue at the highest levels of government with members at the executive level of Consejos Consultivos (Advisory Bodies). In addition, the relevant government institutions, Instituto Nacional de Migración (The National Migration Institute) (INM) and the Secretaría de Gobernación (SEGOB) (Interior Ministry), have liaison offices that are mandated according to the Ley de Fomento a las Actividades Realizadas por la Organizaciones de la Sociedad Civil (Law of Enhancement to the Activities of Civil Society Organizations). The Ley General de Desarrollo Social (General Law of Social Development) actually requires the participation of civil society organizations in independent evaluations of social policies. This law came about as a result of the efforts of a large group of civil society organizations, some of which reach beyond the scope of immigration issues. Mexican civil society has also been successful in its attempts to influence the recent (2008) reforms to the General Law of Population that have decriminalized illegal entry, reducing
it to an administrative felony. Mexican civil society has also worked towards the
demilitarization of its Southern Border and participated in the process that led to the
establishment of the aforementioned farm worker program with Guatemala that makes
use of a new electronic card that helps protect workers from bribes at the hands of
immigration officials. It does so because the card guarantees their rights to not only work
but enter and exit the country several times a year (Father Rigoni, personal
communication, 2008).

The power of the Catholic Church in Italy cannot be underestimated, although the
same can be said of Spain and Mexico. All three countries are predominantly Catholic. In
Italy, however, the Catholic Church has an established channel of influence with
representation in Italy’s political parties. This has been beneficial for securing
representation of migrant interests. Institutionalizing civil society participation in broader
terms and within state agencies, however, is still limited. Italian civil society
organizations, Muslim groups in particular, are making limited headway in the face of the
current level of xenophobia in Italy. Despite the limited long-term impact that immigrant
civil society has had in terms of policy changes in Italy, it is important to emphasize that
these organizations have been and continue to be quite vocal. They have at times staged
massive demonstrations. On January 19th, 2002, for example, over 100,000 participants
took to the streets in Rome in response to proposed legislative restrictions. Among the
demonstrators were union representatives, Catholic organizations and immigrants
themselves (Calavita, as cited in Cornelius et al., 2004).

Even though according to Article 33, foreigners cannot participate in political
activities in Mexico—unlike in Spain and Italy—representatives of foreigners’ interests
are making significant headway. As to be expected, this headway varies according to each case, as do the obstacles faced. In Italy and Spain, as opposed to Mexico, member organizations are partially to entirely financially dependent on the state. Given Mexico’s historical and constitutional separation of the state from the Church, the church does not have political representation in the Mexican Congress as in the Italian party system or economic representation as in the Spanish system, where it is eligible for funds. What then accounts for the fact that civil society may have gained more ground in Mexico—at least in terms of institutional and legislative changes—and how have some civil society organizations, such as Sin Fronteras and Casa Migrante, gained representation in official dialogue mechanisms?

Before answering this question, it is important to reiterate the difficulty involved in evaluating much of the decision making process that takes place in the policy development of any issue to establish causality on this basis. This comparative analysis has sought an improved understanding of the state-civil society relationship, however, by highlighting similarities and differences to identify emerging patterns. These patterns have emerged as we have assessed the existence of process-related measures: participation mechanisms and outcome-related, i.e. legislative proposals. In this way, the comparison has brought to light several very important differences between Mexico and Spain and Italy, not the least of which is the independence from the State that allows Mexican civil society to express itself as more independent. According to Venet (personal communication, 2009), the Mexican state did not expect civil society to be as vocal or critical as it has been and this has hindered the progress of the state-civil society relationship. Moreover, although all three countries need to maintain a proper image and
a balance between human rights and security concerns in response to external pressures, Mexico stands apart from Spain and Italy in its need to legitimize its democracy. According to SEGOB’s report on political culture and citizen practices (2007), the participation of civil society is an important factor in doing so.

Table #8.2

<table>
<thead>
<tr>
<th>The State-Civil Society Relationship: Comparison by Country: Spain, Italy, Mexico</th>
<th>SPAIN</th>
<th>ITALY</th>
<th>MEXICO</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Status Assessment</strong></td>
<td>Of emigration and recent immigration</td>
<td>Of emigration and recent immigration</td>
<td>Of immigration and emigration</td>
</tr>
<tr>
<td><strong>International Factors on Policy</strong></td>
<td>EC membership</td>
<td>EC membership</td>
<td>Balancing U.S. demands for border control/emigration to the U.S.</td>
</tr>
<tr>
<td><strong>Immigration Policy Assessment</strong></td>
<td>• Restrictive  • Employment-based  • Tension between control and integration</td>
<td>• Restrictive  • Employment-based  • Tension between control and integration</td>
<td>• Restrictive with openings  • Employment- and investment-based  • Tension between control and human rights issues</td>
</tr>
<tr>
<td><strong>Civil Society Legal Framework</strong></td>
<td>• Outdated and ill-defined legal framework governing associations  • Limited institutionalized channels of communication</td>
<td>• Institutionalized with regard to party system, but otherwise lacking  • Influenced by negative Public opinion</td>
<td>• Legal framework exists, but not taken advantage of  • Institutionalized channels exist, but limited by corruption</td>
</tr>
<tr>
<td><strong>Outcome: State-Civil Society Relationship</strong></td>
<td>• Limited influence  • Led by the Catholic Church  • Financially tied to the State</td>
<td>• Very limited influence  • Led by the Catholic Church</td>
<td>• Limited, but with significant policy implications and institutionalization in the dialogue process  • Led by the Catholic Church and Sin Fronteras</td>
</tr>
</tbody>
</table>
Table #8.3

*Globus Poll Question 1: Immigrants’ Influence*

Question 1: Would you say immigrants are having a good or bad influence on the way things are going in [YOUR COUNTRY]? Would you say that influence is very good/bad or somewhat good/bad?

<table>
<thead>
<tr>
<th></th>
<th>U.S.</th>
<th>Canada</th>
<th>Mexico</th>
<th>Japan</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
<th>U.K.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very good influence</td>
<td>14</td>
<td>18</td>
<td>8</td>
<td>3</td>
<td>3</td>
<td>5</td>
<td>6</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Somewhat good influence</td>
<td>28</td>
<td>55</td>
<td>28</td>
<td>41</td>
<td>36</td>
<td>34</td>
<td>32</td>
<td>30</td>
<td>26</td>
</tr>
<tr>
<td>Somewhat bad influence</td>
<td>31</td>
<td>15</td>
<td>29</td>
<td>39</td>
<td>39</td>
<td>45</td>
<td>33</td>
<td>30</td>
<td>31</td>
</tr>
<tr>
<td>Very bad influence</td>
<td>16</td>
<td>5</td>
<td>24</td>
<td>12</td>
<td>14</td>
<td>11</td>
<td>17</td>
<td>17</td>
<td>29</td>
</tr>
<tr>
<td>Not sure</td>
<td>11</td>
<td>7</td>
<td>11</td>
<td>12</td>
<td>8</td>
<td>5</td>
<td>12</td>
<td>17</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total Good</strong></td>
<td>42</td>
<td>73</td>
<td>36</td>
<td>44</td>
<td>39</td>
<td>39</td>
<td>38</td>
<td>36</td>
<td>32</td>
</tr>
<tr>
<td><strong>Total Bad</strong></td>
<td>46</td>
<td>21</td>
<td>53</td>
<td>44</td>
<td>53</td>
<td>57</td>
<td>50</td>
<td>47</td>
<td>60</td>
</tr>
</tbody>
</table>

*Note.* Source: Globus International Affairs Poll (IPSOA, 2004).

Table #8.4

*Globus Poll Question 2: Immigrants’ Jobs*

Question 2: Do you think immigrants coming to this country today mostly take jobs away from [YOUR COUNTRY’s] citizens, or do they mostly take jobs [YOUR COUNTRY’S CITIZENS] don’t want?

<table>
<thead>
<tr>
<th></th>
<th>U.S.</th>
<th>Canada</th>
<th>Mexico</th>
<th>Japan</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
<th>U.K.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Take away jobs</td>
<td>27</td>
<td>18</td>
<td>40</td>
<td>10</td>
<td>11</td>
<td>23</td>
<td>20</td>
<td>14</td>
<td>23</td>
</tr>
<tr>
<td>Take away jobs [YOUR COUNTRY’S CITIZENS] don’t want</td>
<td>66</td>
<td>66</td>
<td>49</td>
<td>74</td>
<td>75</td>
<td>70</td>
<td>74</td>
<td>77</td>
<td>66</td>
</tr>
<tr>
<td>Not Sure</td>
<td>7</td>
<td>16</td>
<td>11</td>
<td>16</td>
<td>14</td>
<td>7</td>
<td>6</td>
<td>9</td>
<td>11</td>
</tr>
</tbody>
</table>

*Note.* Source: Globus International Affairs Poll (IPSOA, 2004).
Table #8.5

**Globus Poll Question 3: Sharing Customs and Traditions**

Question 3: Please strongly agree, somewhat agree, somewhat disagree, or strongly disagree with the following statement: It is best for a country if almost everyone shares the same customs and traditions.

<table>
<thead>
<tr>
<th></th>
<th>U.S.</th>
<th>Canada</th>
<th>Mexico</th>
<th>Japan</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
<th>U.K.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Agree</td>
<td>12</td>
<td>21</td>
<td>42</td>
<td>5</td>
<td>21</td>
<td>16</td>
<td>13</td>
<td>30</td>
<td>24</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>15</td>
<td>19</td>
<td>29</td>
<td>32</td>
<td>31</td>
<td>32</td>
<td>23</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>Somewhat disagree</td>
<td>25</td>
<td>26</td>
<td>15</td>
<td>44</td>
<td>27</td>
<td>31</td>
<td>18</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>46</td>
<td>33</td>
<td>12</td>
<td>13</td>
<td>19</td>
<td>17</td>
<td>21</td>
<td>23</td>
<td>28</td>
</tr>
<tr>
<td>Not sure</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>6</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total Agree</strong></td>
<td>27</td>
<td>40</td>
<td>71</td>
<td>37</td>
<td>52</td>
<td>48</td>
<td>45</td>
<td>53</td>
<td>46</td>
</tr>
<tr>
<td><strong>Total Disagree</strong></td>
<td>71</td>
<td>50</td>
<td>26</td>
<td>56</td>
<td>46</td>
<td>48</td>
<td>52</td>
<td>41</td>
<td>49</td>
</tr>
</tbody>
</table>

*Note.* Source: Globus International Affairs Poll (IPSOA, 2004).

Table #8.6

**Globus Poll Question 4: Variety of People/Religions**

Question 4: Please tell me if you strongly agree, somewhat agree, somewhat disagree, or strongly disagree with the following statement: It is better for a country to have a variety of people with different religions.

<table>
<thead>
<tr>
<th></th>
<th>U.S.</th>
<th>Canada</th>
<th>Mexico</th>
<th>Japan</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
<th>U.K.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Agree</td>
<td>61</td>
<td>46</td>
<td>37</td>
<td>15</td>
<td>28</td>
<td>13</td>
<td>20</td>
<td>30</td>
<td>36</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>29</td>
<td>37</td>
<td>28</td>
<td>43</td>
<td>43</td>
<td>43</td>
<td>42</td>
<td>40</td>
<td>415</td>
</tr>
<tr>
<td>Somewhat disagree</td>
<td>5</td>
<td>10</td>
<td>15</td>
<td>25</td>
<td>16</td>
<td>30</td>
<td>20</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>3</td>
<td>5</td>
<td>16</td>
<td>9</td>
<td>11</td>
<td>12</td>
<td>12</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>Not sure</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>8</td>
<td>2</td>
<td>2</td>
<td>6</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total Agree</strong></td>
<td>89</td>
<td>83</td>
<td>65</td>
<td>83</td>
<td>71</td>
<td>55</td>
<td>62</td>
<td>70</td>
<td>78</td>
</tr>
<tr>
<td><strong>Total Disagree</strong></td>
<td>8</td>
<td>15</td>
<td>31</td>
<td>14</td>
<td>27</td>
<td>42</td>
<td>32</td>
<td>21</td>
<td>20</td>
</tr>
</tbody>
</table>

*Note.* Source: Globus International Affairs Poll (IPSOA, 2004).
Migration has become one of the defining issues of the 21st century. The economic, security, social, health, educational and environmental impact of today’s more than 200 million international migrants (IOM, 2008) has caught the attention of governments and societies around the world. Although on a global level the migrant stock has increased numerically since the 1970s, the rise of Mexican emigrants\textsuperscript{119} has made immigration and immigration policy an issue of great contention in the U.S., the main country of destination for these Mexicans.\textsuperscript{120} As a result, Mexico is often thought of by the international community as mainly a country of emigration. This research has demonstrated that Mexico is significantly more than that. Mexico is a country in which the complexities of the migration phenomenon meet and intersect. Immigration, emigration, transition, refuge and, as of the last few years, return migration all take place within the framework of a regime transitioning society of a developing country.

Mexico’s migration situation encompasses all of the aforementioned categories, however the specific focus of this dissertation, has been on Mexico as a country of immigration, a fact well supported by its legislative history. This reality is further substantiated by Mexico’s Immigration Institute (INM) Commissioner Cecilia Romero Castillo, who in 2008 reported to members of Canada’s School of Public Service that Mexico “services more than 20 million international tourists a year, 10,000 residents above and beyond the half million already residing in the country, and 40,000

\textsuperscript{119} This rise accounted for approximately 10\% of Mexico’s population in 2005 as opposed to 2.5\% in the early 1970s.
\textsuperscript{120} It is estimated that over 11 million Mexicans currently reside in the U.S.
Guatemalan temporary residents working the agricultural fields in the Southern state of Chiapas (INM Comunicación Social, 2008b).

Immigrants to Mexico come from multiple countries but the groups that have registered continuity through time are from the U.S., Guatemala, Spain, Canada, Cuba, Germany, France, Italy, and Japan. Although other groups such as British, Lebanese, and Chinese, have played a significant social and cultural role, they have decreased in numbers in recent years. In the last few decades, immigrants from Latin America in general and Guatemala in particular, have been gaining numerical significance as they attempt to make their way to the U.S. and decide along the way to remain in Mexico. Interestingly the largest sending country continues to be the U.S., followed by Guatemala and Spain.

Mexico’s immigration legislation—which can be traced as far back as the 1821 Tratados de Córdoba (Cordoba Treaties) securing Mexico’s independence from Spain right up to the enactment of the 1917 Constitution still in force today—has recently come under growing scrutiny in the U.S. Its restrictiveness towards foreigners has been highlighted, as this is not in alignment with Mexico’s call for liberal immigration policies in the U.S. promoting better treatment for Mexican nationals. Such scrutiny has placed Mexican officials in a rather embarrassing position at times, thus serving as an incentive for immigration reform. Proposals for migration reform are surfacing in a new environment in which a more democratic regime tries to establish itself following the country’s official break from an authoritarian system in 2001, when Mexico held its first free elections.
Even as early as the late 1980s, Mexico gradually began revising its immigration laws and policies as part of a general restructuring of its political system; a restructuring that intends to integrate its emigrants residing in the U.S. into the political and cultural fabric of Mexican society,121 thus generating somewhat of a Mexican global society. These revisions continue however to reflect a policy primarily designed to attract skilled and educated immigrants who can contribute to Mexico’s economic progress and that responds to international security and human rights concerns.

This new environment has made Mexico a particularly interesting and fruitful case for analysis of both the actors and factors contributing to the development of Mexican migration policies. Of special interest here has been the analysis of the influence of civil society members—the other two being the state and the market—on Mexico’s policy debate and implementation process.

Evaluating the state-civil society relationship with respect to any policy is fraught with difficulties, as gaining insight into legislative and executive decision making—despite efforts of transparency—can be obscured by ideologies and the interests of participating actors that may remain concealed in the process. However, this research found that a fruitful relationship has been established and has made significant gains, albeit still facing obstacles.

9.1 MEXICO AS A COUNTRY OF IMMIGRATION:

Ever since its independence in 1821, the Mexican government has grappled with the issue of immigration in an attempt to balance two concerns: how to attract foreign

121 The 1998 Law of Nationality makes room for dual nationality such that Mexican nationals who have become U.S. citizens can vote in federal elections.
investment and high skilled labor to enhance its economic progress, while protecting its sovereignty and limiting foreign interference. Migration in general and immigration in particular have thus been incorporated into its legislative and judicial frameworks all along, providing Mexico with an extensive legislative immigration experience.

Evident in Mexico’s first colonization law of 1823, was the significance placed on immigration as a foundation for progress. With this law Mexico tried to attract foreign investors and workers capable of enhancing Mexico’s industrial and agricultural potential by providing land and financial incentives to them. This policy was not without its biases, however, some of which were directly related to a fear of more foreign invasions or further land encroachments by U.S. settlers. These biases led to the country’s first anti-immigration law—The Law of April 6th 1830—aimed specifically at excluding U.S. citizens, forbidding Anglos from becoming citizens of Texas.

As a result of Mexico’s struggle to balance the aforementioned economic and sovereignty concerns, many of Mexico’s current restrictive immigration have long historical foundation. For example the Guerrero Law of 1829 and the Constitución of the Seven Laws of 1836, set the precedents for Article 27 of the Constitution of 1917—still in effect today, albeit having been legally circumvented—which placed stringent restrictions on the ownership of property by foreigners and the Roman Catholic Church and declared land and mineral resources a national patrimony. Also, today’s Constitutional Article 33 by which the executive is given full discretion with regard to the expulsion of any foreigner deemed to be a threat had its origins in the Constitution of 1857. This article also limited their freedom to participate in the political process.
The link between immigration and progress had its height during General Porfirio Diaz’s dictatorship (1876-1910). Diaz’ efforts to encourage European immigration were intensified not only to attract investment, but also to “whiten” or enhance the culture and educational values of its Indian race, which was considered an obstacle to modernization. Although Diaz’ administration advertised Mexico as a land of unlimited opportunities for immigrants and even lifted ownership restrictions on subsoil resources, etc., the “whitening” project failed. Numerically immigration remained small in numbers and even today it only registers .5% of the country’s total population.

Mexico’s struggle to craft its national identity, exemplified in its revolt against Diaz’s administration, led to the gradual closing of its borders. After the Revolution of 1910 the various governments that followed began an attempt to realign the country’s priorities by focusing on its own people as a source of growth. Avoiding external influences while negotiating the power of the state, the government’s focus shifted to establishing a semblance of social stability. One of the most significant legacies of the Revolution is the Constitución Federal de 1917 (Federal Constitution of 1917), which remains in force today, though with many reforms. This Constitution is said to be quite “atypical” in comparison to that of most countries (Vargas, 2007a), as it outlines the rights and obligations of extranjeros (foreign individuals) and includes a series of provisions forbidding them from engaging in certain activities, obtaining certain types of employment, e.g., in high level government offices, and even from exercising and enjoying the constitutional rights known as “Individual Guarantees” that protect Mexican nationals. Among these restrictive articles are the aforementioned Article 27 and Article 33. Yet another example is Article 123, which guaranteed workers the right to collective
bargaining and strike, but made an exception for foreigners or immigrants, specifying that preferential treatment was to be given to national workers.

Despite a period in the 1960s where Mexico experienced what some called its “economic miracle,” by the end of the decade unemployment rates were rising and immigrants were seen as a labor threat with the potential to take jobs from Mexicans. As a result, by 1973 Mexico’s doors were almost completely closed to newcomers, who only qualified for temporary visas, and these were granted primarily to wealthy retirees, tourists and students. Obtaining permanent work authorization became nearly impossible.

As Mexico’s economy worsened, the economic and political conditions clearly implied that the dynamics of Mexico’s future demographic and economic development now depended on the government’s ability to provide employment, education and health to a growing population. It was with this realization that as opposed to foreign immigration being the solution to the country’s woes, trade and foreign direct investment were now proposed as the answer. Meanwhile immigration laws and regulations became formally perceived as tools of vigilance and control. This focus was officially expressed in Mexico’s main immigration law, the General Law of Population of 1974—Ley General de Población of 1974—which stipulates that those allowed in the country must contribute to the country’s national economic progress and be financially solvent. This focus remains a priority today, as evidenced particularly by the signing of various trade agreements with several other countries including those of the Asian region, as well as NAFTA with Canada and the U.S.

As the various legal restrictions implemented throughout Mexico’s history remain incorporated Mexican immigration law, albeit some exceptions, they have become a
focus of U.S. policy makers and anti-immigration advocates promoting further restrictions in the U.S. Together with migrant advocates looking out for the rights of Mexico’s most recent flux of immigrants—Central Americans crossing the southern border on their way to the U.S.—the inconsistency of its immigration policy vis-à-vis the government’s request for emigrant rights from the U.S. are highlighted. This environment has motivated Mexico to make some adjustments.

9.1.1 Contemporary Mexico: Today’s Pursuit of Reform

As Mexico continues its process of government reform, initiated in 2001 as it held its first free elections in over 70 years, it has demonstrated genuine attempts to incorporate transparency and greater openness. Along with the many economic, educational, health and energy reforms that President Calderón’s administration is pushing through, Mexico is also grappling with the reform of its immigration policy. It is seeking to make it easier and more attractive for “beneficial” immigrants to invest, work and retire in Mexico, while improving the country’s human rights image with respect to less educated and economically stable immigrants, mainly Central Americans.

Mexico’s last two administrations have openly acknowledged the complexity of its migration situation, while recognizing, at the same time, that the country’s policy is selective, restrictive and outdated. Accordingly, Mexico has been promoting the need for policy and legislation that would go beyond the issue of flows and border security to address in a more comprehensive way this multidimensional nature of its migration situation, inclusive of its economic, cultural, familial and social aspects. To this end, Mexico’s Immigration Commissioner Romero Castillo (2008) has emphasized that
Mexico’s overall policy is one of “friendly but secured gates”. Consequently the government since 2001 has engaged on a series of incremental changes. It has not only eased the entrance restrictions for qualified immigrants and their families, particularly for businessmen and investors, but has instituted several legislative, programmatic and institutional changes—from revised standards for migrant detention centers to the creation of programs designed to assist migrants making their way across Mexican territory, such as the Grupo Beta and the Officiales de Protección a la Infancia or OPI’s. The country’s most important legislative change took effect in July of 2008 with the reform to GLP Articles 118, 119, 124, 245 and 127 that decriminalized illegal immigration and made it an administrative infraction as opposed to a crime punishable by jail. This particular reform was motivated in great measure, by Mexico’s desire to enhance immigration reform deliberations with the U.S.

In response to the pressure the U.S. has exerted on Mexico with respect to the porosity of its southern border, Mexico has come up with a more comprehensive plan for this area—the Southern Frontier Program—which, in general terms, makes its aim the ease of flows between countries, increased human rights protection and border security, along with improvement of the region’s material and technological infrastructure. As part of the overall plan, new guest worker programs with Guatemala have been established that call for the issuance of new biometric visas for guest workers from Guatemala and Belize. Mexican officials view this program as a concrete example to the U.S. of how a well run guest worker program can be successful, a concept Mexico wishes to promote between its nationals and the U.S.
Most significantly, Mexican INM officials are currently (2008-2009) working on a draft of a comprehensive immigration law that would stand independent of the Constitution of 1917 and the General Law of Population. This new law intends to incorporate Mexico’s complex migration reality while aligning its policies to the relevant international conventions the country has ratified. As this new policy is being drafted, Mexico’s policies continue to be largely restrictive. Internal security controls across national territory have been intensified and despite the social programs established to aid the less fortunate migrant (i.e. Grupo Beta and OPI) human rights violations are a constant. Also, and as mentioned above, the Mexican Constitution of 1917 containing provisions forbidding foreigners from occupying legislative positions—even if they are naturalized citizens—and limiting their involvement in certain political activities even though this is a Garantía Individual (an individual guarantee), is still in effect.

9.2 DOES CIVIL SOCIETY INFLUENCE THE IMMIGRATION POLICY PROCESS?

In the February 15th, 2009 issue of Mexico City’s *El Universal*, Mexican political analyst Ana María Salazar stated unlike most democratic countries in times of crisis, in Mexico, government and civil society have not developed the “alliances needed to become the political and social leaders facilitating the necessary consensus.” On the contrary, she argues that the differences between the various sectors of the state needed for the recovery process are deepening (Salazar, 2009). Salazar correctly highlights that despite the defeat of the authoritarian PRI regime in the 2001 elections, Mexico’s political culture continues to reflect the impact of the former regime. Moreover, Mexican nationals continue to show limited interest in political participation, they have little
confidence in government in general, and in the ability of the individual to make a
difference in particular. Opinion research shows that Mexicans have a far more negative
view of government than their U.S. counterparts. In the year 2000, only 20% viewed their
Congress favorably as compared with 80% of Americans perception of their own.
Moreover, despite the fact that since the 1980s there has been a definite expansion of
independent organizations in Mexico, the overwhelming majority continue to have a
limited participation in policy formulation.

Although Salazar’s assessment of limited civic awareness and the continued need
to breach the significant differences between societal actors is correct, this research has
confirmed positive trends with regards to the state-civil society relationship on migration
issues. With the electoral defeat of the authoritarian PRI regime in 2001, which, to some
extent, restored faith in the fairness of elections, there are indications both of a
developing relationship and a refusal to give up. The examples set forth in this research
support the argument that civil society has played a significant role in the development of
those laws and regulations which support the process, as well as in the generation of
social awareness regarding the migration issue in Mexico.

Along with the extensive governmental reforms that Mexico has been
experiencing, the Mexican people have also engaged in a reorganization process to
promote their particular interests. This research has shown that the Mexican people have
been working in conjunction with the government to create institutional and legal
avenues by which civil society can become engaged in policy development,
implementation and oversight. Specifically, the Ley de Transparencia (Law of
Transparency and Access to Public Information) its implementing institution Instituto
Federal de Acceso a la Informacion (IFAI), have brought pressure to bear on government institutions to provide information as requested. The Ley de Fomento (Law of Enhancement) is a direct result of civil society participation in the state’s agenda setting process, and the Ley General de Desarrollo Social (General Law of Social Development) actually requires the participation of civil society organizations in independent evaluations of social policies. These laws have in turn laid the foundation for civil society to participate in immigration policy development.

Civil society has demonstrated resourcefulness in terms of both organizational and networking capabilities despite limited funds. Their use of the media and the internet to disseminate information is a prime example. Civil society has participated in various stages of public policy development in Mexico—from agenda formation and definition of the issue to dissemination of information regarding the policy issue. The state has invited civil society organizations to join high level immigration consulting forums, Consejo Consultivos, and has established civil society liaison offices within their departments (INM, SEGOB, etc.). State officials have gone so far as to deliver proposals developed by civil society on occasions when civil society was unable to participate directly in international forums, as in the case of SEGOB’s RENAPO and Sin Fronteras (see Chapter 7). Moreover, this research confirmed that the initiative to engage civil society in policy dialogue often starts with the government itself who seeks their participation. At the same time, more and more civil society organizations have curbed their antagonistic behavior towards the government without renouncing their political independence or vigilance. Changes to federal and state regulations and programs have also come about as a result of the dialogue process with civil society. Worthy of reiterating are the creation
of centers to protect immigrant women and children in Chiapas, the previously highlighted “e card” and GLP reforms that decriminalized illegal entry.

Much remains to be done, however, even in the face of many obstacles. Despite the positive signs highlighted here, this research does not in any way intend to downplay the challenges discouraging civil society participation. In other words, although the spaces and opportunities are available for migrant civil society engagement, the institutionalization of the state-civil society relationship on migration policy is hardly complete.

Together with the continued selectivity and restrictiveness of Mexican immigration policy, it is corruption and the resulting disrespect for the law that gets in the way of our ability to argue not that the state-civil society relationship exists or that it has achieved some individual successes, but that the relationship has been solidified or institutionalized. Thus, as the state-civil society relationship takes two steps forward, corruption causes it to take one step backward.

9.3 THE FINDINGS: SCHOLARLY AND GLOBAL IMPLICATIONS:

Only recently has society begun to attempt to influence immigration policy and only very recently, as a result of the issue’s increased saliency worldwide, have both actors begun to define their priorities with regard to immigration. These observations apply not only to the state-civil society relationship in the developed world, but, as illustrated by the Mexican case, they can be applied to the developing world.

As argued here the state-civil society relationship as it pertains to immigration policy in Mexico gained momentum in the 1990s as the issue gained saliency—a result of
Mexico’s relationship with the U.S. and its desire to improve its image. This momentum occurred along the lines of the argument that migration advocacy in the developed world has been strongest when addressing human rights issues and illegal immigrants (Thouez, 2004). Most of the reforms implemented in Mexico, from the recognition of the concept of refugee to decriminalization of illegal entry, have been motivated by human rights concerns. By contrast, concerns regarding the restrictiveness of the law as it affects legal immigrants who are better educated and wealthy are not raised as often or with such vehemence. Such restrictions are generally highlighted in academia or in the international media.

In its attempts to attract beneficial elements—chiefly Westerners with education and financial status—while restricting the entrance of non-beneficial elements—refugees, low income and politically motivated foreigners—Mexico’s legislative experience with immigration over time demonstrates that developing countries are affected by the interdependence of the various factors involved in the migration process set forth in Freeman and Birrell’s (2001) comparative categorizations: logic of the markets, logic of rights, and state and its capacity logic. Hollifield’s (1992) factors governing the immigration phenomenon—sovereignty, citizenship, labor and humanitarian issues—are also evident.

According to the “logic of the markets,” Mexico’s policies have been motivated by a need to attract not only foreign investment (fideicomisos, for example), but a need to ease visa restrictions of businessmen from APEC member states. The Mexican case exemplifies in particular the “segmented labor market theory” so often applied to developed receiving states. In the case of Mexico, the state and employers turn to
immigrants when unable to find local labor, even directly participating in their
recruitment and initiating or facilitating their movement.

As for the “logic of rights,” Mexico has responded favorably to the rights of
Spanish asylees in the 1940s and Jewish refugees after WWII—despite strong opposition.
When faced with the Central American refugee crisis in the south, the status of refugee
was added to the GLP. Per the “state and its capacity logic,” the Mexican state has
managed its population flows with strong centrist involvement and control, which,
according to Hollifield (1992), is a matter of the state’s claim to the legal right to do so.
Otherwise its legitimacy would be threatened. Historically, the Mexican state has had full
authority to determine who enters, stays, or nationalizes, and even to determine who
poses a threat to its political and economic stability. This authority is exemplified in the
restrictions on individual rights outlined in Article 33 of the Constitution, an article
ratified on the basis of Mexico’s prior experience of violations against its territorial and
political sovereignty. Article 33—and others (Article 55, limiting legislative positions to
Mexicans by birth, for example)—restricting the types of activities that foreigners can
participate in while in Mexico also exemplify the “Legacies of Nationhood” perspective
posited by Mexican scholars (Bazant, 1991; González Navarro, 1993; Romero Castilla,
2006; Yankelevich, 2006; Vargas, 2007a). Because Mexico continues to be aware of its
vulnerability to international forces (see Chapter 1), Mexican law has an inherent
“hierarchy of citizenship,” which differentiates between foreigners, naturalized
Mexicans, native Mexicans of native parents, and native Mexicans of foreign-born
parents.
The continued selectivity and restrictiveness of Mexican immigration policy is not in accordance with the many official statements made by the Mexican state—Mexico’s 2005 Message on Migration to the U.S., for example—or its claims to uphold the rights of all individuals per constitutional provisions and some of the more recent legislative reforms. In this respect, the Mexican case has demonstrated the applicability of Cornelius et al.’s (2002) “gap hypothesis” (see Chapter 1), whereby it responds as a country of immigration in its attempt to balance international security pressures with domestic concerns. In other words, the gap between many Mexican policies—including official statements and actual outcomes on the ground can be understood from two perspectives. First, strict policies aimed at restricting the flow of illegal immigrants, i.e. internal border patrols, continue to be implemented despite an awareness of the humanitarian violations associated with their implementation. To complicate matters, controls at the southern border itself remain loose. Secondly, restrictive regulations applying to legal immigrants—particularly the educated and wealthy—are often circumvented even despite legal measures, as in the case of the “fideicomisos.”

Moreover, even when perhaps the “right” policies and regulations are in place, they are easily ignored. This problem serves to “benefit” foreigners who need not concern themselves with what the laws states regarding an extension of time, employment, or even purchase of property in a given country. People and government officials merely look the other way. There is another side of ignoring a positive law, however, namely that which allows for the perpetuation of human rights violations. Such is the case with decriminalization of illegal entry, which has been said to have the intent of preventing criminal elements—inclusive of police—from threatening illegal immigrants with jail
time. An inherent problem in Mexico, this lack of respect for the law is not easily addressed. Recommendations are enumerated below.

9.3.1 The Findings’ Comparative Implications

To help place Mexico’s immigration experience within a global context, this research compared Mexico to Spain and Italy, two historical countries of emigration presently experiencing immigration. By comparing and contrasting these situations, relevant factors affecting the state-civil society relationship with respect to migration policy were brought to light. Such factors as international pressures (security issues), regime type, and internal politics (economics), for example, were highlighted. This is not to say, however, that a single model or a set group of actors dominate the state-civil society relationship across countries. To the contrary, there is much variation, as each state tends to have its own approach to any given issue. Nevertheless, the comparison has shown that the state-civil society relationship with respect to immigration is influenced by the salience of the immigration issue, the existence or lack thereof of appropriate channels of communication and participation, the level of independence enjoyed by civil society, and the type of government in power. In addition, the Catholic Church was highlighted as one of the key actors in the migration policy dialogue process, though hardly the only representative, in all three cases.

Today, Mexico, Spain and Italy are reformulating their immigration policies. As they do so, civil society participation in the process has had mixed results. While civil society’s participation in the dialogue process in Mexico and to a lesser extent in Spain is evident and has achieved some important results in terms of actual regulatory and policy
reform and implementation, to the participation of civil society in Italy has been more temporary and limited.

The significance of regime type and internal politics in Mexico is also underlined by the comparison of the Spanish and Italian cases (see Chapter 8), where the effectiveness of the state civil-society relationship in all three cases has varied according to the type of government in place. The Mexican case illustrates civil society’s legitimating function in a democracy. Although civil society existed in authoritarian Mexico, after the country held its first democratic elections in 2001, civil society made even greater advances in policy advocacy. In Spain, the relationship was significantly enhanced by the collapse of Franco’s dictatorship and the subsequent establishment of democracy. In the Italian case of a long established democracy, the quality of this relationship has been directly affected by the party in power. Under left center governments, the relationship has flourished, whereas it has been virtually nonexistent when the government is right centrist.

All three situations highlight the impact of immigrant perception on immigration policy. According to the polls referred to in Chapter 8, nationals tend to have a negative opinion of immigrants, fearing that they will take their jobs and that they are directly linked to a rise in crime. The Italian case in particular confirms what other studies have shown: politicians and political parties are concerned about the long-term effects that immigrants, particularly immigrants from the developing world, will have on national security, identity, language and culture, even if they are in the country legally (Cornelius, 1995). This is especially apparent in the strong opposition to immigration from Italian nationals that has resulted in highly restrictive policies. Mexico’s legislative history in
general and Article 33 of the Constitution in particular have demonstrated this concern right along. Although acts of discrimination and xenophobia are undeniably present in all three countries, they are currently being expressed with greater intensity in Italy than in Spain and Mexico. When public opinion is negative, the policy response is likewise negative. It is largely for this reason that Italy’s migrant civil society has been unable to influence policy in recent years, despite having a Catholic party within its system of government.

As the E.U. pressures Spain and Italy to close their borders and the U.S. pressures Mexico to do likewise, their policies have become more restrictive. Neither Spain nor Mexico has taken this to the lengths that Italy has, and, not surprisingly, the civil society dialogue has had greater impact in Spain and Mexico than in Italy. In Mexico’s case, it is largely a desire to improve its image with the U.S. that has served as the impetus behind progress toward protection of migrant rights and a more humanitarian and comprehensive immigration policy.

In chapter 8 the following questions were posed: What accounts for the assessment that civil society in Mexico appears to have had more legislative achievements than in Spain and Italy? And, how is it that some civil society organizations, Sin Fronteras and Casa Migrante, for example, have gained official participation in the dialogue process? The patterns emerging from the comparative analysis indicate that it may just be it is independence from direct state manipulation that allows Mexican civil society to express itself more effectively. An additional advantage in the Mexican case has already been pointed out, namely the country’s need to reinforce
its image as a democracy. According to official reports (SEGOB, 2007), the Mexican state sees the participation of civil society as a vital factor in doing so.

Thus, Mexico demonstrates in several ways that many of the observations made with regard to immigration policy and the actors involved in the developed world are also applicable to receiving countries of the developing world. The Mexican experience also makes it clear that civil society is gaining ground in terms of advocacy in migration policy—again, not only in developed countries, but in the developing world.

9.4 CONCLUDING REMARKS:

Although Mexican immigration policy has demonstrated continuity in its restrictive and selective tendencies over time—favoring economically beneficial elements, intensifying its internal inspection sites, and more—change is undeniably taking place. This change is largely motivated by international pressures and a determination to improve the country’s image, particularly in the eyes of the U.S, as well as by the pressures brought to bear by civil society, particularly in relation to human rights concerns. In this respect, Mexican civil society has thus far been an important and active participant in the process. In a statement made by civil society in its aforementioned Citizen Agendas report (2007), civil society actors made it clear that they view their proposals to the state and their general intent to work with government as futile without a willingness and commitment on the part of the local, state and federal government. They are of the opinion that the state needs to expand resources and improve training, the Legislature must refine the law to increase opportunities for participation, and the judicial branch must fulfill its constitutional responsibility by ensuring that the
law is enforced and that those who violate it are punished accordingly. Meanwhile they are cognizant, as they further state, of their own responsibility as civil society actors and of the need to compromise in their “demand” that the state pay attention, follow up and respond to society (2007, p. 66). Thus, much of what they propose is no more than a simple demand for government itself to obey the law and to protect and promote the civil rights of association, free expression and security, the political rights of participation in public life, and social, economic, cultural, and environmental rights. The progress of the state-civil society relationship is contingent upon Mexico’s response to this appeal.

Roberto Gutiérrez, Director of the Humanities and Social Science Department of the University of UAM-Azcapotzalco, aptly identified just what it is that must transpire in order for the state-civil society relationship to advance. His observations must be taken seriously not only for the sake of immigration issues, but for all aspects of Mexican life at a time when the current (2009) economic crisis is exacerbated by an unprecedented drug war between the state, society and the criminal element and all the progress made thus far is in jeopardy:

In a country like ours which in recent years has made significant advances toward a consensus that makes it possible to define procedures and the establishment of institutions regulating access to power, it is necessary to bolster—within the various social and institutional segments of the country—the inclusion and/or adoption of notions of tolerance and respect for the rule of law, plurality and solidarity, and of rational dialogue, responsible participation and negotiation, all of which are vital to a democratic order. (SEGOB, 2007)
Although this is no simple feat, the legal framework necessary is in place. The Law of Transparency is a great tool that needs to be taken advantage to its fullest by all sectors of the Mexican community. Also, the significance of the Law of Enhancement cannot be underestimated but it potential needs to be enhanced by the establishment of liaison offices or coordination mechanisms in all relevant agencies and institutions. Liaison units with the federal legislature might be set up, for example. The federal government must also ensure that the above laws are replicated and enforced at the state and municipal levels. As of 2008, only 7 of the country’s 32 states had passed their own version of the Law of Enhancement.

As for law enforcement and the associated obstacles, this research has recommended that civil society become more directly involved in the training of INM officials regarding human rights and changes made to the law (see Chapter 7). Such efforts must be extended beyond INM officials to include officials at the local level and local police. As pointed out earlier, this recommendation was put forth by civil society itself. It is often correctly pointed out that Mexico’s judiciary needs to be improved and strengthened. Although pay increases would likely make it easier for officers to resist bribes, corruption and disrespect for the law must be tackled more broadly, as it is more than an institutional problem. Addressing the problem must begin with sensitivity programs in elementary schools. Because civil society organizations have taken responsibility for the very articulation of shared norms and values, advancing a common understanding of civic awareness, and spreading the message in Mexico, the state must enhance and support this vital undertaking by including such articulation efforts in its basic education programs.
Mexico has demonstrated the conviction necessary to move forward and establish a comprehensive policy on migration. It has adopted most international conventions on human rights. INM is currently working on a plan that would coordinate all phases and categories of Mexican migration and has taken on a leadership role in regional migration dialogue, as, for example, in the case of the Puebla Process (Citizen Agendas, 2007). As Mexico pursues this path, the state must take into account the continued importance of incorporating civil society at all stages of the process. In doing so, it must take into consideration the lesson learned from Puebla Process, namely that the “collective efforts of governments and civil society organizations are often more effective in addressing specific grass roots problems related to the large migration issue than independent efforts” (Duschinsky, 2000, pp. 4-5).

In conclusion, the openness of Mexican immigration policy has gone through periods of ups and downs with restrictions peaking in the ’70s and evident even into the 21st century. Today, as Mexico continues to update legislation to bring it into alignment with its current situation as a country interested not only in attracting favorable immigrants, but as a country of emigration, transit and return migration, civil society, too, is engaged in this process—particularly through dialogue and exchange of information and expertise. Within this environment of reform, Mexico’s state-civil society relationship will continue to be tested in 2009-2010, as INM presents its comprehensive plan for immigration reform and the Obama administration pursues its own ideas of immigration reform. Mexico may indeed have a fresh opportunity to renew its advances for U.S. policy reform, and as it does so, this will provide fertile ground for the state-civil society relationship to be further tested and strengthened. The impact of this all important
relationship on both Mexican emigrants and immigrants to Mexico will be of particular relevance.
APPENDIX

INTERVIEWEES

Government Officials

1. Carlos Anaya Moreno, Director of the National Population Registry, 
   Secretary of the Interior (Secretaría de Gobernación), Mexico City, Mexico
2. Ana Guadalupe Correa Torres, Legal Director, National Population Registry, 
   Secretary of the Interior (Secretaría de Gobernación), Mexico City, Mexico
3. Ernesto Rodríguez Chávez, Center for Migration Studies, National Migration Institute (Instituto Nacional de Migración), Mexico City, Mexico
4. María del Carmen del Río Yelni, Director General for Legal Affairs, National Migration Institute (Instituto Nacional de Migración), Mexico City, Mexico
5. Katia Somohano Silva, General Coordinator, National Commission for Refugee Aid (Comisión Mexicana de Ayuda a Refugiados), Mexico City, Mexico
6. María Luisa García Hernández, Assistant Director, National Commission for Refugee Aid (Comisión Mexicana de Ayuda a Refugiados), Mexico City, Mexico
7. Lucía Cruz Vásquez, Chief of Information, Diagnostics and Research of the Oaxacan Coordination on Attention to Migrants (Coordinación Estatal de Atención al Migrante Oaxaqueño), Oaxaca, Mexico
8. Edmundo Ramírez Martínez, Institutional Revolutionary Party Congressman and Committee Secretary and Coordinator of the Committee on Population, Border and Migration Issues (Diputado Federal, Secretario de la Comisión de Población, Fronteras y Asuntos Migratorios), Mexico City, Mexico

Civil Society Organizations

1. Fabienne Venet, Director, Sin Fronteras (Without Borders)
2. Father Cruz Montes, Director of the Orientation Center for Migrants of Oaxaca (Centro de Orientación del Migrante de Oaxaca, A.C.), Oaxaca, Oaxaca
3. Father Flor María Rigoni, Director of the Tapachula Casa del Mirante (Migrant House) of the Scalabrini Network, Tapachula, Chiapas
4. Father Solalinde Guerra, Coordinator, Catholic Pastoral Care Center for Migrants (Pastoral de Movilidad Humana Pacífico Sur del Episcopado Mexicano), Director, Brothers On the Path Shelter (Hermanos en el Camino)
5. Gustavo Esteva Figueroa, Director, Center for Intercultural Meetings and Dialogue (Centro de Encuentros y Diálogos Interculturales, A.C.), University of the Earth (Universidad del Tierra), Oaxaca, Mexico
6. Cynthia Kaplan, Vice President, American Society, Mexico City, Mexico
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