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# REVIVING NORTH AMERICA: INSTITUTIONAL APPROACHES TO REGIONAL MIGRATION POLICIES

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## INTRODUCTION

When Mexico, the United States and Canada debated NAFTA, the North American Free Trade Agreement, the issue of migration was left off the negotiation table. Too difficult to include, some argued. Too many political and social passions, others claimed, could scuttle the entire trade and investment plan.

Today, over a decade later, we are ironically committing the same mistake. This time, however, we have inverted it. We are in the midst of a trilateral debate on migration and crossborder mobility, but seem unwilling or unable to connect the issues directly to the North American framework that provides an overarching rationale for increased trade, investment and exchange. So removed from the legislative arguments and policy debates on migration is the vision of a North American community that one needs not be too skeptical in asking: Is the concept of North America even relevant to debates about migration?

The purpose of this paper is to examine how a North American perspective may be relevant to current issues involving migration and crossborder mobility. This is not a paper that reviews the by now all-too-familiar proposals on current migration. Rather, the goal is broader and more comprehensive. Regardless of which side of the policy and legislative issues one supports, and even despite which side "wins," from a North American perspective the challenge of migration and crossborder mobility will persist. People build small fences to address particular problems; they build large, 700-mile fences when they believe they have no choice. The relevance of a North American perspective to current and continuing debates must be, first and foremost, to search for a range of choices and alternatives to fences, temporary worker programs, and divisive, socially-wrenching proposals designed as much to polarize as to gain broad support.

The paper, therefore, will not dissect the competing views on migration and attempt to reconcile them in a new synthesis to support yet another policy proposal. Too much hype and spin already passes as policy advocacy. Rather, the paper is organized as a set of challenges and questions, raised here to generate debate about new ideas and approaches specifically among the Symposium participants who have gathered to examine the migration issue.

For that reason, following the Symposium, the author will host a 30-day online discussion of the points raised in the paper and during the conference. Participants are invited to send their comments, new ideas, evidence, etc., to the author who will distribute them to

Symposium participants for discussion and subsequent inclusion in a report on the Symposium.<sup>1</sup> Your participation in the discussion will not involve arguing with the author – that's not the goal. Rather, the North American Institute's (NAMI) intent is to revive a relatively dormant discussion of the viability and value of a North American regional framework.

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## DIFFICULT CONVERSATIONS

All three countries have borne a huge cost from an excessive, overwhelming preoccupation with immigration and immigration politics. In a way, we have spun ourselves into a political black hole in which all matters are pulled irresistibly toward that particular issue, only to disappear into confusion, chaos, and nothingness. Virtually nothing escapes the negative energy. A once-in-a-century calamity of epic proportions occurs in New Orleans, for example, and the struggle to recover the economy and community gets pulled into the politics of whether Mexican workers should be allowed to help rebuild. Canada and the United States collectively search for and monitor terrorist

threats that could easily damage all three countries, and immigration politics threaten those efforts by turning debates into accusations about who is more tolerant of cultural diversity and more serious about our collective safety.

Perhaps that is one reason why a North America vision itself has virtually disappeared from political, if not intellectual, discourse. The focus on migration has actually diverted attention from other things that need to be done to make North America prosper. At a time when Mexico's public expenditures funded by tax revenues drop from 7 to 4 percent, leaving insufficient resources for public investment in education, research and infrastructure, analysts and policymakers appear preoccupied with the billions of dollars of migrants' private remittances that do little yet to compensate for Mexico's deeply-damaged economy. At a time of increased need for cooperation on natural resource sharing and competitive edges against global competitors, the United States and Canada continue to fail to find common ground on soft lumber negotiations, expanding sufficiently a border infrastructure to support a trucking-based supply chain, or a number of other outstanding items on the binational agenda.

In a sense, the three partners have lost their way. Whether that was due to the events and response to the 9/11/01 attacks or not, as many argue, is only worth debate here if somehow we believe that terrorism will disappear and we can all go about our business as usual. It would also presume, incorrectly, that the problems facing North America emerged only after and because of the 9/11 events.

Unfortunately, the troubles facing North America as an integrated region, and the role and contribution of migration within it, have been gathering for years before the terrorist attacks. Almost immediately after passage of NAFTA, for instance, signs emerged that Mexico and Canada should have, and did, identify that indicated the United States was becoming increasingly concerned about the integrity of its borders and thinking about it as a matter of national security. Under the sponsorship of House leadership that specifically labeled its interest in migration a national security concern, the U.S. Congress passed a bill in which so-called Section 110 put Canada and the United States on a collision course on how to manage its shared border. From 1996 onward, the path was set, despite protests from Canada, to seek increasingly to document travelers across the border. The reaction to 9/11 accelerated efforts to create a new entry-exit program, bolstered by favorable recommendations from the independent 9/11 Commission, and to implement the new U.S. Western Hemisphere Travel Initiative.

Mexican officials also were forewarned, although some may have misinterpreted the trend. Not long after the 1998 U.S. elections, for instance, two senior Mexican officials visited the U.S. Immigration and Naturalization Service to express their government's dismay over the announcement that border enforcement activities would continue to spread along the border into Texas. "Now that the election was over," they said, wasn't it time to step back from such activities? Despite the misreading of political intentions in the United States, the lesson was still learned. In a speech just this month<sup>1</sup>, former Mexican Foreign Minister under President Fox, Jorge Castenada, said that one reason for the Fox Administration's migration initiative in 2000 was their realization learned earlier in the 1990s that the United States could someday close its border. The Mexican government wanted to lock into an agreement that would ensure that, despite such possibilities, their workers would continue to have access to jobs inside the United States.

Current political discourse may also have missed another, albeit different sign. Some observers believe that the U.S.-reaction to 9/11 cut off interest and commitment to crossborder exchange. As early as two weeks after the attacks, however, U.S. leaders issued Homeland Security Presidential Directive 2 (HSPD-2) calling for a restructuring of border and immigration controls, but doing so in ways that did not harm economic mobility, especially with Canada and Mexico. The Directive signaled a continued, long-term commitment to North America which subsequently helped to give birth to a new trilateral format for regional discussion and development, the Security and Prosperity Partnership for North America (SPP). The SPP includes discussions of the movement of people, through both temporary and permanent channels.

Migration, however, has become a difficult topic of conversation for North America – in large part, it seems, not because of its own making but because of the myriad economic, social, political and cultural issues with which it is intertwined. North America is deeply divided politically, socially, and economically, both between the three countries and perhaps more importantly inside each of the members. In each country, for instance, historic struggles exist between the relative power and autonomy of states or provinces and their respective central government. Debates about the benefits and costs of migration to each state or province will undoubtedly be caught up in these larger disputes over federalism. In each country, the electorate is so sharply and evenly divided that federal elections have been decided not only on razor-thin margins, but in ways that have rattled the institutional integrity of the electoral systems. There should be no surprise in such an atmosphere that immigration debates will also become embroiled in the various divisions and antagonisms that underlie popular discontents.

Between countries, the divisions can be even deeper. According to one Canadian observer of U.S.-Canada relations, the country is

evenly split. "As a rough approximation, one-third of Canadians are favorably predisposed to the United States, one-third are knee-jerk opposed to the U.S., and the remaining third can go either way, depending on the issues."<sup>2</sup> President Fox's recent comparison of the U.S. Congress' decision to build hundreds of miles of fencing between the two countries to a new "Berlin Wall" expresses the insult that many Mexicans feel because of the action. But it also attaches a symbol to the Congressional action that is quite offensive to many in the United States who have worked for decades to rescue thousands and perhaps millions from behind that wall.

Popular and academic discourse over migration has also not helped to explain the issues either. At first glance, a newcomer to the migration debate would think that researchers, policymakers, journalists, and commentators are either looking at very different things or openly fabricating stories and results. All in the same discussion, for example, immigration can be a burden on an economy, an unheralded boon to productivity, or frankly not much of a contributor one way or another. Migrants can be a drain on social services; apparently at the same time they can also be indispensable contributors to financial stability of public programs. Immigrants can be the cause of cultural revitalization and a source of decline to established community identities and stability. Immigration promises social mobility for many households and individuals and, at the same time, a cause of family disintegration. Migrants can be a supply of vibrant, young workers and an astonishing source of crossborder disease transmission. Immigration can be the cause of political and social turmoil and simultaneously a stabilizing influence on diverse ethnic communities.

Our habits of debate on migration tend to polarize perspectives and arguments on one or the other side of many of these issues. In doing so, they prevent an appreciation of the complexities of the impacts associated with crossborder mobility. In an environment such as North America that is deeply divided by a wide range of social, political, and economic dimensions, a focus on average effects or aggregate, net costs and benefits obscures the diverse impacts of migration. Lack of appreciation of the diversity of impacts serves to prevent acknowledgement of the credibility of different sides of the political debate.

For example, migration can and does simultaneously have a positive impact on some employers and a negative impact on others. Households may, at the same time, prosper by remittances from workers abroad and so restructure their activities that they become a family of elderly and the young fully dependent on what happens to the breadwinner who lives most of the year far from home. Immigration can and does have positive impacts on local economies, saving jobs for local residents and providing labor that keeps employers thriving. Simultaneously, these same migrants may send their children to school, require multi-lingual services, suffer illnesses that require emergency health care, and have problems with car insurance, housing conditions, and myriad other social problems. With roughly half of immigrants from Mexico who have arrived in the last ten years earning incomes substantially below the poverty line in the United States, the local communities and residents may also end up paying directly or indirectly for many of the related social costs. Although difficult to reconcile and perhaps admit, it is often possible that aggressive opponents on different sides of the migration issue are actually both partially correct.

Perhaps the most damaging feature of the discourse on migration within North America, however, is the frequency with which analyses and policy prescriptions allege that current trends, pressures and impacts are simply "inevitable" and, therefore, compel a particular course of action. At the outset of the NAFTA debate, analysts and policymakers argued that it was inevitable that, with time, open trade would reduce the wage gaps between the three countries and sharply reduce the levels of crossborder migration. Some have also argued a "demographic inevitability" -- differences in age structures between Canada and the United States, on the one hand, and Mexico, on the other, makes migration a necessary and inevitable outcome. Still others point to the reduction in the birth rate in Mexico and the declining number of new entries to the workforce as an inevitable sign that migration pressures will wane in the future. In a 2001 report, Mexico's National Population Council argued that "[m]igration between Mexico and the United States is a permanent, structural phenomenon. It is built on real factors, ranging from geography, economic inequality, and integration, and the intense relationship between the two countries, that make it inevitable."<sup>3</sup> This language of inevitability, however, is one that limits policy choices rather than expands them. It tends to limit debate and discussion rather than foster them. It is particularly troublesome because an appeal to inevitability eliminates public and private responsibility and accountability for policy choices made and not made.

#### IS NAFTA STILL A RELEVANT FRAMEWORK FOR MIGRATION?

Although governments have gone to great lengths to proclaim NAFTA a success, across the three country region results have been mixed and modest at best. Nobel Prize winning economist, Joseph Stiglitz, described the situation very clearly: "If any trade agreement were to be a success, it should have been the one among Mexico, the United States, and Canada... Instead, more than ten years later, it is clear that NAFTA has not succeeded. While it has not been the disaster that its critics predicted, neither has it brought all the benefits that were claimed by its advocates."<sup>4</sup> Despite NAFTA's mixed performance, debates about migration within North America have not adjusted beyond initial predictions of how the regional plan would affect population movements.

Following the lead set by the U.S.-Canada Free Trade Agreement in 1988, NAFTA anticipated and allowed for an increase in movement of people who would closely follow the expanding crossborder business transactions. Business personnel were allowed to move with few restrictions. These personnel included “visitors for business,” traders and investors, professionals who met certain educational requirements or credentials, and intra-company transferees. In the years following the agreement, the movement of these specialized persons increased as expected, although some research suggests that trade flows and business personnel movement increase together regardless of whether two countries have signed a trade agreement or not.

The allowance for movement of business personnel and some professionals involved in managing companies' services clearly divided the North American migration system between skilled and unskilled workers. From the outset, the free movement of business personnel and professionals also had its critics. Debate in Canada, for example questioned whether the open movement of professionals would trigger a “brain drain” of knowledge-based workers. Others argued that the migration of professional and managerial workers was fundamental to successful economic integration and that U.S. professional and managerial workers would begin to migrate to Canada. Even at that early moment in NAFTA's history, the primary question concerning migration was whether and to what extent population flows would become sufficiently complementary to create benefits for the entire North American partnership.

The answer to the question, however, has had more to do with the low wage and unskilled segments of the crossborder labor flows. The core promise of NAFTA, and perhaps its most controversial, was that North American integration would reduce the pressures on future low wage migration. According to classical trade theory on which NAFTA was founded, trade and migration work as substitutes. A country where labor is abundant and inexpensive, like Mexico, had the option of exporting either labor-intensive goods or its workers. By enabling Mexico to increase the exports of goods and receive U.S. and Canadian investments to help produce them, NAFTA would bolster the Mexican economy, improve its employment opportunities, and reduce the pressure on outward migration. The prediction was clear. Regional integration would close the gap on wages between U.S. and Mexican wages. As wage levels converged, the incentive for migration would decline and the volume would diminish.

This “expectation of convergence” became the centerpiece of a NAFTA-organized regional integration strategy, even if it was implied as opposed to explicitly negotiated. Yet, convergence, it was soon realized, could take more time than generally anticipated. According to one analytical approach, the convergence of wages, job opportunities and other economic differentials could take from 15 to 30 years to have an impact on levels of migration. In the interim, migration could actually accelerate. Nevertheless, at the end of the cycle, the core assumption was that convergence would ultimately reduce the economic and even social differences between Mexico and the United States and relieve the migratory pressures in this segment of the emerging regional economy.

After nearly 15 years, faith in this expectation of convergence remains a strong premise of migration policy discussions. Recent Mexican government migration proposals, for instance, rest firmly on the belief that existing demographic and economic imbalances are bound to converge in the next generation or so, which will take care of much of the underlying migration pressures. Before entering political office, former Mexican Foreign Minister, Jorge Castenada, even proposed a Mexican strategy for development that relied heavily on those sectors of the economy and population that were converging with the United States the most. Those who were benefiting from convergence with the United States, he wrote, included both the export business sectors and the hundreds of thousands of migrant workers who crossed the northern border each year.

Mexican officials have not been alone in their faith. Throughout the post-NAFTA decade, successive commissions in the United States – official and self-appointed – relied on this expectation of convergence to draft policy prescriptions. Current taskforces and study groups continue to rely on similar macroeconomic trade and investment expectations and policies, derived from the original NAFTA impulse, to influence the future course of migration flows throughout the crossborder region.<sup>5</sup> President Bush, for instance, still calls free trade agreements “good immigration policy,” arguing that liberalization will improve the economies in the migrant-sending countries and reduce the “push” factors that foster unwanted migration. As workers' employment opportunities improve at home, he argues, they will be less motivated to migrate. Of course, others rush to add that such presumably positive impacts will likely not occur for a generation or two.<sup>6</sup>

Optimists about NAFTA point with pleasure at the success of NAFTA and the fulfillment of its expectations in the dramatic increases in direct foreign investment in equipment and property, and trade among all three North American partners. Trade with Mexico and Canada accounts for almost one-third of total U.S. trade, exceeding trade with the European Union and with Japan and China combined. Canada and Mexico are also now the two largest exporters of oil to the United States. Canada alone supplies the United States with over 95 percent of its imported natural gas and 100 percent of its imported electricity. Crossborder mobility also remains vibrant and largely undisturbed. The borders between Canada, Mexico, and the United States will be crossed almost 400 million times each year.<sup>7</sup>

The primary bright spot for trade-based expectations for migration clearly rest in the large increase in remittances that migrants employed abroad send home. Although remittances were always anticipated from crossborder labor flows, the sheer volume of the transactions has surprised most observers. Reaching into the tens of billions of dollars annually, the sheer size of the aggregate flow has made migrant workers one of Mexico's leading exports. Like the concentration of exports in particular sectors, the increasing linkage to the U.S. job market has made portions of the Mexican population highly dependent on demand in the United States. One of five Mexican households, for instance, depends on wages earned in the United States. The risk of the United States shutting its border to migration has huge potential consequences for the well-being and even stability of large segments of Mexican society.

In light of these positive outcomes, some analysts argue that the overall mixed performance under NAFTA is not due to the failure of the design but to the inability to fully implement it. One set of U.S. commentators, writing in The Wall Street Journal, describe the challenge as follows:

"The problem with the debate on immigration is that it has so far looked at just one side -- ours. Somehow, for political or other reasons, Mexico has escaped scrutiny. And yet we are suffering for Mexico's myriad of economic sins. Our part in creating the immigration mess is that we built a society filled with opportunities but surrounded it with a porous border. Mexico's part is that it has failed to produce enough growth, despite massive wealth. The solution is to open the borders even wider -- but open up Mexico, too. If Mexicans can come here, let our capital and ingenuity invest there freely. President Fox, tear down that investment-restriction wall!"<sup>8</sup>

### ALTERNATIVE VISIONS

As Stiglitz and others have concluded, the problem facing the NAFTA vision as it relates to migration is that the old storylines and expectations have not matched performance. The gap, though, is not only related to NAFTA. Trade and development analysts in general have begun to shift their perspectives and evaluations of the prospects of all free trade agreements, including NAFTA. Yet, many migration analysts and the policy debates have not kept up. The old road maps for how regional integration will affect migration are no longer totally accurate and what might be needed is not a new chapter to add to the NAFTA story, but a whole new book.

The source of this rethinking goes beyond the classical predictions of trade and migration flows. The global context for such predictions has changed. Initially, trade and migration theory responded to the struggle in the 1980s to use neoliberal, macroeconomic policies to boost economies long strangled by decades of inward-looking protectionist economies, crippling debt, and failed policies enforced by strong authoritarian governments. By opening countries to the world market through liberalized trade, relaxed rules on private, foreign investment, and improved management of financial accounts and monetary flows, the strategy aimed to drag countries out of these political-economic stalemates to stimulate growth and raise standards of living. NAFTA's heritage lies deep in the structural adjustment policies imposed by the International Monetary Fund (IMF) in the 1980s in response to Mexico's massive foreign debt. As a model of fiscal responsibility, the goal was to slash government expenditures, rollback public regulation, and open the country to foreign goods, services and capital. The guiding vision was trade more, spend less.<sup>9</sup>

To the extent that these pre-NAFTA strategies depended on authoritarian political regimes, the opening also had beneficial political consequences. For a while, the decades of economic stagnation and political repression that had plagued much of the Americas finally gave way to the market-led reforms that appeared to foster aggregate economic growth. Most welcome of all, the Hemisphere struggled towards democracy. By the late 1990s, nearly every country in the Hemisphere had celebrated successful democratic elections, including Mexico.

From across the globe, however, the 1990s witnessed a growing critique of the free trade development paradigm. While increased trade and investment helped to stimulate aggregate economic growth, they also led to and reinforced deepening inequality. An excessive emphasis on fiscal restructuring also created barriers to sustained progress. Far from tendencies for regional integration through trade to lead to convergence, economic expansion unfolded alongside of sustained poverty, worsening social conditions, labor market dislocations, and political weakness and corruption. As these problems mounted, the model also impeded commercial exchanges and undercut the growth rates which remained its primary target. Aggregate economic growth could occur at the same that it generated huge population displacements with corresponding increases in social, economic, and human perils.

The World Bank and other international financial institutions (IFIs) began to recognize these problems and identified a wide range of factors that were holding back anticipated economic growth. In January 2001, for instance, the Bank formally acknowledge that in contrast to expectations of trade-led growth "economic and social stability and human security [had become] pre-conditions for

sustainable development.”<sup>10</sup> These preconditions include “the state’s role in protecting its borders from external threats and its role in ensuring ‘human security’ for its citizens under the broader umbrella of human rights... every person is entitled to be free of oppression, violence, hunger, poverty, and disease and to live in an clean and healthy environment.”<sup>11</sup>

The acknowledgement of preconditions for growth invited a reorientation of perspectives and policies toward global migration as well as development in general. As the IFIs’ increasingly recognized that earlier predictions of economic growth were falling short, they directed attention to a broad set of institutional conditions that had to be achieved before a country could reach sustainable growth and increases in well-being. Unlike the neoliberal model of NAFTA legacy, the new agenda required development of human and social capital through broad-based strategies of social inclusion, including greater popular participation in economic and political decision-making. Increasing the participation of women in the economy and polity, for instance, both increased the rate of economic growth and the duration of its expansion. It also required consolidation of democratic gains beyond formal adherence to electoral mechanics. The Bank also called for increased investments in reducing poverty, hunger, and disease as preconditions for successful and sustained economic growth.

New research emerged that showed that differences in growth rates were directly and indirectly linked to a variety of institutional deficiencies, including a weak commitment to the rule of law, education, and health promotion. Contrary to the regional frameworks rooted primarily in trade and investment policies, sustainable growth was influenced by efforts to reduce social disorder and conflict. Broad-based popular participation in government decision-making was actually good economic policy.

Perhaps most importantly, this new approach directly challenged the “expectation of convergence” that formed the core of the NAFTA regional framework and, with it, the shape and logic of migration policies. The challenge extended to the premises of classical trade theory and its predictions for migration trends. Research showed that in the new global economy, rather than convergence, existing productivity differences across countries exacerbated initial inequalities and differences. Those sectors and areas with initial competitive advantages were able to expand their edge. The better off benefited even more, leaving those with less to fall further behind. With capital and skilled labor scarce in high-productivity sectors, skilled people moved to those areas where their counterparts were already plentiful. The concentration of relatively scarce capital and skilled workers in these areas meant that governments had to be careful to take steps to successfully compete for them. In the United States, the result has often been policies designed to reduce the social costs of growth and migration on local businesses and to keep consumption costs and taxes for skilled workers at a modest if not minimal level. Low wage workers and their communities, in contrast, were in much less demand. The social costs related to health care, public infrastructure, and schooling were left for them to absorb on their own.

This challenge to the expectation of convergence undermined one of the pillars of migration policies in North America, especially in the United States. Traditionally, social policy and measures of social protection have been regarded as obstacles to efficient commercial and labor exchange and economic growth. The strategy of economic growth has been an “equity-economic growth” trade-off, in which macroeconomic policy is determined first and social policy is left to address the social consequences. In migration policies, the primary goal has been and continues to be to maintain and expand the flow of workers across borders. The consequences of that flow are left for social policies, which typically take the form as after-the-face compensation schemes attempting to make up for market failures.

Recent U.S. proposals, for example, have explicitly included impact assistance to states and localities, implicitly acknowledging the costs of immigration to these local communities. Like previous immigration policies designed in the 1980s to compensate for the costs of legalization of migrant workers, however, anticipated compensatory payments rarely reach over time anywhere close to the levels included in the promise. For the migrants themselves, the compensation also comes afterwards. Current debates about earned legalization, for example, offer a form of compensation – one might even call it reparations – for years of lack of rights, low wages, and unrecognized contributions to local economies and communities. By the early 21<sup>st</sup> century, frustration and opposition had grown against this convergence paradigm which fostered overall growth and movement, only to generate huge problems that then required compensation for hardships already lived.

A new institutional approach emerged from these broad research and policy challenges that focuses as much on the capacity of institutions, social inclusiveness, health infrastructure, the rule of law, and education as it does on investments, trade rules, and visa programs and allocations. The shift, of course, does not deny the importance of growth of commercial exchange. In fact, research shows that where these institutional strengths exist, economies have grown faster and longer than where there are weaknesses. The conclusion is that these issues more typically thought of in the realm of social policy are precursors and even preconditions for commercial and labor exchange. The United Nations Development Program, for instance, has stressed that the links between trade and development are not automatic. They need specific political attention to connect investments to viable social institutions.

The inversion of priorities and sequence, of course, opens up a wide range of possibilities and problems. Although NAFTA has shown some of the ingredients of a powerful strategy to increase wealth, it has not generated an adequate social policy of institutions, rules, and social norms through which nations and peoples work together against persistent problems and unjust inequality.<sup>12</sup> Certainly very little in the realm of social policy has emerged to support economic transactions, including labor flows, that cross international borders. NAFTA may even have already created huge obstacles that will make the search for new social policies and institutional preconditions for growth that much more difficult. For instance, NAFTA has consolidated and legitimized structural adjustments policies that may have already deeply damaged the regional social infrastructure, exacerbated and entrenched income inequality, left the impoverished with less help and fewer alternatives, and destroyed the public's ability to defend itself against the impacts of trade liberalization. Privatization, a key to neoliberal growth strategies, helped to slash government expenditures, but it also cut existing safety nets and eliminated job alternatives. With shrinking alternatives, aggressive growth plans accelerated the pace of economic and social disruptions without generating the jobs to which displaced peoples could relocate. Exposure to transnational labor markets did not overcome these vulnerabilities for the migrants or their households. Few of the benefits and protections that a domestic labor market had previously offered its citizen workers, aided by public expenditures, were made available to transnational workers.

NAFTA-led reforms helped to produce many of these problems. During the 1990s, economic power became highly concentrated inside Mexico, while the economy failed to generate jobs in the formal sector that would offer workers benefits. Agricultural reforms embraced the massive dislocation of traditional farmers, while in urban areas labor laws and reforms that, at one time, were priorities of new Fox Administration were abandoned. The terms of NAFTA also forced the premature opening of markets that often results in critical volatility and subsequent crises and failure. Whether in the banking sector or in agricultural land reform, volatility in developing markets produces extreme hardships that those least able to protect themselves or adapt bear the brunt. In turn, the volatility undermines confidence and the willingness to participate in further economic and political reforms.

The consequences of these reforms also set the parameters of policy options on cross border affairs, including migration. The development strategy accepted, in virtual silence, the nature of structural adjustments that produced huge labor displacements, chaos and hardships among Mexican low-wage workers. The strategy accepted the social consequences to poor families and the intrinsic pressures that made it unlikely that many households could sustain employment and family life inside Mexico. One result was that it placed the burden on the workers themselves to move thousands of miles to connect with employers. Families and individuals who least could afford it became dependent on the vagaries of economic conditions and employer practices in far off towns and communities. Impoverished families and the working poor experienced increased health risks, family dissolution, and even physical risks to participate in these abruptly enlarged job markets. As rapidly expanding demands and needs outstripped the legal limits regulations of these transborder labor markets, unauthorized migration and human trafficking put individuals at great physical risk and challenged weak national institutions to find ways to rescue, protect, and respond to vulnerable workers on both sides of the borders.

The fragility and weakness of democratic institutions account for many of the problems in this transnational labor market. Mexico continues to struggle to consolidate its new democratic gains. Whether sustained outmigration remains a crucial safety-valve for popular discontents or reinforces decades old neglect of authoritarian rule, the inability of Mexican institutions to address the plight of migrants and potential migrants remains a critical test for itself and for North America as a whole.<sup>13</sup>

Weak political institutions are only part of the new storyline. Deep and persistent inequality, lack of social cohesion, exclusionary policies and social conflict all help to undermine NAFTA's promises of growth and improved well-being. For example, academics much more comfortable and use to analyzing the sources of economic growth have begun grudgingly acknowledging that the absence of social cohesion in a country, measured by income inequality, ethnic fragmentation, and weak institutions, have a direct causal impact on poor growth and unsustainable growth.<sup>14</sup> A country's social cohesion is essential for generating the confidence and patience needed to implement reforms: citizens have to trust the government that the short-term losses inevitably arising from reform will be more than offset by long-term gains. The inclusiveness of a country's communities and institutions (e.g., laws and norms against discrimination) can greatly help to build cohesion. On the other hand, countries strongly divided along class and ethnic lines will place severe constraints on the attempts of even the boldest, civic-minded, and well-informed politician (or interest group) seeking to bring about policy reform. The strength of institutions is affected by the degree of social cohesion.

Economic growth can also not be sustained under conditions of institutional unfairness and lack of transparency. Corruption, which is known throughout the world as the result of lack of transparency in public decision-making that results in unfair private gain, is a fundamental threat to the capacity of economies and governments to increase their populations' well-being. Yet, in the United States and Mexico, the sustained employment of unauthorized, immigrant workers are both ignored and implicitly accepted. Popular immigration policy discourse proceeds as if these conditions – whether legal or illegal – do not seriously damage the institutions of market economies and democracies. It tolerates public policies that continuously reproduce these harmful circumstances.

Even the value of migrants' remittances may exacerbate inequalities and vulnerabilities because there are few options available to these workers. The connections that markets produce – for example, those between employers and workers and banker and borrower -- when they are built on inequalities of influence and wealth may increase vulnerability and reproduce disadvantage and lack of opportunity.<sup>15</sup> Several of the current migration proposals reinforce the dependence of workers in Mexico on long-distance migratory journeys to gain work and their wages to remit home. In doing so, they reproduce and expose migrants to the vulnerabilities and exclusions inherent in either an illegal market or a contract labor scheme.

At the core of this institutional challenge, however, is the development of a fundamental mismatch between the social and political institutions that organize migrants' lives and livelihoods, and the ways in which they have organized their own communities on a crossborder, transnational scale. Families, workers, and communities – much like the businesses that had earlier under NAFTA reorganized to be regional – now routinely experience their lives across borders. No political or institutional framework exists, however, that help them be more effective, overcome barriers, gain greater access to public decisions, or represent them in all aspects of their lives. To a large extent, these transnational communities have become disenfranchised. Efforts to create overarching regional policy mechanisms ignore issues related to the interests and participation of transnational communities. Transnational communities do not fall into any government's assistance or development program, primarily because their activities crossed borders and no one singular political jurisdiction had responsibility. The costs of economic integration, in the end, are borne by the transnational families and communities.

### SHIFT TO AN INSTITUTIONAL FOCUS

The current "intellectual blueprint" for North America – created by NAFTA and its expectations – is deeply rooted in the difficult public policy debates and popular divisions over migration. For many, the options on migration policy now appear fixed, compelling, and even inevitable. Scholars have long recognized the problem, however, when too much confidence is placed in the virtue of markets. It leads to unrealistic expectations and neglect of social prerequisites for economic success. Markets are not 'natural,' but depend on the creation and maintenance of a complicated infrastructure of laws and institutions. "It is a dangerous delusion," one noted historian observes, "to think of the global economy as some sort of 'natural' system with a logic of its own: It is, and always has been, the outcome of a complex interplay of economic and political relations".<sup>16</sup>

The need to open up discussions to this "complex interplay of economic and political relations" is the starting point for new thinking on migration policies. Perhaps the most developed, cutting edge policy idea for migration within North America is the repeated and largely ignored call for economic development in Mexico. The most frequent form of this idea is some sort of an "investment fund" for Mexico, which is modeled loosely after the European fund provided to Spain as part of its integration into the European Union. For others, an investment fund is already in the works through the de facto, laissez-faire distribution of billions of dollars in remittance income. Mexicans, in a sense, are earning their own investment fund. As useful as the issue of funding will be, the critical question, however, is what will such a fund do and who will decide? If NAFTA is the model, the expectations for success are mixed at best.

The critical question for North America is more about governance and political institutions than about dollars and pesos. In the debates on migration in North America, however, the issue of governance remains a silent, unwelcome guest at the policy table. The reason is that we have not found, among the three partners, ways to constructively engage necessary reforms in Mexico without appearing and, frankly, reinforcing older notions of Yankee imperialism and intrusion. Even Canadian and U.S. relations remain rooted in formal mechanisms of statecraft, dominated by the respective foreign affairs departments. North America needs to find ways to build strong institutions or mechanisms of governance that involve popular participation. As former UNDP President, Mark Malloch Brown has argued, "politics is as important to successful development as economics. Sustained poverty reduction requires equitable growth - but it also requires that poor people have political power. And the best way to achieve that in a manner consistent with human development objectives is by building strong and deep forms of democratic governance at all levels of society."<sup>17</sup> These institutions will go far beyond proposals for an institutional structure for North America that relies on formal annual summits between the three governments.

In searching for these new institutions, the connections between democracy and migration are fundamental. According to one Mexican scholar, Mexico embarked on a new migration initiative in 2000 aimed at addressing conditions in the sending regions only after overturning the one-party monopoly that gripped the Nation's political power.<sup>18</sup> These connections, however, have been largely ignored. Part of the reason, as highlighted above, is the predominance of neoliberal models of economic development and their neglect of institutional capacities. Institutions were, for the most part, viewed as barriers to economic growth strategies. Democracy, however, is tied to human development, which in turn is a precondition for economic growth.

Democratic institutions affect migration by creating the possibilities to connect the problems that potential emigrants face to the capacity of states to reach political solutions for them. In many migrant-sending countries, increasing frustration at the lack of opportunities and high levels of inequality, poverty and social exclusion is expressed in a loss of confidence in the political system and a crisis of governance. People migrate because they lose an ability to seek and find solutions at home. The denial of democracy in these migrant-sending societies has reached a point in which many governments and even some analysts believe there are no choices left.

Democratic institutions require increased accountability. States must take responsibility for the choices made, and those denied.<sup>19</sup> Democratically-induced responsibility for migration has not been the subject of the regional consultations that have taken the first steps toward institution-building in the Hemisphere. Mexico's largely peaceful transition to democracy, however, offers promising lessons. Since leaving his post in government, former Mexican Foreign Minister, Jorge Castenada, has argued that that the "democracy challenge" still confronting his Nation requires the success of two primary internal reforms.<sup>20</sup> First, Mexico has not been able to consolidate its democratic gains beyond an initial free election and remains under the "rule of order" rather than the rule of law. Institutional reforms are needed, he argues, to strengthen the judicial system, create a national police force, and change laws related to basic property and personal rights. Second, Castenada also calls for fundamental reform of Mexico's education system – a core pillar of human development. Mexico lags behind other countries in Latin America in education and could use a reformed system to become more competitive economically. Institutional reforms in both areas, he notes, are so fundamental to the Mexican political economy that they will require extensive legislative action and even constitutional change.

Until these institutional reforms are undertaken, Mexican citizens will continue to be "compelled" to leave Mexico, as Mexican President Vicente Fox has phrased it. The persistent pressure on Mexican outmigration is not a simple result of inevitable job shortages, but the failure to consolidate a democracy with institutions and policies that could offer alternatives. Without a focus on these internal reforms, Mexico's policy priorities of seeking "open borders" with the United States remain as much a recognition of its own democratic failures as it does a tactic to promote economic growth.

Even today, in Castenada's testimony before the U.S. Congress in support of current immigration reform proposals, he cautions about the need to mobilize democratic institutions on both sides of the border: "[I]f there is no cooperation from the source country on either a guest worker program, or an earned regularization scheme, I cannot see how the US on its own will be able to deal with the enormous operational complexities involved. ...Mexico has to be made to play its part in ensuring that whatever system is set up becomes the single avenue for people wanting to go to the US to work. This means that as a part of the bargain, the Mexican government would have to undertake an obligation to ensure that orderly and legal movement across the border becomes the norm, and that measures are taken to dissuade people from going differently."<sup>21</sup>

The burden of democratic reform is not Mexico's alone. Rather, it is the core challenge facing North America as a community. The focus of the following three sections is to begin to examine areas of institutional reforms that, as precursors and even preconditions of commercial and labor exchange, would increase the likelihood of sustained economic productivity, stabilize the well-being of migrants and their communities, decrease the risks associated regional integration, and broaden popular participation and inclusiveness. More importantly, though, each area of discussion underscores the challenge to building effective crossborder, regional institutions that, in working together, will begin to solve problems that the three countries can not remedy separately.

#### HEALTH – PRECURSOR TO COMMERCIAL AND LABOR EXCHANGE

If there is one set of institutional precursors for regional integration that requires a North American approach, it involves the requirements and needs related to migrant health. Public health infrastructure is clearly one of those areas where a broader North American approach would be more beneficial than single national efforts. In fact, given the transnational character of disease and migrant communities, it is unlikely to be adequately addressed unless it has a North American character.

Far from efforts to first create a labor market, then subsequently to try to compensate the migrants for their troubles, the current situation underscores the risks and general weakness of such promises. Currently, Mexican immigrants have health insurance coverage in the United States at about half of the level of the average of the total resident population. Migrant workers living in agricultural worker camps face even more vulnerability. According to one researcher, "It's well documented that farm workers suffer high rates of fatal and nonfatal work-related injuries and illnesses, but 70 percent of laborers hired to work on perishable crops in California lack any form of medical insurance." Not surprisingly, the mix of low wages, no insurance, little access to health facilities, and physically hard work increases the occurrence of repeated injuries.

The neglect of this institutional foundation for a migrant labor system leads to social conflict with local communities, even when residents want to be supportive, and with existing policies. The debates and political outcries about the costs of health care services for immigrants and their impact on health infrastructure continue daily. Many hospital officials and lawmakers say that the cost of providing uncompensated care to people from Mexico places stress on facilities that already face overwhelmed hospital staffs and a growing patient population. Los Angeles Supervisor Mike Antonovich once proclaimed, in reaction to the large number of immigrant patients, "Los Angeles County cannot be the HMO to the world."<sup>22</sup>

Unlike the preoccupation with changing the volume of migration, however, the contribution of health promotion among these migrants to the success of North America has been strangely ignored. Current debates over legislative proposals are all noticeably silent on health infrastructure, regardless of which other elements they advocate. Yet, investments in health conditions have long been recognized as a precondition for economic growth and commercial exchange.<sup>23</sup> Investments in the collective health efforts of the world's ports, for instance, have played a crucial role in the development of commercial flows for at least 200 years. Harbor surveillance and the sanitation of big cities have been a required precursor of trade transactions. Other than laws sanctifying private property, the promotion of public health has likely been the single most important contributor to the acceleration and sustainability of the movement of goods and people through viable commerce.

Crossing borders in North America carries a particular health risk challenge. From accelerating rates of infectious disease transmission to fears of bioterrorism, continued failure to act together across borders threatens the well-being of the binational economy. Today, the impact on the economy of ignoring health risks is already profound. Rising health care costs for small and large businesses, lower worker productivity, and burgeoning fiscal burdens all strained local economies. Disease risks are also widening beyond traditional at-risk groups, crossing the artificial barriers of international boundaries, social divisions and residential separation.

Not surprisingly, as the United States recently turned to plan for a potential pandemic influenza attack, border activities took on primary importance. While acknowledging that border screening could be valuable, it also recognized that regulations enforced there would be insufficient. Controlling borders only slows the spread of health problems. The U.S. plan expanded desired action beyond the borders and embraced the value of a North American approach to both prevention and response.<sup>24</sup> The National Strategy for Pandemic Influenza, released in May, 2006, confirms an understanding of health and borders long appreciated, but too often ignored. Effective institutional strategies and actions require participation of governments, communities, and programs working comprehensively together across borders.

Efforts to integrate health programs across borders, however, are likely to proceed at a much slower pace than the consolidation of consumer and commercial markets.<sup>25</sup> Health care and services have all the attributes of market failures that create numerous problems and barriers to integration. Rules are uneven, benefits are unequal, social costs are left unpaid, and workers and families remain uncovered.

Barriers to crossborder integration of health systems are, of course, not surprising given the heterogeneity among the North American countries. U.S., Canadian and Mexican health systems differ in their structure, financing and basic coverage of social groups, and the desirable levels of regulation in the private market. The result is that even the two most advanced economies, Canada and the United States, do not have reciprocity agreements concerning health services. The differences create large gaps in coverage for those on the move. When Americans travel, for instance, they must contract additional coverage before leaving the country. Americans visiting Canada, and Canadians in the United States are not easily eligible for coverage in either system.

Countries with similar health systems are, of course, more able to develop health reciprocity agreements. For example, Australia and New Zealand guarantee reciprocity to citizens from both countries, providing public health services to their citizens even when temporarily or permanently staying in the other's territory. Yet, differences between neighboring countries do not necessarily obstruct crossborder health cooperation. Peru and Chile, for example, have reached limited reciprocity agreements for low wage migrant workers. The Chilean National Health Fund (FONASA) provides free services to migrant workers, notably in the northern areas. Peru, in turn, provides Chile with less expensive medications. Chile also offers medical coverage to Peru's migrant workers in recognition of their contributions to the local economies.

Despite a long history of border health planning, including over sixty years of binational health commissions, the United States and Mexico have only begun to work on initiatives that would improve migrant workers' access to health programs. Binational tuberculosis tracking systems show promise, for example, but they are riddled with difficult, bureaucratic complexities requiring interagency coordination and uncertain funding. Exchange of information is about as far as recent efforts have gone. Several private health corporations and a few local unions have taken steps to open access to the Mexican health system for migrants living and working in the United States. Private health insurance programs can fairly easily extend across borders and could offer an important overall coverage for workers and families who move across borders and simultaneously live on both sides.

Much more could be done if the integration of health programs received more attention. For rather than an additional cost, or in the absence of action a source of burden on local taxpayers who pay for unreimbursed emergency services, migration programs that required health coverage as part of their framework would ensure productivity, decrease inequality, reduce opposition, and prevent the spread of disease. New technology could greatly facilitate crossborder health coverage and manage more effectively the appropriate distribution of costs. For instance, privately or publicly financed systems could offer to cover citizens and resident workers wherever they live and work by using advances in electronic health records. Admittedly, it took years of struggle for European governments to agree to using new technologies for health care, the electronic systems now available could link with new documentation that is already become machine readable throughout North America. Integrated, electronic systems could more effectively and efficiently administer health services and cost reimbursements for a crossborder migration system than the alternative proposals of building a large, migrant worker tracking system.

Effective cross-border health programs face a generic, structural challenge to all efforts to build regional institutions. The ability to organize and work across borders requires a governance structure that poses some of the most difficult problems for a North America, crossborder system. In this case, the challenge results from an "institutional mismatch" caused by the lack of alignment between health risks and exposures, and the organizational and jurisdictional limits of institutions of health care. Health care entitlements are national in nature, the responsibility of each government to take care of the "general welfare" of its own people. Yet, in a regional community where people and families live on both sides of the border, and their health is clearly linked to environments and activities on each side, this national responsibility is misaligned with what people need and the way they organize their own lives. Institutional authorities that define eligibility for service and decide on the availability of resources are rooted in government jurisdictions which do not have the capability or even obligation to respond and serve cross-border community members.

Without a North American effort to integrate programs across borders, this institutional mismatch between jurisdictions and communities, quite simply, is a form of structural disenfranchisement and disempowerment. Which government, for example, represents a community that has part of its members inside one State and part in another? To which institution does a community as a whole turn or petition for help if the institution itself does not cross the border and have authority to work on both sides. In the U.S.-Mexico binational region, for example, the two governments have radically different approaches to public health. Under the Mexican Constitution, public health is a federal responsibility and the primary policy decisions are made by officials in Mexico City, in some cases in the state capital, but seldom at the local level. In the United States, public health is a state responsibility, often with authority for decision-making situated legally with county officials. The result is fragmentation of authority and responsibility, overly complex and complicated organizational structures, and non-responsive public authorities. Local communities, officials, and business people are stymied by distant or disjointed capabilities and perspectives.

A North American solution is clearly the best way forward. Migrants would have access to a supra-national system or systems that provided care – preventive and remedial – in ways that matched their patterns of work and residence. The barriers to such reforms are not economic. Rather; they involve the weakness of systems of governance and the resulting inability of governments to address the inequality, social disorder, and conflict that lack of health coverage creates. The weakness exacerbates the disenfranchisement of immigrant workers and the communities in which their families live, and it is this lack of participation that fuels discontents about their presence in receiving neighborhoods. A successful, regional healthcare infrastructure, however, would create a solid foundation for sustained productivity of health workers, provide access to care and distribute the costs appropriately, reduce the perceptions of unreimbursed medical expenses to local communities, and improve the well-being of migrants and residents alike.

## LABOR INSTITUTIONS

If integration of health systems across borders appears particularly difficult and slow, any suggestion to align labor systems among the

three countries may seem quixotic. Like health systems, vast differences exist among the three NAFTA partners in terms of their protection of workers' rights, labor standards, and the capacity and willingness to enforce labor law. Significant differences also exist in the transparency and integrity of labor markets in each country. As difficult as these differences are, however, the need to make progress in this area of institutional weakness is evident. Former Mexican President Ernesto Zedillo inadvertently described this need when he responded to critics and protestors of Mexico's efforts at trade liberalization. Critics, he wrote, "seem determined to ignore the fact that, frequently, the alternative for those workers is extreme rural poverty or a marginal occupation in the urban informal sector of the economy, where hardly any labor rights can be made effective..."<sup>26</sup>

Current immigration policy debates are notably silent on issues related to labor rights throughout the region – even though the primary reason for many of these proposals is labor market related. Part of the reason may be that the prominence of contract labor systems in the current proposals redirects attention from labor conditions and rights to the visa categories and mechanisms which will allow workers to travel back and forth. Yet, the central lesson from contract labor programs attempted previously in North America is that the crucial issues are not how to organize the flow of people across borders, or in which categories under immigration law these workers should be processed. These are technical details that, like the complexities of trade and investment negotiations, may become exceedingly complex in their details, but are not the core of the policy initiative. The lesson, quite simply, is that a contract migrant labor program is less about the migration and more about the contract. Previous policies have been notorious for crafting programs without adequate attention to labor rights and standards. The results are not necessarily bad migration programs, but weak, unenforceable, and unsustainable contracts.

The central importance of labor rights as an institutional precondition of the regional economy is perhaps best seen in the dramatic comparison of the Mexican and Canadian situation. Despite earlier efforts to reform the dismal state of labor rights in Mexico, the Mexican government has been largely unsuccessful in achieving reforms and has recently become embroiled in institutional battles in highly visible and contentious labor battles. Migrants leave with a sense of a tradeoff between informal sector jobs with few labor protections and official antagonism toward efforts to improve their protections, and the promise of better conditions in the United States. In contrast, the Canadian contract labor program, though small, is touted as a successful system for providing full protections to foreign workers. It provides perhaps an unachievable model for advocacy for a much larger labor system in the United States that promises protections but has only a weak institutional capacity to achieve them.

The weakness of labor institutions and its core significance for migration policies are particularly evident in the persistent dilemma over illegal migration, human trafficking, and smuggling throughout the region. The "dirty little truth" in the North American migration system and hidden in policy debates is the well-documented privilege that employers and wealthier segments of local communities enjoy because of the workplace and living conditions of illegal migrant workers. Employers benefit from the uneven and unfair competition that hiring these workers provides, compared to those who do not violate the law. Even the local household that hires an illegal worker for informal jobs prospers from lower wages, no benefits, and the workers' vulnerabilities. Authorities acknowledge this privilege, but accept its 'inevitability.' Some academic researchers also argue that these circumstances represent a "structural necessity." Rarely, though, do they proceed to point out that the "necessity" appears to be a systemic privilege embedded in illegality, violation of community norms and rules, and dependent upon authorities not enforcing duly-enacted laws.

Recent policy debates also show how this systemic privilege and disadvantage can become part of a process that erodes popular support for political institutions.<sup>27</sup> Recent proposals for a new contract labor program, for instance, reflect how otherwise strong political opponents have made common cause through deals and carefully crafted publicity to protect and expand the well-documented and illegal privileges now enjoyed by specific groups of private sector employers. Yet, this privilege occurs at the expense of the basic needs of workers and the vulnerabilities of their families and communities. The deals are cast, however, as "essential" mechanisms and the migrants as "essential" workers to promote regional economic growth.

An element of this political weakness in Mexico and the United States involves the fairly explicit recognition by many policymakers and analysts that the institutions required to make new migrant programs work simply do not have sufficient capacity. They are also unlikely to develop it in the short to mid-term. U.S. immigration agencies, for instance, have admitted that they could not handle the processing requirements of many of the new proposed programs. They could also not conduct sufficient compliance checks or enforcement of the legal requirements of the labor initiatives. Despite an institutional context that is known to be inadequate, both sides of the legislative debates persist in pushing plans that assume and require effective and efficient performance.

In another case of compensatory social policy, workers in the new contract programs would be allowed to change employers and take their case to the courts in situations of abuse or violation of contract rules. Yet, the likelihood of complaints is small and the likely compensation minimal. Rather than seek redress, migrant workers are much more likely to move on, leaving abusive conditions behind,

because they still require an employer's cooperation and job offer to remain in the United States. This persistent inequality is a universal problem with the institutional arrangements of temporary worker programs.<sup>28</sup> One could envision the emergence of an entirely new business sector of temporary work agencies, some legitimate and others underground, that would be willing to "hire" migrants who can not find a job but do not want to go home.

The weakness of labor institutions is also evident in the social and cultural exclusion that accompanies them. It is a rare program that does not generate more social dislocation, cultural isolation, and broad opposition. Countries that appear to favor contract labor systems are those that find value in segregation and separation of foreigners from the native population. Although current political discourse frowns on reviving images of earlier migrant labor or bracero programs, one individual's memory describes the possibilities well: "Growing up in the rural San Joaquin Valley in California in the early 1960s, I remember hardworking, but not happy, braceros. No one considered them "guests" at all, but rather more like helots — a permanent class of serfs in the fields that the public neglected, the employer exploited and other workers resented."<sup>29</sup> "In fact," he goes on, "almost every bad immigration stereotype we have today of both Mexico and the United States — corrupt Mexican officials, hard-nosed American contractors, labor camps and exploited workers — crystallized during the bracero era."

The unsustainability of the current migrant labor system, rooted in widespread acceptance of illegality, is not solved by another effort that does not first and foremost address the preconditions for workers' rights, advances in labor standards, and enforcement of fair and mutually beneficial employer and employee relations. None of the current proposals for migration reform approaches the problem from this North American direction. One strategy appears intent on punishing workers by lowering their living conditions to the point where they will be induced to return home. Another asks workers who have been contributing productively for years to work even longer to earn their ability to stay at their place of work. Already, however, even this more generous option has problems. Policymakers are already backing away from the initial promises of compensation for workers and whether they will receive the benefits or not remains an uncertain future.

## SECURITY

A third area of institutional preconditions for an effective North American approach to migration involves security. Although the search for a new institutional framework for security within North America began long before the events of 9/11/01, recent efforts have accelerated the process of creating a common security perimeter for the northern cone of the continent. "Like free trade a decade ago," writes the Independent Task Force on the Future of North America, "a common security perimeter for North America is an ambitious but achievable goal that will require specific policy, statutory, and procedural changes in all three nations."<sup>30</sup>

The model for this perimeter-based, security cone is NORAD, the U.S.-Canada integrated defense institution created during the Cold War to monitor potential attacks from the air on the Northern reaches of the continent. As a binational institution, NORAD has been extremely effective. On 9/11/01, for example, a Canadian was the ranking officer inside the Colorado headquarters of NORAD and could have ordered into action the air defense systems of both countries. With similar binational intentions, the U.S. military after 9/11 created a new regional command – NORTHCOM – to craft an umbrella defense structure around the continental approach to the United States. Although efforts to incorporate Canadian military authority into this regional institution are proceeding quickly, desires to include Mexico have so far met with only mild reciprocal interest.

The immigration policy objective within this perimeter defense strategy is relatively straightforward. Any terrorists attempting to gain access to continental North America should be equally deterred and prevented from entry regardless of which of the three NAFTA partners they try. Some observers even argue that free trade agreements in the future should contain security provisions that would require the trading partner from outside North America to take steps to organize, monitor and impede anyone trying to breach the continental perimeter without proper authorization.<sup>31</sup> Trade partners would also be expected to cooperate with North American authorities on immigration enforcement targeting human trafficking, smuggling and terrorist tracking.<sup>32</sup>

The projected common security perimeter is supported by two internal institutional structures – the Federal involvement and jurisdictional authorities at the U.S.-Canadian border and the U.S.-Mexico border. The combination of these internal supports and a shared perimeter defense has so far led the three countries to search for ways to harmonize visa and other immigration regulations, build a shared entry-exit system for both people and cargo tracking, and share information on the full range of persons entering and moving throughout the North American region. Through the Partnership on Security and Prosperity, this trilateral cooperation has also made progress on facilitating commerce with the boundaries of the security zone.<sup>33</sup> Memories of the long truck lines and loss revenue in the wake of 9/11 when the ports of entry were closed give some urgency to finding ways to balance the tradeoff between security and

commercial and labor exchange.

Currently, however, this security framework is limited because it remains modeled after the priorities of the NAFTA approach to building a North American community – it is simply the security addition in a NAFTA-plus framework. In describing the framework, one group also identified its limitations: "...the creation of a single economic space that expands the economic opportunities for all people in the region, and the establishment of a security zone that protects the region from external threats while facilitating the legitimate passage of goods, people, and capital." A cone of security, combined with federal actions at the borders, ignore a wide range of institutional relationships that are fundamental to the security of the region. In particular, the focus is almost entirely on the three federal governments as the sole partners in North America. Yet, some of the most substantial and effective security innovations in the region so far have occurred between state and provincial governments and agencies working explicitly at local levels to form alliances that transcend, rather than harden, the borders.

Examples of the institutional richness that is possible within North America include various joint emergency preparedness exercises that have occurred in several places on both borders. On the U.S.-Canadian border, for instance, joint exercises have focused on preparation for a terrorist attack at ports of entry. On one such occasion, local county and provincial officials worked out systematic mutual aid plans and exercised them without the knowledge and official participation of federal authorities. When asked about that aspect of their exercise, local officials described the problems they encounter when federal authorities become involved. Agreements that are reached in six months among local agencies, they said, are stalled for years when issues are passed to Ottawa or Washington, D.C. for review.

On the U.S.-Mexico border, the Southwest Border Governors Association – which consists of four U.S. and six Mexican governors -- have made significant strides toward crossborder initiatives related to information-sharing, emergency preparedness, and infectious disease monitoring. Arizona and Sonora authorities, for instance, have developed information-sharing protocols on public safety and crossborder smuggling operations. In open disagreement with federal Department of Homeland Security officials, the Arizona Governor has also used state resources to enforce against human smuggling and illegal immigration.

The focus on federal institutions also neglects and perhaps misunderstands how security and facilitation of traffic across borders works at local levels. Too often, security at borders is treated as if it was a technology and physical infrastructure problem. The frequently heard jingle is that we have a 20<sup>th</sup> century border infrastructure for a 21<sup>st</sup> century economy. The core of security at the border, however, lies with the trust that is established between the communities on both sides. The task of creating and sustaining that trust is a matter for strong local and crossborder governance. On the U.S.-Canadian border, the trust has been established and integrated enforcement teams work and exchange information across borders with regularity. On the U.S.-Mexico border, that trust is harder, but not impossible, to realize between communities. One reason the dedicated commuter lane (SENTRI) works, for example, is that it combines the security of background clearance checks with ease of border crossing. It has not expanded much, however, beyond its initial success in part because no crossborder governance structure has taken control to expand its application.

Finally, North American security is incomplete if it only focuses on institutional relationships at the perimeter or borders of the three countries. Although it is a difficult and sensitive subject to discuss even among partners, terrorism is also an internal issue for all three governments. Terrorism can be homegrown in any of the three North American countries. It can also be forged in the process of newcomers adjusting to and being excluded from participation in any of the three societies. Lessons from the second generation of immigrants in Europe are not idle examples of how groups and individuals who feel excluded and harmed may be attracted to ideologies that breed terrorism. How each country absorbs immigrants, and how each community seeks and establishes social cohesion at local levels, has a potential impact on both its own security and on its neighbors. These are rarely the topics of large, trilateral security summits, however, and infrequently on the agendas of public safety officials. How the diverse communities within North America build social trust among their own members may be the most neglected institutional precondition for a safe and secure region.

#### INVITATION TO A DISCUSSION

The value of refocusing debates about migration on the future of North America is to open up new possibilities and policy options that appear to be out of reach in the current legislative arguments. Those possibilities and options are real, but they are continuously obscured because of an outdated NAFTA-based framework that assumes economic growth will have a sufficient benefit that, after enduring years of hardship and inequality, migrants and sending and receiving communities will be suitably compensated.

Those in the throes of the immigration debate like to talk about a "comprehensive" approach, but nothing is more narrow and self-

interested than the current preoccupation with the volume of migration, the terms of admissions and future compensation schemes.

Some regional leaders have recognized and embraced the more encompassing challenge. Former U.S. Under Secretary for International Trade, Grant Aldonas, for example, warned that “the full potential of the FTAA [Free Trade of the Americas] will require negotiators to work on areas that have often been inadequately addressed, including the need for strong rule of law, democratic institutions, independent judiciaries, reliable regulatory agencies, dependable law enforcement, and efficient banking and social services.”<sup>34</sup>

From a North America perspective, then, the primary problem facing migration policy is not so much about the movement of people, as short-term politics have alarmed or coaxed us into believing, but a much more fundamental question. What type of North America do we truly want and why? With the structural changes unfolding throughout the regional and global economy, and growing realization that we have been focusing on incomplete features of the North American community, our challenge must be to make the case for why a North American vision satisfies those who support it, and alarms those who are wary of its intent. For migration policies, the challenge is whether there is value to a North American community, sharing responsibilities and benefits and costs, that justifies a special status for crossborder movement. If there is not such a mutually-beneficial rationale to the community, a turn to unilateral, traditional immigration policy in each country becomes a reasonable, if unfortunate, option.

The challenge for those of us interested in North America is to begin to develop examples of policy options that emerge from a focus on institutional precursors of regional integration. How would these policy options have more of a potential impact on migration than the various legislative proposals currently under debate?

The following list includes just a few examples offered here only to help stimulate the discussion. As promised at the beginning of this paper, this is an occasion for Symposium participants and other readers to engage the full range of ideas about North America, especially about how new programs that focus on institutional arrangements could offer new solutions to current problems.

(1) On the economic front, a precursor to less disruptive and more sustainable economic growth could involve a very different type of rural, agricultural transformation in Mexico. An effort to adjust the pace and scale of agricultural dislocation, combined with efforts to increase rural sustainability by changing agricultural subsidies, could dramatically shift the pressures on rural communities, especially among the indigenous communities. A slower pace of transition, combined with more alternatives, would allow these communities to participate in the northward migration flows with more protection from cyclical downturns and other impediments or to direct their job search to alternatives closer to their home communities. Such adjustments would likely have a much more constructive impact on these communities than, say, whatever tactics the Mexican and U.S. governments have in mind if they choose to try to curtail outmigration from Mexico as part of any deal for a large contract labor program.

(2) On the border enforcement front, the United States is committed to spending huge amounts over the next five years to create a high tech virtual border. Yet, the strategy still remains a hunt, find, capture and return approach, albeit a very expensive one. Alternately, a low tech, crossborder community policing program could sharply increase the ability to increase public safety throughout the area, reduce the risks to innocent migrants entangled in smugglers' networks, and create a resistance movement to the thriving violence along the border. Such a program would require revitalization of crossborder public safety institutional cooperation, including training, information-sharing, and joint operations. On both the U.S.-Canada and U.S.-Mexico borders, such local cooperative efforts often are more effective than broad federal campaigns.

(3) On the labor front, the forgotten element in current immigration debates is the central importance that employment standards have always had in regulating the labor market connections between employer and employee. Rather than proceed with complicated arrangements with little chance of compliance or enforcement, a new labor initiative could focus on incentives for employers to upgrade their employment standards regardless of what workers they hire. Employers could also be required to invest in the labor program. Why should workers be the only ones that have to “earn” the right to work? If employers want to participate in a government-subsidized program to help them locate employees, they should pay a fair share of that support.

(4) On the health front, the framework of crossborder programs is within reach. Programs that follow the “continuum of care” from a migrants' origin community to their place of work in the United States would increase the health of the entire region and reduce the risks of disease transmission. They would also increase the productivity of migrant workers and reduce the costs of emergency care.

(5) On the remittance front, public-private investments should be targeted to create opportunities that do not require continued long distance moves. Currently, the structure of a remittance-based labor market simply reproduces the incentive, even the need, to continue to move to the United States. Government programs to match remittances simply increases the economic return on migration, rather than reduces the pressure. If sufficient remittances are truly left over after private consumption, public programs should offer attractive incentives to invest in general health or educational infrastructure.

(6) On the social costs front, the expenses that communities might bear because of rapid immigration – for which they might be promised compensation later – should be met upfront with investment funds, financed through bonds, targeted taxes, and other financial means, in which employers, realtors, and state governments might have an interest.

(7) On the educational front, the broadly-based need to engage the youth of all three countries in crossborder learning experiences is hampered by the difficulties of travel, especially as the document requirements increase. State governments should foster North American travel through a program that offers a passport to every graduating high school senior. Relatively few Americans, compared to other developed countries, have passports, which makes travel requirements all the more onerous and contentious. Starting with generational change, a broad-based community campaign to link universal schooling with an appreciation for and acquisition of a passport could begin to eliminate the inequalities and burdens that many groups now face with document requirements.

These are only modest examples. The invitation is now for you, the reader, to submit your ideas for discussion.

Finally, I invite you to consider the most neglected dimension of the North American regional vision – the cultural dimensions of a North American community. We are frequently warned that cultural issues, especially national identities, stand as the final barrier to North American integration. Canadian pollsters routinely point out and celebrate Canadians' attachment to their own identity. Some Mexican politicians and social movement organizations angrily protest intrusions on their national sovereignty and culture. U.S. restrictionists straddle the edge between protest and vigilantism while opposing a perceived cultural invasion. Too often, all we have to counter these arguments is its polar opposite, a belief in convergence across a modernized North America.

Yet, North America, as a community, contains diverse cultural participants within each country as well as between them. This diversity complements and enriches, if a way is found to craft and sustain common interests and goals. Under NAFTA, the region has only tried narrow economic interests as the rallying cause. Perhaps it is time to turn to the core human concerns of equity, safety, and well-being as the starting point and organizing strategy for a new effort at building a North American community. Inside that community, workers, families, business persons, tourists and others could find a supportive, inclusive welcome.

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<sup>3</sup> Mexican National Population Council (CONAPO), December 2001.

<sup>4</sup> Joseph E. Stiglitz, Making Globalization Work. New York: W.W. Norton and Company, 2006, pp. 61-62.

<sup>5</sup> For an early example, see Commission for the Study of International Migration and Cooperative Economic Development, Unauthorized Migration: An Economic Development Response, July 1990.

<sup>6</sup> Jessica Vaughan, Be Our Guest: Trade Agreements and Visas, Center for Immigration Studies, Dec. 2003.

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