

PROPERTY, WEALTH AND INEQUALITY THROUGH THE LENS OF GLOBALIZATION: LESSONS FROM THE UNITED STATES AND MEXICO

LUCY A. WILLIAMS*

INTRODUCTION

Virtually all of the presentations at the Association of American Law Schools (AALS) Workshop on Property, Wealth and Inequality and the papers in this special edition situate their discussions within a United States context. This reflects the fact that most United States' legal academics and activists who are concerned about inequality tend to think of redistribution within a domestic framework.

I am not suggesting that persons working in these fields are United States' chauvinists. Indeed, quite the opposite is true. My experience is that those most integrally involved with issues of inequality are also quite concerned about the extreme poverty in much of the world. However, in our legal work, we tend to restrict the scope of our inquiry, assuming the viability of an analysis within a nation-state context.

In this Article, I argue that a national focus is not sustainable within a globalized economy. Of course, the extreme wealth and income disparities among nations is increasing exponentially, with the vast majority of wealth and income concentrated within a very few nations. But in an era of globalization of finance and trade production, it is shortsighted to operate from the perspective that the issue of inequality among nations does not have ramifications pertinent to any attempt to address poverty concerns within the United States. Particularly, by failing to understand the centrality of connections among the fields of social welfare policy, low-wage work, immigration and international economic organization, persons working in the cause of redistribution of income have often operated in analytical/theoretical vacuums. I posit that a specialized and isolated analysis often results in less than fully sophisticated political analyses and missed opportunities to develop effective poverty policies both within a domestic context and within a globalized economy. This AALS session sought to provide a forum for a more knowledgeable interchange among social welfare, low-wage work, immigration and global economic discourses, and began to draw threads among these fields, particularly focusing on ways in which U.S. policies connect to Mexico.

I first set out the reality of global inequality and the ways in which a failure to engage with global income and wealth disparity ignores critical issues within which any poverty analysis must be situated. I then look to the United States and Mexico, countries with a 2000-mile common border, as an example of the way

* Professor of Law, Northeastern University School of Law. The discussion at this AALS workshop and this Article build on the author's presentation at The 18th Annual Edward V. Sparer Conference, University of Pennsylvania Law School, April 8, 1999, published in 5 HYBRID 33 (2000). I thank the participants of that conference for their thoughtful comments and Laura Moskowitz for her excellent research assistance.

in which multiple legal discourses should be analyzed through a cross-border perspective. Initially, I explore two historical contexts: long-standing labor and immigration ties between the United States and Mexico, and the creation of a false dichotomy within the United States of those in wage work and single parent families receiving social assistance benefits. I then focus on recent changes in U.S. social welfare policy toward single mothers, many of whom are in low wage work, and legal immigrants, the largest number of whom are from Mexico. I juxtapose these two groups to the single mothers employed in the Mexican maquiladoras and the women- and children-only villages in Mexico whose men are often undocumented immigrants in the United States. By exposing the artificiality of national borders vis-à-vis nationality and electoral voice, I pose the question of redistribution as a cross-border issue. Ultimately, my hope is that by bringing together seemingly disparate legal areas, scholars and activists can produce a more nuanced and comprehensive poverty strategy.

I. INEQUALITY THROUGH A GLOBAL PERSPECTIVE

Of course, extreme poverty exists in many countries of the world. But advocates and policy makers often do not focus on international poverty when dealing with income imbalances within the United States. Almost one-half of the world's population lives on less than two dollars a day and one-fifth live on less than one dollar a day.¹ Individuals in the richest twenty countries have an average income that is thirty-seven times that of the poorest twenty countries, and this gap has doubled in the past forty years.² This cannot be explained away through arguing that wealthier nations simply have higher standards of living.³ Social indicators such as infant mortality and malnutrition are manifestations of this great discrepancy in wealth.

In rich countries fewer than 1 child in 100 does not reach its fifth birthday, while in the poorest countries as many as a fifth of children do not. And while in rich countries fewer than 5 percent of all children under five are malnourished, in poor countries as many as 50 percent are.⁴

Relying on such data, one could develop a strong argument that richer nations,

1. WORLD BANK, WORLD DEVELOPMENT REPORT 2000-2001: ATTACKING POVERTY (2001). Of the world's six billion people, 2.8 billion live on less than two dollars per day and 1.2 billion live on less than one dollar per day. *See id.* at 3. Of these, 43.5% live in South Asia, 24.3% live in Sub-Saharan Africa, 23.2% in East Asia and the Pacific, 6.5% in Latin America and the Caribbean, 2% in Europe and Central Asia, and 0.5% in the Middle East and North Africa. *See id.* at Fig. 1. The number of poor has been decreasing in East Asia, but increasing in Latin America, South Asia, Sub-Saharan Africa and post-Soviet bloc European and Central Asian countries. *See id.* at 21-23.

2. *See id.* at 3.

3. *See id.* at 24 tbl. 1.2 (relative income poverty by region).

4. *Id.* at 3.

which have often been instrumental in colonial exploitation, have a moral imperative to take responsibility for the extreme poverty in much of the world. Yet, quite apart from any ethical necessity, if legal academics and advocates take the national context for granted in developing redistributive policy, we are often, in ostrich-like fashion, hiding our heads in the sand in a time of increasing global economic integration.

Many, particularly in the labor and welfare areas, have understandably focused attention on their domestic scene in light of the crisis of declining union power and the intensity of assaults on the welfare state. However, in so doing, our rhetoric often reflects a nostalgia for isolationism. A nation-state focus rests on several increasingly problematical assumptions, including, e.g., that nation-states can control the impact of capital flight and currency fluctuations; that immigration can be regulated through border enforcement of legal prohibitions established by nation-states; and that union density, even within a nation-state, will reach worker-majority levels and incorporate waged workers not currently included within any collective bargaining framework, so that vertical redistribution (from management to labor) through collective bargaining poses only limited risks of exacerbating horizontal inequalities (between higher paid unionized and non-unionized, low-wage workers).

Although perhaps some of these assumptions were plausible in the postwar years, current social reality is rapidly pushing in a different direction. Labor and welfare law cannot be viewed as "domestic issues" within any nation-state. In light of currently unfolding trends toward global economic integration, the concept of citizenship anchored solely in the nation-state is anachronistic. The expansion and liberalization of trade, mobility of capital and financing, breakdown of the Bretton Woods mechanisms for currency control, portability of many production techniques and equipment and emergence of third world manufacturing sharply call into question the assumption that employment and social policy can be made within a nation-state framework. All of this is in addition to the moral and political imperative for people in the developed world to accept responsibility for addressing the gross maldistribution of wealth and resources on a world scale.

Thus we cannot discuss redistribution within a domestic labor market as if the United States has no links to the rest of the world. Economic life in the United States involves massive cross-border capital and labor flows and integrated, cross-border production chains. Changes in, for example, labor and welfare laws in other countries often have important ramifications in the United States (and vice-versa), whether in the form of human migration, capital migration, or rising naturalizations of legal immigrants. More restrictive immigration policy, rather than reducing migration, may produce more undocumented immigrants, creating a quite different impact on U.S. low-wage labor markets than that produced by legal immigration. Progressive lawyers attempting to develop new institutional mechanisms for redistribution must grapple carefully with the tension between capital mobility and restrictions on the free movement of persons.

The relationship between the United States and Mexico highlights the implications of cross-border labor, welfare, immigration, and trade interactions,

particularly the impact of anti-NAFTA and anti-immigrant rhetoric on U.S. welfare policy, naturalizations, and the artificiality of borders vis-à-vis citizenship.

II. A BRIEF HISTORICAL OVERVIEW OF MEXICAN/U.S. LABOR INTERACTION

The Mexican/U.S. border was largely open until 1965. There were no immigration quotas based on nationality as there were for most other countries, but there were certain categories of people who were excluded from admission to the United States, such as prostitutes, and, interestingly enough, "contract laborers."⁵ However, this last exception was often honored in the breach.

Beginning in World War II, the Mexican and U.S. governments implemented a "guest-worker" program, the Bracero Program,⁶ under which Mexican men were transported into the United States to do agricultural or field work, often in deplorable conditions. This program was unilaterally terminated by the United States in 1964, in part because of U.S. union opposition⁷ and because of increased mechanization. Although officially defunct, the Bracero Program laid the groundwork for geographical patterns and social ties that later supported undocumented immigration.⁸

One year later, in 1965, partially in response to the Mexican government's statements of their reliance on the Bracero Program for job creation, the United States and Mexico collaboratively created the Mexican Border Industrialization Program, or Maquila program.⁹ This created a twenty-kilometer strip in Mexico

5. Act of Mar. 26, 1910, ch. 128, 36 Stat. 263, 264 (repealed 1952).

6. Act of Apr. 29, 1943, ch. 82, 57 Stat. 70 (eliminated 1964).

7. The United Farm Workers under Caesar Chavez was organizing in California beginning in the early 1960s, and Bracero workers were often brought in to undermine strikes since they would be deported if they resisted crossing picket lines. ROBERT A. PASTOR & JORGE G. CASTAÑEDA, *LIMITS TO FRIENDSHIP: THE UNITED STATES AND MEXICO* 348-49 (1988).

8. See ALAN RIDING, *DISTANT NEIGHBORS: A PORTRAIT OF THE MEXICANS* 479 (1984); see also *infra* notes 49-51 and accompanying text.

9. The Maquila program is often referred to as a creature of the Mexican government because the Mexican executive branch, pursuant to its powers under article 89(1) of the Mexican Constitution, created favorable trade policies that encouraged foreign manufacturers to establish assembly lines in Mexico. See, e.g., DONALD W. BAERRESEN, *THE BORDER INDUSTRIALIZATION PROGRAM OF MEXICO* 3 n.c (1971); GERARD MORALES ET AL., *AN OVERVIEW OF THE MAQUILADORA PROGRAM* (1994), at <http://www.dol.gov/ilab/public/media/reports/nao/maquilad.htm> (last visited May 10, 2001). However, the U.S. government facilitated this effort with tariff schedule provisions 806 and 807 (now known as "9802"), under which manufacturers only paid tax on the value added to American components, e.g., the cost of labor and capital added by manufacture in Mexico. See HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES, Ch. 98, subheading 9802 (U.S. Int'l Trade Comm'n Jan. 25, 2001), available at <http://dataweb/usite/gov/sscripts/tariff/0101c98.pdf>; OFFICE OF NAFTA, *FREQUENTLY ASKED QUESTIONS AND ANSWERS (FAQS) ABOUT MAQUILADORAS*, at <http://www.mac.doc.gov/nafta/8313.htm> (last visited May 10, 2001) (discussing history and purpose of maquiladora program); ALTHA J. CRAVEY, *WOMEN AND WORK IN MEXICO'S*

along the Mexican/U.S. border to which U.S. firms could import finished, ready-to-assemble components and raw materials and hire low-wage Mexicans to assemble the finished products. As long as the finished products were re-exported to the United States, the firms were not subject to Mexican import restrictions or duties and only paid a U.S. tariff on the value added by the assembly in Mexico. The program expanded rapidly, hiring a different population than that employed under the Bracero Program—primarily young single women, including single mothers.¹⁰

That same year, for the first time, Congress enacted immigration quotas for the Western Hemisphere under the 1965 Amendments to the Immigration and Nationality Act.¹¹ While individual countries had no limits on the number of visas that would be granted, the law was later amended to establish an overall

MAQUILADORAS 15 (1998) (discussing interaction between Mexican and American policies); Elvia R. Arriola, *Voices from the Barbed Wires of Despair: Women in the Maquiladoras, Latina Critical Legal Theory, and Gender at the U.S.-Mexico Border*, 49 DEPAUL L. REV. 729, 762 (2000) (describing the Border Industrialization Program as the bilateral predecessor to NAFTA negotiated between Mexico and the U.S.); Susanna Peters, Comment, *Mexican Labor Law from Three Perspectives: The Constitution, the Trade Unions, and the Maquiladoras: Labor Law for the Maquiladoras: Choosing Between Workers' Rights and Foreign Investment*, 11 COMP. LAB. L.J. 226, 228-33 (1990) (discussing U.S. tariffs); A. Maria Plumtree, Note, *Maquiladoras and Women Workers: The Marginalization of Women in Mexico as a Means to Economic Development*, 6 SW. J. L. & TRADE AM. 177 n. 20 (discussing history of Border Industrialization Program originating between U.S. manufacturers and Mexican landowners).

10. See PASTOR & CASTAÑEDA, *supra* note 7, at 289-90. From 1974 to 1982, eighty-seven percent of the maquiladora workforce was female. As shifts in production occurred that required more managers to work with high technology equipment, more men were hired. See DAN LA BOTZ, *MASK OF DEMOCRACY: LABOR SUPPRESSION IN MEXICO TODAY* 164 (1992). However, in 1990, of the 371,780 workers in 1909 maquiladoras, sixty-one percent, or 226,483 were still women. See *id.* at 163. Recent estimates indicate that there are between 4000 and 4500 maquiladoras operating in Mexico. See Arriola, *supra* note 9, at 762 (4235 as of April 1999); *Alarm That 'Maquiladoras' May Up and Go*, LATIN AMERICAN NEWSLETTERS, July 6, 1999, at 306 (4079) (citing the Instituto Nacional de Estadística, Geografía e Informática (INEGI)); Julie Light, *Engendering Change: The Long, Slow Road to Organizing Women Maquiladora Workers*, June 26, 1999, at <http://www.corpwatch.org/feature/border/women/engendering.html>; Dan La Botz, *Women in Mexican Society, the Workforce, and the Labor Movement*, MEXICAN LABOR NEWS & ANALYSIS, vol. IV, no. 9, May 16, 1999, available at <http://www.igc.org/unitedelect/vol4no9.html>. Of the estimated one million plus employees in the Maquiladora industry, women workers make up fifty-six percent of the workforce, a declining percentage but an increase in overall numbers. See *id.* Pay is often less than one dollar per hour, a far cry from the minimum wage in the United States. See Arriola, *supra* note 9, at 766-69. Although maquiladoras traditionally targeted women between the ages of fourteen and twenty-four and required routine pregnancy tests to avoid paying for legally mandated pregnancy benefits, many of the female workers are single parents. See LA BOTZ, *supra*, at 176-77; SUSAN TIANO, *PATRIARCHY ON THE LINE* 87, 89, 92, 123, 137 (1994).

11. See 8 U.S.C. § 1151(a) (1965) (repealed 1976).

ceiling of 120,000 visas per year for the entire Western Hemisphere.¹²

Thus, long before the North American Free Trade Agreement (NAFTA)¹³ was ratified in 1994, the two countries had strong labor market ties, albeit largely driven by U.S. corporate interests. For many years, there had been mobility of labor from Mexico to the United States that had an impact on low-wage workers in both countries.¹⁴ It is within this historical context that the NAFTA and U.S. immigration policy was and continues to be debated.

III. TRADITIONAL U.S. SOCIAL WELFARE FOR POOR SINGLE MOTHERS

A critical parallel legal field that interacts with immigration and international trade law is that of social protection programs in the United States, particularly as they relate to expectations of participation in wage work. U.S. social welfare policy, set against the backdrop of the concept of rugged individualism, has always reflected an ambivalence about poverty, with certain groups (such as those legally defined as wage laborers) carved out for special treatment. As part of the Social Security Act enacted in 1935,¹⁵ both Unemployment Insurance (UI) and a program called Aid to Dependent Children (later called Aid to Families With Dependent Children (AFDC)), were established. The U.I. program was an acknowledgment that the United States was not a full-employment society, and that there would always be both frictional and structural unemployment. AFDC was designed to provide a less than subsistence amount for the children of single parents (predominantly women) and later the single parents themselves.¹⁶

However, the two programs were always viewed very differently: UI was “worthy” because it was tied to wage labor, and AFDC was “the dole” because it was not tied to wage work, but to parenting. This bifurcation of social programs allowed society to construct a false dichotomy between wage workers and welfare recipients. People who advocated for higher wages, better labor standards, and more expansive unemployment insurance benefits as a social safety net routinely distanced themselves from programs like AFDC that were needs-based programs for which eligibility was not directly connected to wage work.

The method of data collection and presentation regarding the number and percentage of welfare recipients who were connected to wage work reinforced this dichotomy. If one used “point in time” data, that is counting the percentage of those *on a given day who are both* receiving welfare *and* participating in wage work, there appeared to be very little overlap, as the data showed that only about

12. *Id.* (amended 1978).

13. 19 U.S.C. §§ 3301-3473 (2000).

14. See PASTOR & CASTAÑEDA, *supra* note 7, at 288-89, 315, 348-49.

15. Social Security Act of 1935, Pub. L. No. 74-271, 49 Stat. 620 (codified as amended in scattered sections of 42 U.S.C.).

16. Social Security Act Amendments of 1950, Pub. L. No. 81-734, §323, 64 Stat. 477, 551 (codified as amended at 42 U.S.C. § 606).

seven percent of welfare recipients were also in paid labor.¹⁷ But this type of data collection did not take into account the “cyclical welfare/work population,” the many who rotate between welfare and wage work on a regular basis.

Large numbers of people cycle between low-wage work and welfare programs. Not until the 1990s (immediately preceding the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996¹⁸) did studies begin to record participation of welfare recipients in wage work over a longer period, usually two years. These studies documented welfare and wage work as inextricably intertwined, thereby challenging the widely held assumption that welfare recipients are a category separate and distinct from paid workers. A majority of women receiving welfare move in and out of low-wage work on a regular basis.¹⁹ The problem, by and large, was not in a lack of work-effort, but the conditions of low-wage labor markets in the United States.

The U.S. legal rules concerning eligibility for benefits under the UI system reinforce the false dichotomy between wage workers and welfare recipients. Although low-wage workers contribute to the UI benefit-pool in the sense that employers pass payroll taxes onto them in the form of lower wages, UI rules exclude many low-waged workers, particularly women and people of color, from the definition of “employee.”²⁰ Most of the single mothers who moved from

17. See STAFF OF HOUSE COMM. ON WAYS & MEANS, 104TH CONG., BACKGROUND MATERIAL AND DATA ON PROGRAMS WITHIN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS 474 (1996).

18. See *infra* notes 22-30 and accompanying text.

19. One study found that of the sixty-four percent of women on welfare for the first time who left the rolls within two years, almost one-half left for work. But three-fourths of those who left welfare eventually returned, and forty-five percent returned within a year. See LaDonna Pavetti, *The Dynamics of Welfare and Work: Exploring the Process by Which Young Women Work Their Way Off Welfare* (1993) (unpublished Ph.D. dissertation, JFK School of Government, Harvard University) (on file with author). Another study found that seventy percent of welfare recipients participated in some way in the labor force over a two year period: twenty percent combined work and welfare, twenty-three percent worked intermittently and were on welfare between jobs, seven percent worked limited hours and looked for work, and twenty-three percent unsuccessfully looked for work. The women in this study held an average of 1.7 jobs over the two-year period and spent an average of sixteen weeks looking for work. See ROBERTA SPALTER-ROTH, *MAKING WORK PAY: THE REAL EMPLOYMENT OPPORTUNITIES OF SINGLE MOTHERS PARTICIPATING IN THE AFDC PROGRAM* (1994).

20. For example, UI coverage requires not just a connection to waged work, but a *sufficient* connection. States set a minimum amount that the employee must earn within a designated period, thus disadvantaging low-waged and contingent workers. To meet monetary eligibility minimums, low-waged workers must work more hours than higher paid workers. See ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION, *REPORT AND RECOMMENDATIONS* 17 (1995). In nine states, a half-time, full-year (i.e., 1040 hours of work) worker earning minimum wage is completely ineligible for benefits, while the worker who earns eight dollars an hour for the same hours of work is eligible. Likewise, a two-day a week, full-year worker earning minimum wage is ineligible in twenty-nine states, but the same worker earning eight dollars an hour is eligible in all but two states.

AFDC to wage labor and then lost their jobs were ineligible for the “worthy” UI Program.²¹ Thus they returned to AFDC as their “unemployment insurance” and were viewed as shiftless “non-workers.”

IV. RECENT SHIFT IN U.S. SOCIAL WELFARE POLICY VIS-À-VIS LOW-WAGE LABOR AND IMMIGRANTS

This brief history sets the critical context necessary to understand the recent dismantling of social protection in the United States. In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)²² rescinded the AFDC program, and created Temporary Assistance to Needy Families (TANF) as a “block grant” with wide state discretion.²³ Although there are few federal mandates in the new statute, two are central to the rhetoric of the new policy: 1) parents can only receive TANF for a maximum of five years in their lifetime,²⁴ and 2) states must have a fixed percentage of recipients in wage work and/or “workfare” (i.e., working off their TANF grant)²⁵ at certain points in time.²⁶ Thus the focus moves away from income support for poor women and children, and onto short term receipt of social welfare benefits with an assumed *permanent* transition into wage work.

This work requirement is pushing and will continue to push millions of new people into low-wage labor markets with little social welfare protection.²⁷ Over

See id.

21. *See* ROBERTA SPALTER-ROTH ET AL., INCOME INSECURITY: THE FAILURE OF UNEMPLOYMENT INSURANCE TO REACH WORKING AFDC MOTHERS (1994) (finding that only eleven percent of those who combine paid work and welfare receive UI).

22. Pub. L. No. 104-193, 110 Stat. 2105 (codified at 42 U.S.C. § 601) (1999)).

23. Each state receives a fixed allocation of money to distribute largely within the discretion of the state. *See* 42 U.S.C. § 604(a)(1) (Supp. 2000).

24. *See id.* § 608(a)(7). States can decide which families will be eligible for benefits and the length of time families are allowed to receive grants, as long as the state does not allow families to receive benefits for more than five years throughout their lifetime. *See id.* A number of states have limited that time to two years. *See, e.g.,* 1995 Mass. Acts ch. 5, § 110(f) (limiting receipt to twenty-four months in any five year period).

25. In addition, states may require mothers who have not found a private sector job within 2 months to work (usually in public sector employment), not for a paycheck, but in exchange for their welfare benefits. *See* 42 U.S.C. § 602(a)(1)(B)(iv) (Supp. 2000).

26. *See id.* § 607(a)(1). If states do not meet this requirement, the federal government penalizes it fiscally by reducing the state’s grant amount in the following year. *See id.* § 609(a)(3)(A).

27. As of December 1999, the welfare, or TANF, national caseload had dropped by forty-nine percent in the four years since the PRWORA had passed, with very little follow-up of or explanation regarding those not in wage work. *See, e.g.,* ADMIN. FOR CHILDREN AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM, THIRD ANNUAL REPORT TO CONGRESS 17-20 (Aug. 2000), available at <http://www.acf.dhhs.gov/programs/opre/annual3.pdf>. There were 2,264,314 fewer families and

two million single parents, mostly women, many with little education and skill level,²⁸ are relying on low-wage labor or some source of income other than TANF. Of the 2.3 million families still on the rolls,²⁹ many will reach the mandatory lifetime limit within the next few years and will be terminated *regardless* of whether they have any reasonable opportunity to obtain paid labor or have any other source of income. Many poor mothers in the United States who previously moved in and out of low-wage work, recycling onto AFDC as their “unemployment insurance” can no longer do this due to the TANF time limits. They no longer have either AFDC or UI as a social safety net; thus many of them will be in a position in which they will have to accept paid labor with whatever conditions and wages they can get.³⁰ If they cannot find paid labor,

6,602,851 fewer recipients on the welfare rolls. *See id.*

28. In March 1999, an Educational Testing Service study found that without more education, two-thirds of welfare mothers lack the skills to advance economically, with a more severe impact on African-American and Hispanic women. However, many of the women could improve their prospects of moving into the middle class with minimal training. *See* ANTHONY PATRICK CARNEVALE & DONNA M. DESROCHERS, *GETTING DOWN TO BUSINESS: MATCHING WELFARE RECIPIENTS' SKILLS TO JOBS THAT TRAIN* (1999).

29. *See* ADMIN. FOR CHILDREN AND FAMILIES, *supra* note 27.

30. The impact of this wage work dependency is unclear and evolving. Early studies questioned whether low-wage labor markets could incorporate the numbers who are being dropped from the welfare rolls. And, of course, the geographical impact is disparate, since the areas with a higher number of welfare recipients do not necessarily correspond with the areas of high job growth. For example, between 1992 and 1996, as the United States' economy moved out of recession, New York City experienced a net gain of 88,000 jobs. If this rate of growth continued and every new job were given to a New York City welfare recipient, it would take twenty-one years for all 470,000 adults on welfare in New York City to gain employment. *See* Alan Finder, *Welfare Clients Outnumber Jobs They Might Fill*, N.Y. TIMES, Aug. 25, 1996, at A1. Other estimates indicate that the economy can create the number of jobs needed, not on short notice, but only over the long-term. *See* Gary Burtless, *Employment Prospects of Welfare Recipients*, in *THE WORK ALTERNATIVE: WELFARE REFORM AND THE REALITIES OF THE JOB MARKET* 71, 87-88 (Demetra Smith Nightingale & Robert H. Haveman eds., 1995). But even if the economy can absorb these workers over the long-term, studies estimate that this huge influx of largely unskilled workers would depress wages, benefits, and working conditions. The Economic Policy Institute has estimated that by moving nearly one million welfare recipients into the labor force, the time limits on receipt of social protection for this population will initiate an eleven to twelve percent decline in real wages, but only for the bottom one-third of the work force. LAWRENCE R. MISHEL & JOHN SCHMITT, *CUTTING WAGES BY CUTTING WELFARE: THE IMPACT OF REFORM ON THE LOW-WAGE LABOR MARKET* 5 (1996).

Recent studies, while noting that there is little current evidence of an effect on unemployment or wages, continue to predict substantial effects on low-income workers. *See, e.g.*, MARÍA E. ENCHAUTEGUI, *WILL WELFARE REFORM HURT LOW-SKILLED WORKERS?*, URBAN INSTITUTE DISCUSSION PAPER (2001) (a ten percent increase in the number of wage-working welfare recipients will reduce the employment of low-skilled U.S.-born men by two percent and reduce their wages by .3%; will reduce welfare recipient wages by 1.5%; and in the long-run, will reduce the wages

they will be ineligible for further public assistance and therefore will be entirely dependent on private charity for survival.

Importantly from a labor law perspective, while the statute contains language prohibiting states from displacing regular employees with mothers in workfare job slots,³¹ it eliminated language in the prior statute which protected regular employees against "partial displacement."³² In other words, regularly paid employees can receive a reduction in their overtime hours or benefits, or can be cut from a full-time to a part-time job, and the work they had previously done for pay may then be performed without pay by workfare workers. Employers can also fill established vacancies and openings created by attrition with workfare participants.³³ The impact of the full and partial job displacement that will be caused by workfare requirements on currently employed workers is, of course, likely to increase substantially as the United States moves into the predicted recession.³⁴ Importantly, it is not inconsequential that most of those who will be displaced are unionized.³⁵

At the same time as the United States was rescinding its communal commitment to income support for single parent families, social protection law

of low-skilled women by 2.2%); Hilar W. Hoynes, *Displacement and Wage Effects of Welfare Reform*, in *FINDING JOBS: WORK AND WELFARE REFORM* (David E. Card & Rebecca M. Blank eds., 2000) (wages for female high school dropouts will be reduced from five to 14.5% depending on elasticities of labor demand); Robert I. Lerman & Caroline Ratcliffe, *Did Metropolitan Areas Absorb Welfare Recipients Without Displacing Other Workers?*, Urban Institute Discussion Paper, Series A, No. A-45 (Nov. 2000) (finding no current wage erosion, but recognizing that a serious recession "certainly weakens the wage and employment picture").

31. See 42 U.S.C. § 607(f)(2) (Supp. 2000).

32. *Id.* § 684(c)(1) (1994), *repealed by* Pub. L. No. 104-193, 110 Stat. 2167 (1996).

33. See *id.* § 607(f)(1) (Supp. 2000).

34. One early study, focused on New York City, predicted that the likely result from placing 30,000 workfare participants in *public sector* slots would be to displace 20,000 other workers and reduce wages for the bottom one-third of entire New York City workforce (*public and private*) by nine percent. See CHRIS TILLY, *WORKFARE'S IMPACT ON THE NEW YORK CITY LABOR MARKET: LOWER WAGES AND WORKER DISPLACEMENT 2* (1996). Indeed, a recent study confirms that as the number of employees in New York's Department of Parks and Recreation has declined from 4285 to 2025 between 1991-2000, the number of full-time equivalent workfare workers increased from 182 to 2237. See *Use of Work Experience Program Participants at the Department of Parks and Recreation*, INSIDE THE BUDGET, Nov. 2, 2000.

35. In addition to the impact on wages and displacement in low-wage labor markets in general in the United States, working conditions may also be affected. For example, welfare recipients have been assigned to workfare jobs with no toilets or drinking water, jobs removing rotting and infected animal carcasses with no gloves, jobs requiring the use of acidic-spray cleaning fluid without safety equipment—in other words, jobs that violate existing health and safety laws and that existing wage workers would refuse to take without improved conditions. See, e.g., *Capers v. Giuliani*, 677 N.Y.S.2d 353 (App. Div. 1998). Plaintiffs' affidavits in this case were printed in *Welfare as They Know It*, HARPER'S MAG., Nov. 1, 1997, at 24. Compare to the much discussed conditions of employment for single women in the maquiladoras. See Arriola, *supra* note 9, at 765-94.

was also altering the inclusion and identity of immigrants. The PRWORA rescinded eligibility of legal immigrants, including low-wage workers, for virtually all social welfare programs designed to assist the poor, including TANF, Food Stamps and Social Security Insurance.³⁶ While some of the social protection benefits have been restored, the restorations are almost exclusively for immigrants who were in the United States when the PRWORA was enacted in August 1996.³⁷ Therefore, the huge influx of legal immigrants who enter the country each year after 1996 are still ineligible for the majority of social protection programs not connected to high wages or long-term labor-market participation.³⁸

The connection between these immigrant provisions of the PRWORA and the NAFTA is critical to a cross-border poverty analysis. Mexicans are by far the largest group of legal immigrants who have chosen not to naturalize as U.S. citizens.³⁹ Indeed, in spite of the long Mexico-United States history of border exchange and guest worker programs, there has also been a societal perception that Mexicans did not have to assimilate because they were in the United States only as “temporary workers.”

Two years prior to the passage of the PRWORA, the U.S. Congress ratified the NAFTA over the adamant opposition of virtually all U.S. labor unions. One bone that Congress threw to U.S. labor was the NAFTA-Transitional Adjustment Assistance Program that provided additional weeks of UI for retraining “workers” (excluding workers not covered by UI laws, i.e., many welfare recipients) who lose their jobs due to increased imports or capital flight generated by the NAFTA.⁴⁰ The result of these complex and often isolated legal revisions is that U.S. taxpayers are funding both extended UI benefits and the retraining of “workers” dislocated by U.S. trade policy, at the same time as they are defunding many social welfare benefits to low-wage workers who are welfare recipients and legal, often Mexican, immigrants.⁴¹

36. See PRWORA, Pub. L. 104-193, 100 Stat. 2261 (codified at 8 U.S.C. § 1611(a) (1999)).

37. See 8 U.S.C. § 1611(b)(5) (2000) (restoring Supplemental Security Income and Medicaid eligibility to certain immigrants, termed “not qualified” immigrants, who were receiving assistance on August 22, 1996); see also *id.* § 1612(a)(2)(F) (restoring Supplemental Security Income and Food Stamps to “qualified” blind or disabled immigrants residing in the United States on August 22, 1996).

38. In addition, there are other connections between migration and social protection benefits. For example, in 1997, certain legal residents were being stopped at the U.S. border because the Immigration Service had received information from a state that the immigrant had received Medicaid, or health care, benefits. The immigrants were denied reentry unless they agreed to reimburse the State for the past Medicaid received, although receipt of Medicaid does not create a legal debt. See *Settlement Reached in Medi-Cal “Debt” Reimbursement Case*, IMMIGRANTS’ RIGHTS UPDATE, Sept. 16, 1998, at 8.

39. See PASTOR & CASTAÑEDA, *supra* note 10, at 323.

40. 19 U.S.C. § 2331 (2001).

41. See generally Kevin R. Johnson, *Public Benefits and Immigration: The Intersection of Immigration Status, Ethnicity, Gender, and Class*, 42 UCLA L. REV. 1509, 1519-28 (1995)

V. INTERACTION BETWEEN TANF RECIPIENTS AND MEXICAN IMMIGRANTS IN LOW-WAGE LABOR

These factors highlight a major tension between the expectation that the U.S. low-wage labor force can and must absorb all welfare recipients, and the understanding of the close connection of the United States with Mexican immigrants because of prior "guest worker" programs, proximity, economic disparity, large common border and numbers of Mexicans already in the United States. In particular, many in the U.S. labor movement and many left and progressive academics and advocates have taken an anti-immigration position because of an assumption that immigration reduces the power of particularly unskilled low-wage U.S. workers to negotiate higher wages and better working conditions.

Although studies on the impact of immigrants on the U.S. economy and labor conditions reach widely divergent conclusions,⁴² often finding positive economic

(describing the anti-Latin American, especially Mexican, immigrant sentiment regarding public benefits).

42. See ROY BECK, *THE CASE AGAINST IMMIGRATION* (1996); GEORGE J. BORJAS, *FRIENDS OR STRANGERS: THE IMPACT OF IMMIGRANTS ON THE U.S. ECONOMY* (1990); DAVID M. HEER, *IMMIGRATION IN AMERICA'S FUTURE* 183 (1996); Joseph Altonji & David Card, *The Effects of Immigration on the Labor Market Outcomes of Natives*, in *IMMIGRATION, TRADE, AND THE LABOR MARKET* (John M. Abowd & Richard B. Freeman eds., 1991); George J. Borjas, *The Economics of Immigration*, 32 *J. ECON. LITERATURE* 1667 (1994); George J. Borjas et al., *On the Labor Market Effects of Immigration and Trade*, in *IMMIGRATION AND THE WORK FORCE: ECONOMIC CONSEQUENCES FOR THE UNITED STATES AND SOURCE AREAS* 213 (George J. Borjas & Richard B. Freeman eds., 1992); Kristen F. Butcher & David Card, *Immigration and Wages: Evidence from the 1980's*, 81 *AM. ECON. REV.* 292 (1991); David Card, *The Impact of the Mariel Boatlift on the Miami Labor Market*, 43 *INDUS. & LAB. REL. REV.* 245 (1990); Ronald G. Ehrenberg & Robert S. Smith, *Worker Mobility: Migration, Immigration and Turnover*, in *MODERN LABOR ECONOMICS: THEORY AND PUBLIC POLICY* (Ronald G. Ehrenberg & Robert S. Smith eds., 7th ed. 2000); Randall K. Filer, *The Effect of Immigrant Arrivals on Migratory Patterns of Native Workers*, in *IMMIGRATION AND THE WORK FORCE: ECONOMIC CONSEQUENCES FOR THE UNITED STATES AND SOURCE AREAS*, *supra*, at 245; Rachel M. Friedberg & Jennifer Hunt, *The Impact of Immigrants on Host Country Wages, Employment and Growth*, 9 *J. ECON. PERSPECTIVES* 23 (1995); Robert S. Goldfarb, *Methodological Commentary-Investigating Immigrant-Black Labor Market Substitution: Reflections on the Case Study Approach*, in *IMMIGRANTS AND IMMIGRATION POLICY: INDIVIDUAL SKILLS, FAMILY TIES AND GROUP IDENTITIES* 289 (Harriet Orcutt Duleep & Phanindra V. Wunnavava eds., 1996); Elaine Sorensen, *Measuring the Employment Effects of Immigrants with Different Legal Statuses on Native Workers*, in *IMMIGRANTS AND IMMIGRATION POLICY: INDIVIDUAL SKILLS, FAMILY TIES AND GROUP IDENTITIES*, *supra*, at 201; Robert H. Topel, *Regional Labor Markets and the Determinants of Wage Inequality*, 84 *AM. ECON. REV.* 17 (1994); Robert Waldinger, *Who Makes the Beds? Who Washes the dishes? Black/Immigrant Competition Reassessed*, in *IMMIGRANTS AND IMMIGRATION POLICY: INDIVIDUAL SKILLS, FAMILY TIES AND GROUP IDENTITIES*, *supra*, at 265; David A. Jaeger, *Skill Differences and the Effect of Immigrants on the Wages of*

effects⁴³ and no negative effect on wages and labor conditions, the claim that immigration of unskilled workers reduces wages and conditions is still frequently touted as “truth.”⁴⁴ Thus immigrants and prior TANF recipients are being rhetorically pitted against one another.⁴⁵

The cumulative effect of these policies creates racist hierarchies within racist hierarchies. The rhetoric of social assistance portrays United States citizens receiving welfare as lazy women of color. The PRWORA “rehabilitated” them by removing any social safety net after five years and exchanging dependence on AFDC or TANF for dependence on low-wage employers. These U.S. citizens are, on occasion, perceived as in competition with legal immigrants, who have summarily lost eligibility for social assistance programs, and undocumented immigrants—both groups that have sent significant remittances to impoverished families in their countries of origin.⁴⁶ Having convinced the United States public

Natives (1995) (unpublished dissertation, University of Michigan) (on file with author).

43. For recent studies crediting immigration with facilitating the strong U.S. economy of the 1990s, see *infra* note 50.

44. See, e.g., Mark Helm, *Immigration Policy Hurting U.S. Poor, Critics Claim*, SUN-SENTINEL (Ft. Lauderdale), Mar. 12, 1999 (reporting that George Borjas, professor at Harvard University’s Kennedy School of Government, testified before the House Subcommittee on Immigration and Claims that U.S. low-skill workers “lose an average of \$1915 a year because of [immigrant] competition”).

45. For example, a U.S. General Accounting Office study found no need for an immigrant guest farm worker program in part because welfare recipients affected by either the time limits or the work requirements of the PROWRA will provide a surplus supply. See GENERAL ACCOUNTING OFFICE, H-2A AGRICULTURAL GUESTWORKER PROGRAM: CHANGES COULD IMPROVE SERVICES TO EMPLOYERS AND BETTER PROTECT WORKERS (1998). When the U.S. Immigration and Naturalization Service deported undocumented Mexican field workers, growers were encouraged to hire welfare recipients. Stephanie Simon, *Growers Say U.S. Wrong, Labor Is in Short Supply*, L.A. TIMES, Jan. 5, 1998, at A3. Of course, field work is seasonal, so workers are laid off for four to six months at a stretch with no social protection benefits. And, although some social workers and growers note that field work schedules vary depending on the weather and condition of the crop and that standard daytime child care is not always adequate, the U.S. Department of Labor takes the position that the child care needs in farm occupations are no different than that in other industries. See *id.*

46. An estimated \$6-10 billion in remittances is sent to families in Mexico each year. See Susan Ferriss, *Migrants Find Wiring Money to Mexico Now Cheaper*, ATLANTA J. & CONST., Mar. 4, 2001, at A10 (at least \$6 billion); Ruben Navarrette, Jr., *Fox Takes on Immigration, Mexican-Americans*, CHI. TRIB., Feb. 14, 2001, at 19 (\$10 billion); Tim Weiner, *Mexico Chief Pushes New Border Policy: Free and Easy Does It*, N.Y. TIMES, Dec. 14, 2000, at A12 (between \$6 billion and \$8 billion); Minerva Canto, *Fox Argues Open Borders Would Serve U.S., Canada*, ORANGE COUNTY REG., Nov. 29, 2000 (\$6 billion). These remittances provide “essential support for 1.1 million households in Mexico” according to the head of the Mexican National Population Council (CONAPO). Margaret Swedish, *US-Mexico Border: Immigration Flow Likely to Remain Steady Despite Enforcement Measures*, CENT. AM./MEXICO REP., May 2000, at http://www.rtfcam.org/report/volume_20/No_2/article_2.htm (last visited May 10, 2001).

that poverty is primarily a problem of work-effort, policymakers have created a situation that worsens the plight of former welfare recipients and fails to recognize the presence and impact of cross-border poverty.

A number of other factors make the relationship between immigration policy, TANF, and low-wage labor even more complex. Often policymakers, scholars, and activists across political persuasions have ignored the fact that, for certain industries, particularly those with high labor costs and geographical flexibility, capital is much more mobile across borders than humans. An anti-immigration policy which does not provide a supply of low-wage workers within our current economic structure may result in migration of certain job-sites entirely and, thus, even further diminution of U.S. labor conditions.

The reverse of this equation is reflected in an implicit assumption when the NAFTA was ratified that the flow of goods and finances from Mexico to the United States would be substituted for the flow of people, an assumption that required a pervasive economic development/job creation program in Mexico.⁴⁷ However, working at odds with such economic development in Mexico is the reduction (mandated by the International Monetary Fund structural macroeconomic adjustments) of agriculture subsidies that had benefitted both large- and small-scale farmers in rural areas.⁴⁸ The resulting agricultural crisis has resulted in both farm foreclosures (with resulting dislocation) and reduced economic activity in urban areas situated near prosperous agricultural areas.⁴⁹

Contrary to the assumption that NAFTA would reduce undocumented immigration, Census 2000 data indicate the opposite. The number of undocumented residents appears to be nine to eleven million rather than the six million that was predicted.⁵⁰ Economists are crediting this increased immigrant population, many working in low-wage unskilled jobs, with reducing pressures for wage increases, thus fostering a "full employment labor market environment without generating any additional wage inflationary pressures."⁵¹ Importantly, the

These remittances represent the second largest source of revenues in foreign currency, after tourism. See *Mexico: Remittances for Small, Medium and Micro Enterprises (SMME) and Infrastructure Development*, WORLD BANK GROUP at <http://www.wbIn0018.worldbank.org/external/lac/lac.nsf.d77359c53> (last visited May 10, 2001). Also, they represent at least the third-biggest legitimate force in the Mexican economy, after oil and tourism. See Weiner, *supra*.

47. See Arriola, *supra* note 9, at 805; Monica L. Heppel & Luis R. Torres, *Mexican Immigration to the United States After NAFTA*, FLETCHER F. WORLD AFF., Fall 1996, at 51.

48. See TIANO, *supra* note 10, at 21.

49. See Frances Lee Ansley, *Rethinking Law in Globalization Labor Markets*, 1 U. PA. J. LAB. & EMP. L. 369, 380 (1998); Sarah Anderson et al., *NAFTA—Trinational Fiasco: Remember the Rosy Promises About Jobs, etc.? Here's a Reality Check*, NATION, July 15, 1996, at 26.

50. See D'Vera Cohn, *Illegal Residents Exceed Estimate*, WASH. POST, Mar. 18, 2001, at A1. The initial count tallied 281.4 million U.S. residents as opposed to the expected 275 million. The number of Hispanics, two-thirds of whom are Mexican, was 35.3 million rather than the estimated 32.5 million. See *id.*; see also D'Vera Cohn & Darryl Fears, *Hispanics Draw Even with Blacks in New Census*, WASH. POST, Mar. 7, 2001, at A1.

51. ANDREW SUM ET AL., AN ANALYSIS OF THE PRELIMINARY 2000 CENSUS ESTIMATES OF THE

majority of undocumented Mexican immigrants are men who leave behind their families, creating whole villages populated with only women, children and the elderly.⁵²

Finally, immigrant workers are not necessarily substitutes who displace existing workers or increase labor supply to the point of reduced wages and labor conditions. Rather a poverty/low-wage policy could be envisioned that juxtaposes each group of unskilled workers as complements.⁵³ Under that analysis, one might argue for a pro-education and training policy for TANF mothers to move them into a position to complement rather than compete with unskilled immigrants.

VI. THE POLITICAL FLUIDITY OF THE BORDER

Both U.S. social protection reductions and political democratization in Mexico appear to be catapulting Mexicans living in the United States into a central position that further explodes the concept of nation-state boundaries. In fact, the result of the welfare disqualifications of legal immigrants may be exactly the opposite of that intended by many of its proponents, i.e., to reduce the number of legal immigrants or to decrease the number of legal immigrants on the "public dole."

One major result of denying virtually all social assistance programs to legal immigrants was a startling surge in U.S. naturalizations, particularly among Mexicans. The denial of benefits to legal immigrants, and other recent anti-immigrant political actions, resulted in a new consciousness among long-term legal Mexican immigrants that they must be a part of the electorate, i.e., that they must become naturalized United States citizens that can vote.⁵⁴ Until 1994, the number of naturalizations by Mexicans legally residing in the United States was fairly stable. There were 17,564 naturalizations in 1990, 22,066 in 1991, 12,880 in 1992, and 23,630 in 1993.⁵⁵ In 1994, the year that Californians adopted "Proposition 187" (barring undocumented immigrants from receiving publicly

RESIDENT POPULATION OF THE U.S. AND THEIR IMPLICATIONS FOR DEMOGRAPHIC, IMMIGRATION, AND LABOR MARKET ANALYSIS AND POLICYMAKING 54, CENTER FOR LABOR MARKET STUDIES, NORTHEASTERN UNIVERSITY (Feb. 2001); Paul Magnusson, *The Border is More Porous Than You Think*, BUS. WK., Apr. 9, 2001, at 94.

52. MIGRATION BETWEEN MEXICO & THE UNITED STATES, A REPORT OF THE BINATIONAL STUDY ON MIGRATION 72 (1997); Ricardo Monreal, *A Governor from a Hardscrabble State Who Is Forging a New Style of Responsive Government*, TIME, May 24, 1999, at 62; Eric Schlosser, *In the Strawberry Fields: Migrant Workers and the California Strawberry Industry*, ATLANTIC MONTHLY, Nov. 1995, at 80.

53. See HEER, *supra* note 42, at 8-9.

54. U.S. DEP'T OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE, 1997 STATISTICAL YEARBOOK OF THE IMMIGRATION AND NATURALIZATION SERVICE 14 (1998) [hereinafter STATISTICAL YEARBOOK]; Paul Van Slambrouck, *Immigrants Shift Status: No Longer Sojourners*, CHRISTIAN SCI. MONITOR, Sept. 21, 1999, at 1.

55. STATISTICAL YEARBOOK, *supra* note 53, at 180.

funded education and most social services and health care, and directing local law enforcement authorities, school administrators, social workers and health-care aides to report suspected undocumented immigrants and, in some cases, legal immigrants),⁵⁶ the number of naturalizations surged to 46,186, and in 1995 to 79,614.⁵⁷ Most dramatically in 1996 (the year the PRWORA was being debated and enacted), Mexico was the leading country-of-birth of persons naturalizing, with 217,418 or twenty-one percent of total naturalizations.⁵⁸

Once they become U.S. citizens, Mexican-Americans have greatly expanded legal rights that allow them to bring family members into the United States. Thus, the ironic end result of anti-immigrant politics may be that even greater numbers of Mexican immigrants will settle in the United States, naturalize and vote. Questions arise about the effect of this potential increase in family-member legal immigrants on the low-wage labor force, and the interplay between that population and the influx of welfare recipients possibly competing for the same jobs.

Juxtapose these developments to recent dramatic changes in Mexican laws relating to dual citizenship and the ability of non-residents to vote in Mexican elections. Mexican non-residents are now allowed to maintain dual nationality in Mexico and in the country of their residence. This means Mexican immigrants who are naturalized U.S. citizens are now permitted to reclaim their Mexican nationality.⁵⁹ Mexico's constitution was modified to allow non-resident Mexican citizens to vote in Mexican elections without returning to Mexico.⁶⁰ Although not yet implemented at the time of the 2000 elections (in which the Institutional Revolutionary Party (PRI) was defeated for the first time since 1920 by the National Action Party (PAN)), almost ten million Mexicans more or less

56. The core provisions of Proposition 187 were struck down by U.S. District Judge Mariana Pfaelzer, and a subsequent settlement was mediated between the state and opponents of the initiative, in which Governor Gray Davis agreed to drop the state's appeal. *See League of United Latin Am. Citizens v. Wilson*, 908 F. Supp. 755 (C.D. Cal. 1995), *modified by* 997 F. Supp. 1244 (C.D. Cal. 1997), *modified by* No. 94-7569 MRP, 94-7652 MRP, 94-7570 MRP, 95-0187 MRP, 94-7571 MRP, 1998 WL 141325 (C.D. Cal. Mar. 13, 1998); Dave Leshner & Henry Weinstein, *Prop. 187 Backers Accuse Davis of Ignoring Voters*, L.A. TIMES, July 30, 1999, at A1.

57. STATISTICAL YEARBOOK, *supra* note 53, at 170.

58. *Id.* Of course, there were other legal changes which factored into this increase, most specifically the numbers of undocumented persons allowed to naturalize pursuant to the Immigration Reform and Control Act of 1986. 8 U.S.C. § 1101 nt. (1986). In subsequent years, the number has declined (134,494 in 1997 and 109,065 in 1998), but the percentage of persons from Mexico naturalizing has remained over twenty percent of the total naturalizations, and in fact increased (22.5% in 1996 and 23.6% in 1997). STATISTICAL YEARBOOK, *supra* note 53.

59. *See* CONSTITUCION POLITICA DE LOS ESTADOS UNIDOS MEXICANOS, art. 37 (amended 1997). Note the nuances between nationality and citizenship that are beyond the scope of this Article.

60. James F. Smith, *Vote Denied to Mexicans Living Abroad*, L.A. TIMES, July 2, 1999, at A1. Although the Chamber of Deputies approved a package implementing this election reform, the Senate (controlled by the PRI) allowed the measure to die in July 1999.

permanently residing in the United States could be eligible to vote in Mexican elections. They are expected to support either the PAN or the Party of the Democratic Revolution (PRD),⁶¹ both of which are Mexican political parties advocating the democratization of labor unions in Mexico.⁶²

Thus the huge increase in U.S. naturalizations by Mexicans (in turn opening the door for further immigration by family members) and the breaking open, or democratization, of Mexican political parties and unions could have broad implications for social protection and low-wage labor in both the United States and Mexico. The construction of dual nationality and dual voting privileges exposes the artificiality of protectionism and fixed borders which seems entrenched in social protection, low-wage labor, and immigration discourse.

CONCLUSION

The myriad of issues discussed above are not designed to yield a single coherent poverty policy, but rather to challenge us to frame new questions about strategies to address poverty, wealth and inequality within an increasingly globalized economy.

Did the U.S. labor anti-NAFTA position, albeit inadvertently, feed into a racist, anti-Mexican and anti-immigration policy, which then fueled the anti-immigrant backlash in U.S. welfare policy?

If one effect of social welfare cuts to U.S. legal immigrants is a surge in naturalizations with a subsequent increased flow of family members migrating to the United States, will this additional supply of wage workers entice certain plants to remain in the United States rather than relocate cross-border? How do these new immigrants correlate with those who would have obtained jobs if plants had moved to Mexico?

If immigration can expand or preserve certain industries in the United States, creating new jobs for complementary skill holders, should an effective U.S. poverty policy focus on increasing human capital of U.S. unskilled workers so that they might be able to take advantage of those new jobs? Could or should U.S. progressives support such a policy with its implications for further constructing and supporting racial hierarchies?

What is the connection, within both a class and gender analysis, of the single mothers in the maquiladoras, the TANF mothers, and the women-and-children-only towns? Men are involved in each setting in different ways, but there is little

61. See Patrick J. McDonnell, *U.S. Votes Could Sway Mexico's Next Election*, L.A. TIMES, Feb. 15, 1999, at A1.

62. See generally LA BOTZ, *supra* note 10. The Partido Revolucionario Institucional (Institutional Revolutionary Party or PRI), the political party that had been in power in Mexico since 1920, had held continuous office longer than any other party in the world. It has controlled the union structure by having an officially recognized union, the Confederación de Trabajadores de México (Confederation of Mexican Workers, or CTM). CTM leaders routinely were not democratically elected by membership, were bought off by the government and failed to represent their members to enforce, what on the books, is an excellent Mexican labor law.

discussion among lawyers dealing with child support and those aware of the huge remittances being sent back to Mexico.

What do we expect and who do we value in wage work? Why are we so concerned about ensuring that U.S. welfare recipients are in wage work, without acknowledging that many of them are and addressing both the ways in which low-income labor conditions and legal definitions construct their identities as non-workers? Conversely, why are we so derisive (within our rhetoric of "rugged individualism") of undocumented immigrants in U.S. wage labor who send critical remittances back to the women-and-children-only towns?

How do we begin to connect U.S. social welfare cuts and IMF structural macroeconomic adjustment policies, and analyze their impact on low-wage labor markets cross-border?

Finally and most fundamentally, how do we develop a cross-border poverty redistributive strategy? An ongoing tension in poverty debate is that between improving or maintaining living standards for low-wage workers and job creation for the unemployed poor. While often discussed as a policy question internal to a nation-state, the same issues are raised in cross-border poverty discourse. Where does a nation-state draw the line between its own citizens being in such poverty that it must protect their labor conditions through attempting to restrict migration of humans and its economy being solid enough and its citizens' living conditions sufficiently adequate that restrictive immigration may not be the priority? Can nations, in a time of the breakdown of borders through global economic integration, coherently establish that line? If a nation-state sets up an initial structure of attempted restrictive human mobility, will it ever reach a point of acknowledging that its internal poverty/unemployment is low enough that the country can focus on cross-border poverty? In other words, can an effective poverty policy be based on a protectionist position?

These are only initial questions and may not frame the most important interconnections. But if those committed to a redistributive poverty strategy do not struggle to engage in a complex cross-disciplinary, cross-border analysis of the interaction of low-wage labor, globalization, social welfare policy and immigration—if we do not begin to formulate the questions—we are missing an important opportunity to begin to provide answers that will contribute to the development of a more sophisticated and transformative redistributive policy.