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Against the Wall: US Immigration Reform Misses its Mark, Again

Send some nuns to jail, construct a massive wall that runs from California to the Gulf of Mexico, create 11 million felons overnight and call it sound domestic policy. This was the statement made by the US House of Representatives on 15 Dec when it passed H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005. If passed by Congress and implemented into law by the president, this bill will criminalize anyone who “directs or assists” an illegal immigrant, authorize the building of a wall that stretches along a total of 700 miles of the US-Mexico border and change the crime of undocumented entry into the US from a misdemeanor to a felony.

A wave of protest and disapproval has spread throughout Latin America in response to the not-so-subtle symbolic gesture within the purely enforcement-based legislative proposal. While general opposition to the bill is nearly unanimous throughout Mexico and Central America, different stances are being taken by particular governments. H.R. 4437, arguably the strictest immigration legislation ever seen in US history, calls for increased militarization of the nation’s borders, makes no mention of a program for Temporary Protective Status (TPS) and denies the fact that the US depends economically on migrant labor. These factors will only make the border region more dangerous for migrants hoping to cross while at the same time making the work of human smugglers, or *coyotes*, even more lucrative.

What’s at Stake

It is estimated that 6.3 million undocumented Mexican immigrants are currently living in the US. The remittances that Mexican workers, both documented and undocumented, send home—about \$1.7 billion monthly—represent the country’s largest source of foreign income after oil. Therefore, it is no surprise that Mexico is one of the harshest critics of H.R. 4437.

After its passage, Mexican President Vicente Fox called the bill “shameful.” Mexican Foreign Relations Secretary Luis Ernesto Derbez said the measure is “stupid and underhanded.” According to him, “there has to be an integrated reform that includes a temporary worker program, but also the regularization of those people who are already living in receptor countries.”

The Mexican Ambassador to the US, Carlos de Icaza, took particular issue with the fact that H.R. 4437 includes enforcement policy only, without creating a TPS program. He pointed out that over the last 10 years, the average stay of an undocumented worker increased from 2.6 years to nearly seven and that the circular trend of Mexican immigration has been broken. “Instead of coming back and forth, they are afraid of going back to their country every year, or losing their job, so they try to bring their families, and then the situation complicates further,” he said. “Until [the US] deals with comprehensive immigration reform, the enforcement measures [it] has today are deemed to fail.”

In Central America, the opinions voiced by the different governments ranged from calls for diplomacy to downright outrage. Remittances to the region in '05 reached record levels, totaling more than \$8.2 billion—an increase of 14.5% from '04. The overwhelming consensus among Central American lawmakers is to request a TPS program, or series of programs, that address the needs of migrant workers and those of the US economy.

In Guatemala, friends and families of immigrants received almost \$3 billion in remittances in '05. This money, which comes from the 1.2 million Guatemalans currently living in the US, constitutes the second largest source of income for the country and is the equivalent of 9% of the nation's GDP. In contrast, total exports for Guatemala in '05 were barely more than \$3.5 billion.

To Vice President Eduardo Stein, the idea of constructing a wall stretching for hundreds of miles along the US-Mexico border is “absolutely intolerable.” He characterized the gesture as “an affront to Latin America.” The Guatemalan government recently petitioned for a TPS program as an alternative to enforcement-only legislation.

El Salvador has taken a much calmer approach to the situation. At the moment, 2.4 million Salvadorans are living in the US, 220,000 of whom are there because of a TPS program set up after the earthquake of '01. Salvadoran remittances in '05 reached \$2.8 billion and represented 16.6% of the nation's GDP.

President Antonio Saca's response to H.R. 4437 urged diplomacy and the avoidance of confrontation in working toward a solution. “El Salvador's position is totally clear: use diplomatic channels in order to get closer to the Republican and Democratic parties in order to seek the integral reform of our people who are in the US.”

Conflicting Opinions

On 9 Jan '06, the governments of Mexico, Central America, Colombia and the Dominican Republic met in Mexico City with the intention of crystallizing a cohesive response to the US immigration reform legislation. At the summit, two conflicting positions emerged: that of Mexico, which called for the harsh reproach of H.R. 4437; and that of El Salvador, which took the stance that the region has no place in criticizing the domestic policy of the US.

The resolution written by the 10 governments in attendance demanded that the new immigration laws of the US guarantee “the full protection of the human rights” of immigrants and “the observance of labor laws.” It went on to call for the further US consideration of new TPS programs as well as a process of regularization for undocumented immigrants already in the country. It made no mention of the issue of the proposed wall.

Mexico left the meeting critical of the resolution, calling it “weak” and “loose” because it did little to define an exact strategy for the region. On the other hand, El Salvador seemed content with the results of the Jan summit because, according to Saca, “what prevailed in Mexico is the position of El Salvador ... our compatriots' problem isn't the wall” but the necessity to legalize themselves. The countries agreed to create a special immigration task force that will allow them to coordinate future policies together.

Hidden Dangers

As its title indicates, H.R. 4437 has been promoted as a necessary step in the War on Terror because of its emphasis on border security. This has helped lawmakers build support for the measure by invoking the memory of the 11 Sep '01 terrorist attacks in New York City. The reality is, however, that those attacks would not have been prevented by tougher border security, as most of the perpetrators of the attacks were in the US on legal visas. The real targets of H.R. 4437 are not terrorists but the 11 million undocumented workers who currently live within the US borders. Attaching the label of "terrorist" to each one of these people has dangerous implications regarding the discrimination that they may face.

This characterization has also contributed to the call for increased militarization along the US border with Mexico. Border militarization has consistently led to a higher occurrence of migrant deaths, yet has done little to curb the overall flow of undocumented entry. Since '94, 4,000 migrants have died trying to cross into the US from Mexico. During fiscal year 1 Oct '04 to 30 Sep '05, at least 460 migrant deaths occurred along the US-Mexico border.

The myth that weak US border enforcement has led to high undocumented immigration is exactly that—a myth. According to the US Immigration and Naturalization (INS) website, the Border Patrol's budget increased six-fold between '86 and '98, while the number of Border Patrol agents doubled to 8,500. During this same period, the number of undocumented immigrants living in the US rose from four million to eight million.

Religious institutions and humanitarian organizations throughout the US have expressed widespread disapproval of H.R. 4437 because, as it is written, any person convicted of assisting someone who is an undocumented immigrant could face up to five years in jail and risk having their property seized. In a letter to President George W. Bush asking him to oppose H.R. 4437, the Roman Catholic Archbishop of Los Angeles, CA, Cardinal Roger Mahoney, pointed out that, "in effect, priests, ministers, rabbis and others involved in various church-related activities will be forced to become 'quasi-immigrant enforcement officials,'" in order to avoid committing crimes. "Are we to stop every person coming to Holy Communion and first ask them to produce proof of legal residence ...?"

Supporters of the bill have tried to downplay these concerns by saying that they are over-exaggerated. Will Adams, a spokesman for Representative Tom Tancredo (R-CO.), one of Congress' most vocal supporters of H.R. 4437, recently said, "The federal government doesn't even go after employers who hire illegal aliens, let alone charities." He continued to say that someone who thinks that they would "isn't in touch with reality." Tancredo also proposed legislation that would have disallowed automatic citizenship to children born to undocumented immigrants in the US, but it was eventually dropped from the bill.

The Next Step

H.R. 4437 has yet to come before the US Senate. A bi-partisan group led by Senators John McCain and Edward Kennedy is developing a bill they hope to submit to the Senate floor later this year. Their proposal includes a "guest worker" program for 400,000 immigrants who agree to pay \$500 plus application fees and are sponsored by a US business. Undocumented workers already in the US would be subjected to a \$2,000 fine, but would be eligible to apply for the program. The bill is focused much less on border security than it is on immigration reform.

While many have lauded this proposal as a comprehensive plan for fair, necessary immigration reform, many holes remain. The legislation fails to address the fact that, given current statistics, 10.6 million undocumented immigrants would remain in the US. The proposed visa, the H-5A, allows workers to fill jobs “that require few or no skills,” limiting them almost exclusively to minimum wage positions. Plus, there is no mention of any kind of healthcare program or benefits, and the \$2,000 fine for undocumented workers already in the country is a strong deterrent to coming forward. When employers, even under the new proposal, are allowed to continue hiring undocumented immigrants with impunity, there is very little incentive for the worker to become legalized.

Though the McCain-Kennedy proposal does much more than H.R. 4437 in addressing today’s needs and the realities of undocumented immigrants in the US, it is quite limited in scope and does very little to speak to the concerns of the Latin American governments. Let’s face it: Mexico, Guatemala and El Salvador have an estimated 10 million of their citizens living without documentation in the US. A plan to grant 400,000 temporary visas ignores so many of these people.

Fair, humane and ambitious immigration reform is long overdue in the US. The possibility exists for a balanced program that promotes well-being on both sides of the border and which addresses the needs of both workers and employers. Fundamental to this are several things: a *decrease* in border militarization to avoid the senseless death of hundreds of migrants each year; multi-lateral TPS programs that are tailored to the needs of different source countries; and that greater responsibility be taken by US employers who have benefited for decades from the low-cost labor created by previous immigration policies.

Enforcement-only policies are simply not enough. If the US government does not admit this, it will continue resorting to policies that only hide it from the problem—like building a wall that stretches more than 700 miles along its southern border.

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