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Mexican-U.S. Asymmetrical Diaspora Policies in the Age of Return Migration

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Abstract

A major shift in Mexican policy towards its emigrants took place in the mid-1990s, ending a view of emigrants as “traitors to the nation” and from then on considered “national heroes”, as an attempt to embrace them into the nation. Since 2007 over 2 million Mexicans have returned to Mexico facing stark discrimination from Mexican institutions that were never designed to integrate foreigners or newcomers, but quite the opposite, to exclude undocumented populations. This creates the contradiction that Mexicans abroad may have access to more rights provided by the Mexican government than if they move back home. This paper attempts to understand these exclusionary practices and points to new diaspora policies, which should cater for a massive population moving between the two countries or settling in Mexico. It also calls for “symmetrical” diaspora policies that provide rights granted by home governments that are also valid within its territorial jurisdiction, not just abroad.

Keywords: migration; citizenship; return migration; diaspora policy; Mexico; identity documents; Mexican migrants.

From traitors to heroes: diaspora policies for Mexican emigrants in the 1990s

A widely studied topic in diaspora politics is the dramatic shift in Mexican policy towards its emigrants in the US, which took place in the early to mid-1990s. Mexican emigrants stopped being seen as “traitors to the nation” and were now considered “national heroes”, through a series of policies aimed at engaging with their diaspora in the US (Fitzgerald 2009); the creation of an institute for Mexicans abroad, the expansion of the U.S. consular network to 50 consulates, a dual citizenship law and external voting rights, amongst many others.

One of the most symbolic policies was the approval of dual nationality. In 1996 Mexican Congress approved a constitutional reform know as “non-forfeiture” (*no pérdida*) of Mexican nationality, together with a new nationality law that for the first time allowed dual nationality for Mexicans regardless of where they were born or naturalised (Mateos, 2019). This constitutional reform entered into force in 1998 and slowly but gradually has changed how Mexican migrants and their families see themselves and their lives on both sides of the 3,000km border. This legislative change, of course, applied to dual citizenship with any other country in the world, although we focus here on the US since as a destination it comprises over 97% of the Mexican emigrant diaspora. Not many Mexicans who had naturalised in the U.S. prior to 1998 claimed back dual citizenship, but most of those who became U.S. citizens after 1998 or were born abroad, have taken advantage of

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dual nationality provisions, especially when they intend to travel to Mexico, maintain property, study in Mexico, or have their lives or families spanning across borders.

The approval of dual citizenship in Mexico in 1996-98 was primarily driven by the following factors, framed within an overall expansion of diaspora policies; First, there was a strong sense that Mexicans residing in the US, even as legal permanent residents, were losing rights in an increasingly hostile immigration policy arena and that a dual nationality law would encourage them to naturalise in the US (at the time they would have had to renounce Mexican nationality). As US citizens, the argument went, they could vote in US elections and have better means to protect their rights. Second, this desired effect would in turn create stronger Mexican political lobbies in Washington that, over time, would indirectly benefit Mexican foreign policy (Fitzgerald 2005). Third, offering those emigrants a possibility to remain Mexican citizens would be useful, on the one hand, to allow them nurturing their Mexican identity, and, on a more pragmatic one, to promote economic links with Mexico, especially fostering collective remittances and facilitating the management of property and inheritance in Mexico. In the Mexican Constitution (up to this day) foreigners are forbidden to own land in both coasts and international borders as well as forbidden to access many civil service and political positions (Hoyo, 2016). Therefore, a Mexican that became naturalised in the US before 1998, would automatically become a foreigner for any legal matters in Mexico, and if she/he owned a property in such zones exclusive for Mexicans, then she/he had to sell or transfer such property, or face governmental requisition of it. Hence the dual citizenship reform was beneficial for such persons, many of whom lived along the US-Mexican border. Forth, full Mexican citizenship rights would only come with external voting rights, and even when this constitutional reform did not include them, it was an important precedent towards encouraging non-resident participation in the nascent Mexican democracy, rejuvenating a slowly increasingly competitive political system in the mid-1990s.

The expansion of the Mexican consular system in the U.S. since the 1990s has not only been numeric (with 50 consulates it is the world's largest consular network in a single foreign country). A range of services was introduced to facilitate daily activities to a huge Mexican diaspora, comprised of 12 million people living in the U.S. Many of these services have been primarily aimed at those Mexicans with undocumented migrant status in that country. Mexican consulates have issued over 3 million current consular ID card (*matricula consular*) to date, that are accepted as forms of official identification and proof of residence in some U.S. states in order to apply for local services, driving licenses, open bank accounts, contract a telephone line, get library cards, apply for social services, and so on (Mateos, 2015).

Furthermore, Mexican consulates provide legal support, issuing of Mexican documents, notary services and even basic health support and health education, and advice on entitlement to social services. As we will see, it is paradoxical that most of these services are not available for free to Mexican citizens living in Mexico.

During interviews at Mexican consulates in San Diego, California, and McAllen Texas, it is striking to notice the level of efficiency provided to Mexican citizens in terms of short waiting times, politeness of their personnel, clarity of information provided, extended hours of service, phone support and even cleanliness of the premises and overall quality of the service provided. None of this quality of service is available in the daily interactions with civil servants in Mexico, where the service is discretionary, long waiting times, information is patchy and opaque, bureaucracy is Machiavellian, documental requirements are cumbersome and useless, premises are of very poor



quality, and corruption is still common. This is the contrast Mexican migrants experience when they interact with authorities back in Mexico.

The age of return migration to Mexico

Twenty years after the diaspora policies were introduced in the 1990s, part of the massive Mexican migrant population in the U.S. has started to return in considerable numbers. Since the onset of the 2007-08 financial crisis, over 2 million Mexicans have returned to Mexico, ending the 40-year era of mass Mexico-US migration.

As a result of the US economic crisis in 2007-08, the increased number in US deportations to Mexico since the early 2000s, together with a long period of demographic and economic stability in Mexico, has produced the era of zero net Mexico-U.S. migration (Gonzalez-barrera 2015; Passel, Cohn, and Gonzalez-Barrera 2012). The 2010 Mexican Census registered a resident population of over half a million minors born in the U.S. (INEGI 2011) pointing towards the future population size and family implications of this vast returnee population, otherwise hidden in most statistics (because most returnees were born in Mexico).

These trends have generated a massive return of Mexican nationals to Mexico, some of them as naturalised US citizens, and many more taking with them their minor children born in the US, and therefore US citizens. For them, claiming also Mexican citizenship and national identity documents began to make much more sense than when they were living in the US (Mateos, 2019).

Statelessness de facto in Mexico

This returnee population and their families have faced daily discrimination from Mexican institutions that were never designed to integrate foreigners or newcomers. After all, the foreign-born population in Mexico comprises just 0.7% of the total resident population, the lowest of OECD countries. Quite the opposite, the cumbersome Mexican bureaucracy seems to have been explicitly designed to exclude foreigners, and also indigenous people as well as rural, illiterate and the dispossessed which all happened to fall under a peculiar group of ‘undocumented populations’ that will be explained in the next paragraphs.

Mexican returnees fall now inside this web of xenophobic exclusionary practices set over 100 years ago by the revolutionary regime interested in excluding foreigners and managing a paternalistic client-based political system. The root cause of discrimination is the lack of basic identity rights as citizens; many of them are denied access to Mexican identity documents, a key right that opens many other doors. In consequence, many returnees and their families lack access to basic services such as education, healthcare, retirement benefits, conditional cash transfer (CCT) programs, civil register services and many other public benefits as well as basic private services, such as renting or buying a house, contracting a telephone line or any other utilities.

In Mexico, identity documents for citizens emanate from a birth certificate indicating the right to Mexican nationality. This birth certificate has to be found in the national population database (RENAPO), which gives a unique national id number called CURP. For those citizens born abroad, their foreign birth certificate needs to be transferred to its equivalent in the Mexican civil registration system. Those born in Mexico 20 to 70 years ago, often find their birth certificate does not appear in this database, never existed, their registration is duplicated or cannot be located.

Part of the evidence reported here derive from a major research project of U.S.-born dual nationals living in the U.S. and Mexico involving over 200 interviews in various locations in

California, Texas, Illinois and New York, as well as Mexican States of Baja California, Nuevo León, Chihuahua, Jalisco, Puebla and Michoacán. Our key finding was that the majority of them lack basic Mexican identity documents; a Mexican birth certificate, a Mexican population registration number (CURP), a Mexican ID card ("*cedula de identidad para menores*"), or a Mexican passport.

The main reason reported by interviewees is that most parents do not register the US birth of their children in Mexican consulates, a procedure that is much simpler if fulfilled through the consular system than if conducted later in Mexico. Once in Mexico, this birth registration as a Mexican national involves a complicated and expensive international administrative process. It involves legalisation of the US birth certificate through the "*apostille*" seal and translated by an official translator in Mexico. This is costly, time-consuming and prone to errors. If the names of the parents or grandparents in the US birth certificate do not coincide with those in the Mexican birth certificates of both parents, the original US birth certificate needs to be amended by the US county where it was issued. This process requires costly professional intermediaries to locate the necessary documents, ship them, and accomplish the legalisation and translation processes (average cost is 4,000 Mexican pesos per child, approximately \$236 USD) (Jacobo Suárez and Landa 2015). Most poor returnee families (some of them deported) cannot afford such services, especially many families with several children under this situation.

We found across the board that information on registering foreign-born Mexicans in Mexican territory is patchy or non-existent and it varies by state, municipality and even by the civil registry office. We have made inquiries in several civil registers in Mexico and each time got a different list of requirements and policies. These difficulties contrast with the fluid process to register a child as a Mexican citizen born abroad in one of the Mexican consulates, since there is no requirement for *apostille*, nor translation and there is more flexibility about interpreting names and other requirements. This is a clear example of how diaspora policies designed to embrace Mexicans abroad are not matched with similar implementations at home. Mexicans living abroad are still heroes while those who returned are considered traitors or a sort of anomaly to the Mexican native norm.

The consequence of a lack of Mexican documents is that, despite their theoretical status as dual citizens, many of these migrants become *de facto* stateless in their country of birth or that of their parents (Escobar, 2015; Mateos, 2014). This in turn brings severe limitations in their right to access public services and overall integration in Mexico, especially their exclusion or marginalization from the education system (Jacobo Suárez, 2015; Valdez-Gardea, 2012). They are either denied enrollment because of lack of identification documents, or if they do attend school, they cannot get their certificate or formal degree in elementary, middle and high school. This situation pushes many families, teachers and staff to manipulate civil registration documents and to work out illegal ways to solve a purely administrative shortcoming. Discrimination and corruption practices are common. For example, school headmasters or administrators take bribes disguised as fees for "foreign students", as exposed by one of the interviewees in a village in the State of Jalisco. The fall victim of a bureaucratic system designed to exclude foreigners, indigenous persons and the rural dispossessed, which now ends up trapping returned dual nationals.

A subgroup of "undocumented" bi-national children and young people is also vulnerable in situations of international custody disputes, because of divorce, abandonment or death of one or both parents on both sides of the border, or deportation proceedings of their parents. All these



situations are further complicated if the parents are not married or their names do not appear in the birth certificates of their children, or they present anomalies (correct spelling and order of long names are a big issue in Mexican bureaucracy). This legal and documentary vulnerability sometimes also affects their ability to prove US citizenship, with some migrants falling victims of a general lack of documentation and information.

Mexican and the US governments have surprisingly ignored the needs of this growing bi-national group for a number of years, treating them as second-class citizens until NGOs and public institutions at local levels have recently started to take the matter into their own hands. Recent evidence from US consulates in Mexico suggests that they have now started to be preoccupied with the protection of their minor nationals in Mexico. Several information campaigns have been launched in Baja California and Oaxaca and Consuls are even crossing into the US to campaign in San Diego area for proper registration of dual national children under the two nationalities before moving to Mexico (El Sol de Tijuana, 2015; Mercado, 2015; Tavera, 2015)

These bi-national populations are very common in Mexico's border States with the US. The municipality of Tijuana, in Baja California, has since 2014 launched media campaigns to promote the proper registration of dual nationals born in the US, offering a 50% discount in registration fees for a month each year. Registrations soared from 285 to 2000 people a year in this single municipality. This procedure allows U.S.-born Mexicans to "align" their Mexican documents with their US birth certificate, cancelling previous fake birth registrations as born in Mexico that were very common before dual citizenship was permitted in 1998. In an interview with Tijuana's head of the municipal Civil Registry she stated:

"It was a taboo, no? I was born in the US but my parents registered me in Mexico as born in Mexico [...] I have lived my whole life with that fake birth certificate. But then, I went to the media and told them; 'do not be afraid to cancel that fake birth certificate, don't carry on with a lie' [...] Even our mayor was born in the U.S! [...] we need to regularize this situation, put right our paperwork"

She reflected on how promoting dual citizenship is still kind of taboo, since it means recognizing that people have had faked Mexico-born birth certificates, and that "*your parents chose to strategically give birth in the US when you have lived in Mexico for your whole life*". That is why she built a very "nationalistic" media campaign, so that nobody would question her "Mexicanness" (*mexicanidad*). The campaign poster depicted the Mexican and US flags behind a father and child with symbols of both countries and she presided the press conference wearing a T-shirt of the Mexican national football team (Agencia Fronteriza de Noticias, 2014).

In one of our interviews, Angel, a deported person living in the state of Jalisco said that in Mexico he "felt like a wetback in his own land". He was referring that now living in Mexico after 30 years in the US (he arrived as a 3 year old) he felt sad, frustrated and angry, not only because of the way he was deported and forced to live in a country he didn't know, but because of the discrimination he felt by Mexican authorities, which treat him as an undocumented migrant again. After having lived in the shadows in the U.S. for all his life, now in Mexico without proper id documents, Angel felt like an undocumented migrant again. He reflects well the feeling of hundreds of thousands of Mexican returnees that become stateless *de-facto* discriminated by an institutional system that treats them as undocumented migrants, people who do not appear in birth registers, that lack basic id documents and hence are outside the welfare, labour, education and housing markets.

Furthermore, Angel and many of our returnee interviewees felt as unwanted persons, seen by the Mexican institutions as anomalies; quasi-Mexicans that do not fit the norm, they lack documents, knowledge of the system, speaking Spanish with strange accents, and with physical appearance and behaviour that triggers even more discrimination. This sense of dual exclusion both in the countries of “destination” and “origin” is common amongst second-generation migrants in Europe. However, the first-generation Mexican returnees collective shows a new twist of dual discrimination at home because of the cumbersome identity system in Mexico and lack of interest of authorities in implementing programs for the integration of returnees.

Conclusion: a call for symmetrical diaspora rights

It is now clear that highly praised Mexican diaspora policies introduced in the 1990s were never designed to engage with a massive population that moves between the two countries or settles back in Mexico. This creates the contradiction that Mexicans abroad may have access to more rights provided by the Mexican government than available to those which move back home.

We here provide a brief summary of policy recommendations to improve the quality of life of a collective that could well be comprised of 20 million people:

The case for a sound reform of the Mexican personal identity system is very urgent. The collective that would benefit from such reform is massive: it is comprised of 2 million returnees, 0.7 million minors born in the U.S. with Mexican citizenship, the 12 million native Mexicans living in the U.S. and their 13 million children living in the U.S. who are also entitled to Mexican citizenship.

Such reform could be presented in a setting of “symmetrical diaspora policies”; the need to provide the right to identity and access to basic services to Mexicans both abroad and at home. The reform should consist in waiving the requirement of legalization (*apostille*) and translation of U.S. birth certificates, as well as introducing flexibility to interpret names in those certificates. Pilot programs have introduced this change by successfully connecting to a Public Health Births Databases from Mexico. These programs should be implemented nationally in Mexico by the Mexican Department of Foreign Affairs, with offices across Mexico that issue passports, removing discrimination and discretionary decisions by civil register officials at the municipal level. Furthermore, the requirement to present two official photo-ids to apply for a voting registration id card and for a Mexican passport should be reduced to one and opened to accept foreign official photo-id documents.

All-in-all, the Mexican government should make a national priority the embracing of their diaspora once it settles back home. First, in an effort led by the Department of Foreign Affairs, it should ensure all Mexicans have effective access to Mexican id documents and therefore can become full citizens. Second, implement social programs designed to integrate returnees in Mexican society, aimed both at the returnees themselves but even more importantly to the rest of the population and the staff of government institutions. Such programs should emphasise the growing diversity in Mexican society and the need to prevent discrimination and adapt behaviours and procedures to the special needs of the returnee population and their families.

Finally, rounding the agenda setting the purpose of this short article, we here propose a theoretical debate that unearths the factors behind such asymmetrical outcomes in the Mexican-U.S. diaspora policies in the age of return migration. I adventure to propose the following questions to instill such debate: Do emigrants stop being seen as heroes and become traitors again when they



move back to Mexico? Are they wanted to the same extent as a powerful diaspora in the US that sends remittances and influence foreign policy? Is it a historical anachronism derived from post-revolutionary xenophobic measures that are still useful to a corrupt bureaucratic elite at State-level governments? Is it just because of a policy lag following the major shift in Mexico-US migration flows over the last 10 years, as the slow bureaucratic system and political imaginaries of the “authentic citizen” fail to adapt to a new reality of mass return migration?

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