

BACKGROUND AND OVERVIEW

MEXICO AND THE UNITED STATES: COMMON FRONTIER-UNCOMMON RELATIONSHIP

*Michael W. Gordon**

No two nations with disparate cultures, economy prosperity, and global power share as long a border as Mexico and the United States. The antecedents of these neighbors, Spain and England, met in hostility four centuries ago, at a time of comparative equality in sixteenth century prosperity and power. But Mexico and the United States, two principal Western hemispheric progeny of Spain and England, would by a combination of inheritance and choice, reach a gap in development of disturbing proportions.

These two nations are destined irrevocably to share a seemingly inexhaustible, and frequently exhausting frontier. Until this century, these nations have not directly faced one another to discuss and resolve principal conflicts affecting their political, economic, and social development. In this century, however, and particularly in the four decades since World War II, they have faced each other, discussed, and in some cases, resolved issues of mutual concern. This twentieth century bilateralism, however, has been confined largely to issues not related either to global security or economic development. In those areas, each has sought solutions in multilateral fora, where regretfully, each usually sit on opposite sides of large and crowded bargaining tables.

Multilateral negotiations are crucial to development, but ought not totally replace bilateralism. Multilateralism should not be viewed as the only effective mode of achieving economic growth. The fashionable view of the history of Mexican-U.S. relations has led Mexico to be wary of bilateral trade dealings with the United States, when made without the protective cloak of colleagues of the Third World, and has caused the United States to deal with Mex-

* Lyle T. Alverson Professor, George Washington University Law School, 1986-87. Professor of Law & Latin American Studies, University of Florida School of Law.

ico with condescension. This is an unworthy historical legacy. And is a legacy based on distorted perceptions of the historical relationship.

The United States shares a long frontier with both Canada and Mexico. But with Canada it also shares a cultural and historical affinity. This does not suggest that it always deals effectively with Canada. The United States places a mirror along the border with Canada and then believes it is looking into that nation. It expects Canada to reflect U.S. characteristics and aspirations. The relationship succeeds partly because the reality is much like the reflection. The United States does not place a mirror on the Mexican border. Nor does it expect Mexicans to look like Americans. It places caricatures rather than mirrors on the Mexican border, caricatures which represent mythical stereotypes.¹ They are stereotypes learned years ago in Saturday morning movies and comic books, and too often reinforced in grammar and secondary school texts. The United States does not see Canadians as they really are, but as the United States sees itself. The United States does not see Mexicans as they really are, but as the United States has fictionalized them. Failure to view one another as we really are has established an obstacle to possessing a very clear understanding of each others desires and needs, and thus an obstacle to the kind of harmonious relations these two nations should share.

Prior to the turn of the century, nearly every relationship with Mexico was the consequence of maintaining and improving a delicate balance of power between the United States and Europe. Manifest Destiny of the United States was intended more to eliminate European power in this hemisphere, than to acquire additional territory. John Quincy Adams noted in a cabinet meeting in 1819 that it was “a physical, moral, and political absurdity,” that the European colonies in this hemisphere “should exist permanently contagious to a great, powerful and rapidly-growing nation.”² The United States never used this doctrine, nor that of Monroe, to take by force territory which was substantially occupied and effectively governed by that nation from any independent nation of this hemisphere. Mexico has often overlooked this, believing (or preferring to believe) that the United States was dealing directly on a North-South basis and manifesting imperialist ambitions over its southerly

1. See Gordon, *Mythical Stereotypes Dealing with Mexico as a Lawyer*, 37 J. LEGAL EDUC. (1987).

2. 2 THE WRITINGS OF JOHN QUINCY ADAMS 372-73 (W. Ford ed. 1913).

neighbor.

The United States did not seek more territory as territory, but because it refused to share this continent with European powers. The U.S. acquired some territory in its westward expansion, by purchase or occupation, which did not affect Mexican-U.S. relations. And it acquired Texas for an aggregate of complex reasons including the politics of slavery. Without understanding the past and placing to rest real and imagined wounds, there is little reason to foresee mutual progress in the development of a more positive relationship.

The idea that the losses Mexico views it has suffered from its adhesion to the United States were not always intentional, but the detritus of East-West relationships, is supported by the occasionally volatile relations of these two nations. Voltaire once stated that history is a myth rewritten by each generation. It would help both these nations to rewrite it next with less myth and more veracity.

The United States has long been relationally preoccupied along latitudinal lines running East and West. "The East-West opposition has always been considered basic and primordial," writes Octavio Paz, "it alludes to the movement of the sun, and is therefore an image of the direction and meaning of our living and dying."³ The Monroe Doctrine was an East-West expression. It spoke to Europe. The nations of Latin America, allegedly beneficiaries of the Doctrine, approved its message. But when five of those nations, including Mexico, suggested it should be followed by treaties of alliance or assistance against intervention, the United States declined. The Doctrine did not contemplate North-South alliances because it was a Doctrine not of North-South confederation, but of East-West power symmetry. John Quincy Adams later stated that "There is no community of interest or of principles between North and South America."⁴ Washington's and Jefferson's warnings against foreign alliances were directed at Old World despotism. America applauded freedom and recognized independence in Latin America less for its value to the inhabitants of those nations than for the assurances it brought to the United States that European domination in this hemisphere was being ceded to the United States.

Mexican independence did not generate a treaty of alliance with the United States. The first treaty, in 1839, determined claims of United States citizens who suffered property losses in Mexico dur-

3. O. Paz, *Reflections*, The New Yorker, Sept. 17, 1979.

4. See 2 THE WRITINGS OF JOHN QUINCY ADAMS, *supra* note 2.

ing the years of conflict while Mexico fought for freedom.⁵ The day that the United States acquired, and Mexico lost, the land that now comprises six southwestern states has become a second Noche Triste. The United States does not dwell on its losses as do Mexicans. But Americans do not understand the meaning of the past to Mexicans. Those territorial losses are parts of the Mexican past, and the past, as Carlos Fuentes suggests, “must be dealt with perpetually, because redemption is to be found more in the origin than the future.”⁶ Ironically, the past might have involved a much greater loss were Mexicans to understand the dynamics of United States history.

The territorial issue was partly a conflict over differing views of what constituted adequate occupation to justify sovereignty. To the United States, sovereignty demanded substantial occupation, certainly more than the incidental occupation of the disputed territory. But the issue was not settled by notions of international law, but rather by the territorial psyche of President Polk—his fear that what the United States did not absorb in the West, would fall prey to the British. Only a few decades earlier, the United States had narrowly emerged from a bloody revolution with England. The conflict with Mexico was the product of a feared further confrontation along the East-West axis, not the product of relations, good or bad, running North-South.

By signing the Treaty of Guadalupe Hidalgo in 1848,⁷ and the Gadsden Purchase⁸ in 1853, Mexico had in three treaties in fifteen years agreed to demands from the North under threat of more serious losses. The threat was expressed by what nearly became a fourth treaty in 1860.⁹ It did not become a fourth treaty only because the U.S. Senate rejected it. It would have allowed the United States railroad rights of way to Mazatlan from the lower Rio Grande, and to Guaymas from Nogales, and the right to intervene to protect U.S. citizens. The treaty was not supported by Northern senators who feared President Buchanan was attempting to extend slave territory. If that treaty had received the advice and consent of

5. Convention for the adjustment of claims of citizens of the United States of America upon the Government of the Mexican Republic, April 11, 1839, United States-Mexico, 8 Stat. 256, T.S. No. 205C.

6. Fuentes, *Dealing with the Damn Yankee*, TOWN & COUNTRY 276 (Nov. 1980).

7. Treaty of Peace Friendship, Limits and Settlement with the Republic of Mexico, Feb. 2, 1848, United States-Mexico, 9 Stat. 922, T.S. No. 207.

8. Treaty with Mexico, Dec. 30, 1853, United States-Mexico, 10 Stat. 1031, T.S. No. 208.

9. See J. PRATT, A HISTORY OF UNITED STATES FOREIGN POLICY 154 (2d ed. 1955).

the Senate—given the provisions of the Gadsden Purchase, which granted the United States the right to establish any means of transit across the Isthmus of Tehuantepec and also the right to protect U.S. citizens (provisions surrendered in 1939)—Mexico might be a very different nation today.

The U.S. interest in Mexico, mainly as it affected the U.S. power balance with Europe is reflected in the next major tension, the 1860s French intervention which placed Maximilian on the throne. When U.S. attention was again directed southward after the Civil War, Secretary of State Seward urged the French to leave, not by any dialogue with Mexico, but directly with Napoleon in Paris. The United States insisted that Mexico remain free of European interference. The issue to the United States was again East-West, not North-South. Had France not withdrawn, Grant and Sheridan, their military skills intact from the U.S. Civil War, were prepared to lead troops to occupy parts of Mexico. But the French withdrew.

The Mexican-U.S. frontier would remain little changed in the years to come. The boundary today is less the product of a U.S.-Mexican territorial struggle than the end result of the United States establishing minimum acceptable boundaries in largely un-governed areas which promoted the principle of the Monroe Doctrine. The United States has been repeatedly castigated by Mexico for the loss of half of its former territory. That loss never would have occurred had Spain populated the territory more substantially, which would have left Mexico with the legacy of a capability of thwarting the efforts of British and Continental powers to further colonize this hemisphere. These nineteenth century conflicts between Mexico and the United States set a bitter tone for relations in this century.

The nineteenth century view of Mexico as a pliable third party in the latitudinal vortex of world events contributed to the contemporary U.S. image of the Mexican as a person of modest capacity for self-government. Lack of Mexican participation in world events was first equated to lack of world power, then lack of national capacity, and finally lack of individual capacity. That lack of individual capacity is now related less to those events than to characterized images and mythical stereotypes of the Mexican, created and reinforced in our educational system. Americans expect Mexicans to fail and these expectations have found a home in part of the Mexican self-image. They contribute to Mexico's underdevelopment. Lawrence Harison has titled his recent book, "Underdevelopment is

a State of Mind.”¹⁰ His premise, that learned, not inherited, cultural attributes in Latin America have retarded development, merits careful reflection by all Latin Americans, particularly those who have long thrived on dependency theory. The idea was that Latin American underdevelopment bears scars of causation solely from external flogging. There has not been much evidence of self blame when underdevelopment causation has been examined in the domestic literature of Mexico. However, a cultural characteristic of Latin America, noted by the French author Jean-Francois Revel, has been an absence of self-criticism.¹¹

In this century the basis of relations with Mexico changed. Some conflicts were, as before, the fall-out from the East-West power balance. However, the United States did begin to deal directly with Mexico. The issues continued to involve property. This time, however, the issue did not involve property as territory within our perceived frontiers, but the property of U.S. nationals in Mexico. The government of Porfirio Diaz welcomed foreign investment. Much of this investment was French, British, and Spanish. United States’ domination occurred after the First World War. Differing perceptions regarding foreign investment remain a cause of tension for the two nations in the final years of this century. Other issues causing tension include the flow of persons and property, and to some degree persons as property, north and south across the border.

Unlike the relationship of the United States with every other Latin American nation, nearly ever tension with Mexico is linked to adjacency. These two nations must be able to deal effectively with each other because they are neighbors, acknowledging that it is being a neighbor that created a considerable part of the tension.

What distinguishes these contemporary issues from nineteenth century conflicts is that they are not, with few exceptions, East-West dominated. They are direct North-South, Mexico-U.S. issues. However unable the two nations are to resolve them, at least the nations are facing each other when the conflicts are discussed. There is an additional favorable element which could arise only after the United States did begin to deal with Mexico directly. It is an element of humanity, perhaps not so much dependence on a sincere concern for the well-being of Mexicans, as it is a desire that Mexico achieve a sufficient level of economic success, that tensions between the two nations diminish. What both nations must hope for

10. L. HARISON, *UNDERDEVELOPMENT IS A STATE OF MIND* (1985).

11. J. Revel, *The Trouble in Latin America* 47 COMMENTARY, 47 (Feb. 1979).

is that humanitarianism will replace property as the apogee of national interchange, and that comprehension will replace condescension as the apogee of this humanitarian focus.

President Wilson was the first to act with this sincerity, by his rejection of Huerta as a successor to the assassinated Madero. Although Wilson interfered with a sovereign nation by the occupation of Veracruz, it was done, as Wilson stated, because "our sincere desire was nothing else than to assist you to get rid of a man who was making the settlement of your affairs for the time being impossible."¹² The desire of both Carranza and Wilson to avoid war precipitated by border clashes in 1916, and the reappearance of an East-West issue of greater concern to the United States, the war in Europe, foretold a peaceful solution.

The constitution that arose from the ashes of the Mexican Revolution was certain to collide with foreign property interests. It was, much like the constitutions of many civil and socialist legal tradition-based nations, less a statement of immediately guaranteed rights than a platform for future reform. A number of rights contained in that seventy-year-old document are yet to be found in the fabric of Mexican life. But those rights frightened foreign interests. During the next twenty-five years, culminating in the expropriation of petroleum interests, relations focused on the issue of compensation for damaged or lost property interests. Fortunately for both nations, some unhappy years between the two World Wars were opened and closed by U.S. presidents with humanitarian notions toward Mexico. Wilson's inclination to moderate the protection of U.S. property with social concern was matched by Roosevelt's similar expressions in his "Good Neighbor Policy." But as the first Great War had turned Wilson's head back to the East-West axis, the Second World War turned Roosevelt's head the same way.

At the close of the Second World War, multilateralism was thought to be the most certain way to achieve peace and avoid the protectionist excesses of the 1930s. The United Nations would serve the former role, the structures created at Bretton Woods the latter. But multilateralism has not proven to be the total answer to either peace or economic development. The route to consensus is tortuous, and when successful it often leaves norms that are so broad that they allow multiple interpretations. Mexico and the United States frequently have disagreed as participants in the Bretton Woods or-

12. R. BAKER, 8 WOODROW WILSON, LIFE AND LETTERS 195 (1927).

ganizations, and they may do so in the forthcoming Uruguay round of the GATT, to which Mexico sends its delegation for its initiation as a full member.

For all of the benefits of multilateralism, it may tend to discourage effective bilateral relations between neighbors. Bilateralism then becomes the "threatened consequence" of failed multilateralism. Or it is reserved for resolving disputes rather than for creating positive economic relations.

Drugs, immigration, or the removal of national patrimony readily suggest the need for bilateral agreements. The same ought to be true for regulating trade and investment. If Mexican entry into the GATT means that U.S.-Mexican trade rules are to be discussed solely within the confines of the GATT the nations will miss opportunities to obtain the benefits of adjacency. Those benefits are fully visible in the European Community, where both small nations and less developed nations have achieved development with no loss of national dignity and with nominal relinquishment of sovereignty. The GATT is unquestionably important to Mexico and the United States in dealing with the rest of the world. But just as the GATT has not been the sole tie that has produced economic prosperity among the EEC nations, the GATT is unable to offer the United States and, more importantly, Mexico, the maximization of the effective use of bilateral and multilateral actions.

In this century the United States has begun to deal with Mexico directly, but the excessive dominance of multilateralism in the post war years has again turned the United States towards East-West issues. The special relationship between the United States and Mexico will not be greatly improved at a bargaining table in Geneva. Bilateral relations have a role which ought not be placed on a back burner.

We are certainly functioning under the old Spanish curse, "May you live in interesting times." If interesting is to lend more countenance than curse to the relations of these nations, the North-South axis must replace the East-West as basic and primordial.