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# Organizations Serving Latino Communities Take Opposing Positions on Senate Bill 744

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**Abstract:** Discussion of the guest worker program in S.B. 744 passed by the U.S. Senate in 2013-14, followed by critical examination of principle positions taken by organizations and lobbyists, and key arguments used to justify their perspectives: legal protected status vs. corporations' need for cheap, exploitable labor. Historical context provides crucial elements for discussion.

**Key Terms:** S.B. 744; Immigration and legalization; Guest workers; The Undocumented; Corporations; Unions

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## INTRODUCTION

With the signing of the North American Free Trade Agreement (NAFTA) in 1994, which opened the door to cheap U.S. agricultural and meat products into Mexico, a massive surge of undocumented Mexican migrants soon arose. Unable to compete with U.S. imports, nearly two million peasants were uprooted and forced onto the migratory trail northward. The undocumented quickly became a major political issue across the U.S. Eventually, over 11 million undocumented, mainly from Mexico, and later joined by Central Americans, moved across the northern border resulting in proposals to increase border control, initiate new guest worker programs, and stop undocumented migration, which culminated in U.S. Senate Bill 744 in 2013. Immigration reform proposals have generated substantial support and opposition, and there is no better example than S.B. 744, which generated opposing positions among Latino organizations. In order to examine the tension expressed among these groups, it is useful to first examine the historical context within which S.B. 744 came to fruition.

## THE HISTORICAL CONTEXT LEADING TO S.B. 744

Identifying the key elements comprising S.B. 744 requires that we review the historical context within which the bill ultimately took shape. A variety of proposals for controlling migration that were never passed into law ultimately were incorporated into S.B. 744. The political bargaining began with former President George W. Bush's negotiations with Mexico's President Vicente

Fox in 2001, which was followed by a string of reform proposals.

President Bush's proposal included nothing more than a program to import temporary contract labor from Mexico, i.e. guest workers, as a means to channel potential undocumented into a guest worker program and satisfy employers' needs for farm labor. President Fox agreed with the proposal, but requested the inclusion of a process for legalizing the undocumented. Negotiations included representatives of both parties, including Senators Joseph Biden (D-DE) and Jesse Helms (R-NC), who issued a joint statement declaring the times were right "for general progress" in negotiating an agreement. Support came from the Essential Migrant Worker Coalition representing agricultural corporations dependent on Mexican labor. Had 9/11 not occurred, negotiations would undoubtedly gone forward. But with 9/11, the matter of invading Iraq and Afghanistan took center stage, and immigration reform stood on the back burner for several years (and remained so), only returning intermittently. Let us briefly review several proposals, none of which passed into bills.

## GUEST WORKER PROGRAM

The second President Bush proposed (2004) a three-year guest worker program for the undocumented and a separate guest worker program to import male and female labor. However, no legalization was included. As in the previous Bush proposal, the objective was to increase control of the undocumented border crossing by channeling the undocumented into a guest worker program.

*The Sensenbrenner Bill (2005)*. Sponsored by House Judiciary Chairman, James Sensenbrenner (R-WI), and Homeland Security Chairman, Peter King (R-NY), this bill, passed by the House with 92% of Republicans and 82% of Democrats voting in favor, emphasized the criminalization of immigration law violations, increased border walls and fences, and the deportation of the undocumented.

*Kennedy-McCain (2005)*. Senators Ted Kennedy (D-MA) and John McCain (R-AZ) proposed a pathway to legalization provided that fees and penalties are paid, as well as a guest worker program.

*Spector Proposal (2006)*. Senator Arlen Specter (R-PA) proposed only two measures: a six-year guest worker contract program for the undocumented, and increased border patrol.

*Cornyn Proposal (2007)*. Senator John Cornyn (R-TX) proposed a bill that would require all undocumented immigrants to return to their home country and re-enter under a guest worker program.

*Kennedy-Feinstein Proposal (2007)*. Senators Kennedy (D-MA) and Dianne Feinstein (D-CA) proposed a bill known as *AgJobs*, which would offer legalization to farmworkers if they sign up and work for three to five years, depending on the hours previously farm labored.

*Gutiérrez Proposal (2009)*. Representative Luis Gutiérrez (D-IL) proposed the Comprehensive Immigration Reform for America's Security and Prosperity Act of 2009 in the House, which includes a guest worker program, increased border security, a path to legalization, and includes the DREAM Act and *AgJobs*.

#### SENATE DREAM ACT

Senator Dick Durbin (D-IL), chief sponsor of the DREAM Act (originally proposed in 2001, re-proposed in 2007 and 2009), which intends to grant legal status to undocumented immigrants who entered the U.S. under the age of sixteen, have been in the U.S. for five years, have good moral character, speak English, graduated from high school or earned GED, were admitted to an institution of higher learning or served in the military, and have never been ordered to be deported.

*White House Report (2011)*. The White House plan, "Building a 21<sup>st</sup> Century Immigration System," proposed under the administration of President Barack Obama, included *AgJobs* and a new guest worker program for highly skilled professional workers, H2B status, and for unskilled workers, H2A.

Thus we see that a range of reforms were put forward in the several proposals, none of which ever reached legislation. However, the main designs for future immigration reform were compiled when the bipartisan Senate committee, dubbed the Gang of Eight, met to create a Comprehensive Immigration Reform (CIR) bill, which would become known as Senate Bill 744. It is evident they borrowed significantly from previous proposals when crafting S.B. 744, which was titled, "Border Security, Economic Opportunity, and Immigration Modernization Act of 2013." The following brief review illuminates the correspondence.

#### SENATE BILL 744

The thousand-page bill is comprised of four sections, subdivided into subsections. Here the basic elements of each section (which incorporated 92 amendments added to the original version) are reviewed. The first section, *Border Security*, based on the Corker-Hoeven amendment sponsored by a host of Republicans, significantly added to the existing border security through hiring 20,000 more patrol officers, 700 miles of border walls and fencing, \$4.5 billion into high-tech border surveillance, increasing detention facilities, and much more. Moreover, all goals must be fully implemented, the border must be secured, and ten years must pass before Registered Provisional Immigrants (see next Section) can apply for a green card. According to the amendment co-sponsor, Senator John Hoeven (R-ND), it was "a tough new measure that first and foremost secures the border with an unprecedented force of manpower, fencing, and advanced technology".<sup>1</sup> The increased border security certainly met the goals that the Sensenbrenner Bill brought forward. The second section, *Immigrant Visas*, would allow the undocumented to apply for Registered Provisional Immigrant (RPI) status if they have been in the U.S. since December 31, 2011, and pass a background check, haven't been convicted of a felony or three or more misdemeanors. The RPI is good for six years during which the undocumented immigrants must be employed and earn at or above poverty wages, learn English, pay a penalty and back taxes, and after ten years, then may apply for Lawful Permanent Residence, a green card (if the border had been secured and all measures of the Second Section had been completed). The Section incorporates three previously offered reforms: legalizing the undocumented, the DREAM Act and the *AgJobs* Act.

The Third Section, *Interior Enforcement*, aims to undermine the ability of the undocumented to work by determining eligibility based on an Internet-based system, E-Verify. All employers are obliged to use the system for up to five years. The Fourth Section, *Reforms to Nonimmigrant Visa Programs*, creates a two-tiered guest worker program, one for skilled labor and one for unskilled labor (reminiscent of the second Bush proposal). Before a guest worker can be employed, the employer must demonstrate a shortage of labor, pay prevailing wages, and uphold standard working conditions. Skilled labor will enter the science, technology, engineering, and math fields and the unskilled labor is to work in agriculture and non-agricultural fields. The unskilled temporary workers receive a W non-immigrant visa and are privileged to be contracted for three years, which can be renewed for an additional three years. Guest workers must return to their home country upon completion of the contract. It is the W Visa category, the border security measures, and pathway to legalization that comprises the main sources of tension among Latino organizations over whether to support or oppose S.B. 744.

For the various organizations serving Latino communities supporting immigration reform, the passage of S.B. 744 has led to distinct and opposing positions, from complete support to complete opposition, as well as an in-between position accepting elements of the bill and rejecting others. Some organizations argue that despite some misgivings, it is a huge step forward and should be supported while others maintain that it is a totally bad bill. Opponents argue that among other things, the bill criminalizes immigrants (rather than sending them on a quick and efficient citizenship trail, it sets them up for a 13-to-15 year journey without a secure legal place in society), creates a militarized border, and sets up an indentured labor system known as guest workers.

The purpose of this study is to critically examine the principal positions taken by key organizations, the arguments used to defend their take on the bill, and the characterization of corporations lobbying for CIR (S.B. 744), with particular emphasis on the acceptance or rejection of provisions for revising and expanding existing guest worker programs. The organizations studied here are, for the most part, national in scope and representative of Latino communities, although some are statewide and others localized organizations. Key arguments, and relations with particular lobbyists supporting the bill, will be reviewed first.

#### ORGANIZATIONS IN ACCORD WITH S.B. 744

*The NCLR.* Perhaps the largest Latino national civil rights organization in the U.S., and a key supporter of S.B. 744, the National Council of La Raza (NCLR), has been an active supporter of immigration reform as far back as 2001, when President Bush sought to adjust immigration policy which included a guest worker program. Among the lobbyists supporting a new guest worker program in immigration reform at the time, the co-chairman for the Essential Worker Immigration Coalition (a consortium of corporations), argued that, “A broad guest worker program would be tremendously helpful.”<sup>2</sup> Then NCLR Vice-President, Cecilia Muñoz, cautioned that a new guest worker program led to a “lot of nervousness” regarding worker protections, but that they were not rejecting such a measure as long as the workers were guaranteed safeguards. Their stand in 2001 on guest workers remained into 2013, however, their main reform objective was legalization for the undocumented.

The NCLR made its message known to the Senate during the 2013 deliberations over immigration reform. Clarissa Martínez de Castro, NCLR Director of Immigration and Civic Engagement, appeared before the Subcommittee on Immigration and Border Security, and NCLR President, Janet Murguía, spoke to the U.S. Senate Judiciary Committee. The principal objective in each appearance was a path to citizenship. As for a new guest worker program, Murguía articulated her organization’s position:

“Immigration reform must also provide a way for immigrant workers to enter the U.S. through safe and legal channels in order to meet legitimate workforce needs across sectors of our economy. We are confident that immigration reform can establish a system that keeps the United States on the leading edge of the global economy ... We believe that a process which responds to U.S. labor needs in a regulated, orderly fashion ... is better equipped to break the cycle created by previous immigration reforms, which have tightened enforcement but failed to establish effective legal channels that respond to the needs of our

economy and protect the workforce. [...] Our legal immigration system must reflect our future and take into account our country's and workers' needs, from the fields all the way to Silicon Valley. A balance is needed where employers are able to recruit the talent we need."<sup>3</sup>

In her statement, Murguía made clear that her organization agreed to guest worker programs for high- and low-skilled workers, and defined the low-skilled sector as a way to incorporate the potential undocumented border crossers into a safe route for entering legally and to be contracted temporarily to work.

When the Senate Gang of Eight finalized the thousand-page bill for discussion in the Senate, headlines on the NCLR website rang, "NCLR Hails Introduction of Gang of Eight's Bipartisan Comprehensive Immigration Reform Bill." With the bill's passage including the massive border security strengthening, Murguía announced that, "We have won a historic battle, but we have not yet won the war [...] The House of Representatives presents a different dynamic." Thereupon, the organization used its political clout to "push the House [...] to vote in favor of the comprehensive Senate reform bill [...]"<sup>4</sup> The NCLR upheld S.B. 744 contending that it promised a "myriad of economic benefits," in addition to providing a path to citizenship.<sup>5</sup>

At the NCLR annual conference that year, the key topic was immigration reform. The thirty two conference sponsors were among the most active supporters of immigration reform, and among them we find some of the largest corporations in the U.S., including Bank of America, JPMorgan Chase, Wells Fargo, and ConAgra Foods.<sup>6</sup> Given the high ranking sponsors, it comes as no surprise that among the featured speakers was Rep. Gutiérrez, member of the Congressional Hispanic Caucus (CHC), immigration reform activist and supporter of guest worker programs, and Jay Timmons, President and CEO of the National Association of Manufacturers [NAM], a major lobbyist for guest worker programs. Gutiérrez's very presence made certain issues clear. The CHC issued their Principles for Immigration Reform—which incorporated several provisions developed in S.B. 744—in 2012, including a guest worker program for skilled professionals and for low-skilled workers. The Principles

recommended a reform "providing sufficient, safe, and legal avenues for foreign workers to fill legitimate gaps in our workforce, with full legal rights, protection from discrimination, and a reasonable path to citizenship."<sup>7</sup> Note that under the proposed law, only when "legitimate gaps" in available labor would guest workers be imported and that these workers would be well protected from abuse and exploitation, and even offered a conditional pathway to citizenship (which S.B. 744 promised).

Timmons' association, representing 12,000 manufacturers, has consistently demanded guest worker programs for high- and low-skilled workers. NAM and the U.S. Chamber of Commerce joined with the Essential Worker Immigrant Coalition in a collaborative lobbying effort to create a new guest worker program during the Gang of Eight's deliberations. Later, after negotiations, the Chamber and the AFL-CIO shaped the final draft of the guest worker program in S.B. 744.

Upon the passage of S.B. 744, NAM lobbied for a guest worker program, and in a letter addressed to the House urged Representatives to, "support the goals of a comprehensive immigration reform, which has been articulated by the NAM as: a pathway to legal status or citizenship for the undocumented; high-skilled visa program modernization; a lower skilled worker program; border security enhancements; and an improved verification system."<sup>8</sup>

Timmons' remarks at the conference underlined the NCLR's conformance with NAM's key goals. After thanking Murguía, Timmons affirmed that, "Over the past few months, the National Association of Manufacturers has enjoyed a great relationship with the National Council of La Raza as we both work overtime to make comprehensive immigration reform a reality. We've forged a unique alliance that I believe has helped reform efforts."<sup>9</sup>

NAM and the NCLR (and the CHC) stood together on S.B. 744, from the new larger guest worker program for high-skilled and low-skilled workers, to increased border security. In their discussions of immigration reform, the causes of massive undocumented migration over the past thirty years remained on the margin, if at all. The solution appeared to require a guest worker program to absorb the potential border crossers.

*The AFL-CIO and UFW.* Working with the U.S. Chamber of Commerce, the AFL-CIO constructed a compromise resulting in the guest worker program ultimately incorporated into S.B. 744. Representing the

union's perspectives on immigration reform stood María Elena Durazo, head of the 600,000-member Los Angeles County Federation of Labor, holding a largely Latino membership. Durazo sits on the Executive Council of the AFL-CIO and serves as chair of the union's immigration committee. Obviously, Durazo's position on the AFL-CIO provided her the power to bang out a compromise with the National Chamber of Commerce when it came to designing the guest worker portion of the bill. It was said that during the presidential election she "crisscrossed the country pushing for a path to citizenship for the undocumented immigrants."<sup>10</sup> Clearly, she found S.B. 744 to have met that objective as well as protecting the rights of future guest workers.

The United Farm Workers (UFW) followed the line of the AFL-CIO, and on its website cheered the Senate's passing of S.B. 744: "UFW celebrates passage of first significant immigration reform bill in years, urges Republican-led House to follow suit."<sup>11</sup> UFW President, Arturo S. Rodríguez, elaborated on the significance of the bill as well as *AgJobs*, the legalization of undocumented farm workers:

Today's vote marks a historic moment for new U.S. immigrants. S.B. 744 is a truly bipartisan comprehensive reform bill that calls for a roadmap to citizenship for the estimated 11 million undocumented [...]. The comprehensive immigration reform proposal, which includes agricultural provisions negotiated by the United Farm Workers and major grower associations, fulfills the urgent need for an earned legalization program that enables undocumented farm workers who are the backbone of the nation's agricultural industry to swiftly obtain legal immigration status.<sup>12</sup>

As in the case of the NCLR, the UFW negotiated with some of the largest corporations and politicians backing immigration reform, and like NAM, the corporate agricultural interests had a long pending interest in a guest worker program. In defending its position, the UFW claimed that the Senate bill guaranteed protections for the workers imported under temporary contracts. When

House Republicans put forward a bill to establish a guest worker program in 2013 (known as the Goodlatte Bill or the Agricultural Guestworker Act), the UFW immediately reacted in strong opposition. The union argued that the bill would lower wages, downgrade and weaken worker protections, allow farmworker exploitation, and weaken government supervision, among other undesirable results. The union reminded readers that "The anti-worker, anti-immigrant and inhumane bill is inconsistent with the humane approach taken by the Senate 'Gang of Eight' in the tough but acceptable agricultural compromise on agricultural workers in the bipartisan proposal, S.B. 744."<sup>13</sup> Thus, for the UFW and the AFL-CIO, S.B. 744 was a "humane" bill that not only provided for legalization and citizenship for undocumented farmworkers, but also allowed for a guest worker program that protected guest workers from exploitation or mistreatment, and domestic workers from lowered wages or unemployment, such as what happened under the Bracero Program.

Not surprisingly, the AFL-CIO is seeking to forge a formal partnership with the NCLR and other groups as a way to increase its leverage by incorporating non-union organizations.<sup>14</sup> S.B. 744 supporters, such as NCLR, have held a working relationship with corporations that have long wished to institutionalize temporary contract workers in the economy. In addition, the inclusion of *AgJobs*, or the legalization of farmworkers after having labored for a set number of hours over a three- or a five-year period, was an important goal of the UFW and agreed upon by the Chamber of Commerce. The interests of both were served, one a farm labor union and the other the representative of farm labor employers. "Under S.B. 744 agribusiness expects undocumented farmworkers to leave farm work when they become legalized as they did under the 1986 Immigration Reform and Control Act [IRCA], which allowed undocumented people to legalize and seek labor elsewhere."<sup>15</sup> According to Professor Phillip Martin, Agricultural Economist at UC-Davis, in reference to IRCA, "If the past is any guide, [of] the farmworkers who get legalized, many of them will leave agriculture pretty quickly."<sup>16</sup>

**LULAC.** Founded in 1929, the League of United Latin American Citizens (LULAC) declares itself to be the "largest and oldest civil rights volunteer organization that empowers Hispanic Americans." Headquartered in Washington, D.C., LULAC is comprised of 900 councils in 35 states and Puerto Rico.<sup>17</sup> That LULAC full-heartedly

supported S.B. 744 can be easily discerned in the 2013 annual conference held in Caesar's Palace in Las Vegas. The conference program listed among its sponsor corporations including Bank of America, Walmart, McDonald's, and PhRMA (all of which sponsored the NCLR conference), and are among the very corporations supporting high- and low-skilled guest worker programs. (In glaring contradiction, at the AFL-CIO annual convention, President Richard Trumka lambasted Walmart Stores, Inc.—which was involved in a widespread workers' strike—and McDonald's Corp. claiming that they pay low wages and keep people poor.<sup>18</sup>) In reading the invitation to the 2013 annual conference, the importance of corporations as participants is underlined: "The LULAC convention is also well attended by major corporations who recognize the importance of reaching out to the national Hispanic leaders and influential community members."<sup>19</sup> It is not surprising that the convention welcomed these corporations. In a talk given at the convention, Lydia Guzmán, chair of the LULAC Immigration Committee, spoke of the place of corporations in LULAC's future plans: "Now we are starting to see in this immigration debate that we have new allies such as the Chamber of Commerce. They in the past did not work with us, but now the Chamber sees the value, [...] and] that in order to fix the economy we have to pass immigration reform."<sup>20</sup> The NCLR, the UFW, AFL-CIO, and LULAC maintained similar approaches to organizing the Latino community to work in tandem with the corporate agenda in the designing of immigration reform. Their views on immigration reform have taken them to a common bond in support of S.B. 744.

Like the NCLR and the UFW, neither the border surge, nor guest worker programs, nor the long, costly, and insecure pathway to citizenship, deterred LULAC from supporting S.B. 744. In the 2013 conference program, in which it listed its Legislative Platform, LULAC opposed the border surge, and had serious misgivings over the pathway to citizenship as well as the guest worker proposal.<sup>21</sup> However, on its online site, LULAC made clear that it would support a guest worker program only if "strong worker protections are in place." There was more to their agreement with the Senate: a guest worker program for both high- and low-skilled workers would "better position the U.S. in the global economy and the global labor recruitment arena."<sup>22</sup> The American Manufacturers Association would have agreed wholeheartedly, as did NCLR.

LULAC was satisfied that S.B. 744 met that national economic goal and the conditions for a guest worker program. Executive Director Brent Wilkes offered perhaps a word of caution when describing the Senate passing it as a "historic vote," then softly critiqued the bill to say that "While not the perfect legislation [...] the bill achieves much."<sup>23</sup> For LULAC, a pathway to citizenship, along with a guest worker program with guaranteed protections assured their full support.

**The Catholic Church.** Another of the strongest supporters of immigration reform via S.B. 744 was the Catholic Church. Here, several organizations within the Church, the U.S. Jesuit Conference, the Franciscan Action Network, and the U.S. Conference on Catholic Bishops will be examined for their positions taken on reform. Both the Franciscan Action Network (FAN) and the U.S. Jesuit Conference belong to the Interfaith Immigration Coalition, a national network of religious organizations, which responded to the signing of S.B. 744 with a widely circulated statement signed by their members. The Jesuit Conference and FAN signed the statement composed by the Coalition, which will be reviewed in addition to the individual responses by the Jesuits and FAN. The assessment of the U.S. Conference on Catholic Bishops will follow.

**The Interfaith Immigration Coalition.** A review of the stand taken by the Interfaith Immigration Coalition, a partnership of 35 members with several serving Latino communities, reveals a common thread taken by numerous organizations. National, regional, and local organizations; Catholic, Jewish, and Protestant, entered full stride into the national immigration debate, actively supporting immigration reform and ultimately S.B. 744.

Early in the discussions over reform, the Coalition advocated a "fair and humane immigration reform." The organization determined that S.B. 744 had met that goal and urged the House to follow the Senate's example. The Coalition's Principles for reform contended that a new guest worker program was justified by channeling the potential undocumented into "legal avenues for workers to migrate to the United States in a safe, authorized, and orderly manner." Moreover, such would allow "employers to fill critical agricultural positions that have been difficult to fill [...] while also protecting worker rights."<sup>24</sup>

With S.B. 744's passage, the Coalition cautioned that "now the big question is what will the House do," and expressed deep concern over the House's piecemeal

bills, alleging that “none of which create a path to citizenship, and all of which contains provisions that would negatively impact our community members,” and need to be refocused on citizenship and reuniting families. The Coalition urged its members to write letters opposing the House bills. In the Coalition’s opinion, the House bill on guest workers would only cheapen wages for domestic workers and “eliminate nearly all protections” for the guest workers “allowing mass exploitation.”<sup>25</sup>

S.B. 744 cleared the Coalition’s definition of a humane reform. The responsibility now rested on the shoulders of the House to negotiate a bill protective of the undocumented as they enter the pathway to citizenship and guest workers.

*The U.S. Jesuit Conference.* Over 200 Jesuit communities in the U.S., represented through the Jesuit Conference, issued its own statement in which it criticized S.B. 744 for containing good and very bad provisions, the latter it termed “wasteful and inhumane.”<sup>26</sup> It nonetheless supported S.B. 744. The Hoeven-Corker amendment defined the worst aspect of the bill for the Jesuits. Nonetheless, the positive provisions included, among other things, the DREAM Act and a guest worker program. In their statement, the Jesuits defined the guest worker program in a very general way, leading one to read between the lines: “...the U.S. Jesuit Conference supports legislation that includes the following elements [...] A legal employment structure that protects both migrants and U.S. workers.” And further, that “guest workers, abused and neglected for so long, will gain important workplace protections.”<sup>27</sup> Moreover, in a report by the migration policy director for the Jesuits Conference, Jill Marie Geraschutz, a guest worker program “will prevent future undocumented migration.”<sup>28</sup> This view is one that many supporters of S.B. 744 contend, and that the second President Bush anticipated from immigration reform. The Jesuits were moved to declare the bill a “significant step” forward, and promised to work with the House “as they debate immigration reform.”<sup>29</sup>

*The Franciscan Action Network (FAN).* Calling itself a “collective Franciscan voice seeking to transform U.S. public policy related to peacemaking, care for creation, poverty, and human rights,” a FAN website headline on June 28, 2013, defined its stand on S.B. 744: “Franciscans Applaud U.S. Senators for Passage of Immigration Bill” and maintained that the bill included “protections for workers.”<sup>30</sup> Although not clearly stated that FAN approved

guest worker programs, the contention that the “protections for workers” were included in the bill appears to be the key question that allowed their approval. The Director of Advocacy, Sister Marie Lucey, summed up FAN’s position: “There is enough in the approved bill to keep hope alive for millions of aspiring Americans who live here, work here, raise their families here, and contribute to our society.” Without addressing the matter directly, FAN implicitly approved an expanded guest worker program.

*The Conference of Catholic Bishops.* The Chairman of the Committee on Migration of the U.S. Conference of Catholic Bishops, Archbishop José H. Gómez of Los Angeles, commended the Senate passing of S.B. 744. The Archbishop maintained that it “would allow immigrants and their families to come out of the shadows and into the light, and would protect families from separation.”<sup>31</sup> The Committee did have some suggestions for revising the bill, primarily regarding making the pathway to citizenship “more accessible and achievable,” as well as toning down the Hoeven-Corker border security amendment, so as not to impact border communities negatively. Given the political landscape, the Bishops agreed to “continue to support moving this legislation forward.”<sup>32</sup> The remaining portions of the bill, including the guest worker program was to remain basically as written.

The Conference claimed that the undocumented can find little or no employment in their country and enter to find a job to support their families. The Bishops offered that:

[An ideal guest] worker program would permit foreign-born workers to enter the country safely and legally, would help reduce illegal immigration ... Any program should include workplace protections, living wage levels, safeguards against the displacement of U.S. workers and family unity.<sup>33</sup>

The Bishops, like the Jesuits, supported an expanded guest worker program, the same view held by many corporations. A temporary worker program is expected to channel the undocumented onto the legal landscape, albeit temporarily, thereby solving the problem of undocumented migration while simultaneously resolving the need for labor. The Essential Worker Immigration Coalition put it



this way: a reform that includes a guest worker program “Strengthens national security by providing the screening of foreign workers and creating a disincentive for illegal immigration.”<sup>34</sup> It should be noted that in the early 1950s Operation Wetback assumed the same function, that is, to channel the potential future undocumented into the Bracero Program. Given its overall goals, the Bishops Committee urged the House to take up the cause and do likewise.

#### ORGANIZATIONS OPPOSING S.B. 744

Before the Senate voted on S.B. 744 in 2013, pro-reform organizations were busy evaluating the proposed legislation and took varying perspectives, from support to rejection. One means taken by reform organizations was to express their perspectives in letters addressed to the Senate and House as reform debates began. The organizations who took to writing letters and soliciting signatories concluded that S.B. 744 needed to be rejected. The letters contain clear, thorough evaluations and assessments on the bill, and were sent to fellow organizations for review and signature before mailing to Washington. An examination of two letters reveals their critical concerns with the bill, their reasons for rejection, and urging others to follow suit.

*National Network for Immigrant and Refugee Rights.* Founded in 1986, the NNIRR’s membership comes from diverse communities laboring for fair and humane treatment of immigrants and refugees. Although its members may come from diverse communities, the board does not reflect that: of the 13 member board, eight are Latinos and have close ties to numerous Latino organizations, and thus their online site is translated in English and Spanish. Their letter, addressed to the Senate Judiciary Committee before S.B. 744 had come up for a vote, listed their objections and recommendations for revision. Their message was clear: “We are extremely disappointed with [...] particular provisions that we believe will continue to undermine basic human and worker rights [...] We fear the bill will keep immigrants in an underclass.”<sup>35</sup> Senators were urged to address a number of key points before reaching a vote. The letter reached far and wide: Eighty-three national, state, and local organizations signed, as well as over 600 individuals from 34 states and Puerto Rico.

The letter urged a number of revisions. It asked that the path to citizenship be revised substantially to “speed the integration of immigrant workers and their families” and to expand “eligibility for legalization,” and objected

to the prioritization of border security and enforcement over the interests of the immigrants themselves. The role of corporate interests in shaping S.B. 744 was raised in relation to enlarging the detention system “that corporate interests have promoted [...] for financial gain.” As for labor issues, the letter asked that the bill “ensure access to full labor protections, regardless of immigration or citizenship status.” Far apart from the supporters of S.B. 744, the NNIRR asked for an end to the “reliance on guest worker programs.” Such programs, the letter averred, serve “[b]usiness interests in securing the availability of low-cost foreign labor undermine the country’s commitment to building a stable work force.”<sup>36</sup> NNIRR contended that in serving the interests of the economically powerful by importing cheap labor, and regardless of declarations of protections, the wages, living and working conditions of the domestic laboring class would decline.

When S.B. 744 passed, NNIRR board members were greatly disappointed and voiced their response. Catherine Tactaquin, the Executive Director, commented that “This is not the kind of legislation and deal-making that we can support nor encourage.” Isabel García, a board member and co-director of the Tucson based *Coalición de Derechos Humanos* (Coalition on Human Rights), declared “immigration policy to be a total failure and needs to be changed.”<sup>37</sup> Opposing the bill is one thing, but the placing of the business and corporate world as the underlying authors and beneficiaries of the bill certainly separates opponents like the NNIRR from such supporters as the NCLR.

*Presente.org and Collaborators.* After the Senate had passed the bill, several organizations campaigning for reform with a history of collaboration came together to join their opposition to S.B. 744, including the Mexican American Political Association (MAPA), the Southwest Voter Registration Project, Presente.org, and the Center for Human Rights and Constitutional Law. Each organization has a rich history and special place in the political sphere. Presente.org is considered the “nation’s largest online Latino advocacy organization.”<sup>38</sup> MAPA, founded in 1951, promotes Latino political interests and the elimination of barriers to full political incorporation. The Southwest Voter Registration Project, founded in 1974, works to “expand and mobilize Latino leaders and voters around an agenda that reflects their values.”<sup>39</sup> The Center for Human Rights and Constitutional Law, founded in 1980, is a non-profit public interest group “dedicated to furthering and protecting the civil, constitutional, and

human rights of immigrants, refugees, children, and the poor.”<sup>40</sup> Their political objectives reveal their motives for evaluating S.B. 744.

After individually reviewing S.B. 744 and relying on the “Analysis of Senate Bill 744’s Pathway to Legalization and Citizenship,” written by Peter Schey (president of the Center for Human Rights), the organizations penned a letter to the House of Representatives opposing S.B. 744.<sup>41</sup> The letter was circulated nationally to organizations involved in the reform movement and endorsed by nine national organizations, nineteen local or state organizations, and many individuals. The title of this letter, “Progressive Leaders Oppose S.B. 744—Senate’s False Hope for Immigration Reform,” revealed the main point they wished to get across. This statement endorsed by the 28 organizations or networks of organizations certainly exposed the wide breach between supporters and opponents of S.B. 744.

The opening paragraph of the letter captures the essence of their opposition, by asking the House to “reject S.B. 744 in its current form [...] S.B. 744 does more harm than good to the cause of fair and humane immigration reform.” The letter identified main objections to the bill. First, a sizable segment of the undocumented may not qualify for the Registered Provisional Status (RPS) upon taking the mandatory evaluation reviewing any criminal or felony record; in addition, they must be consistently employed, and a head of a family of four must earn above the poverty line and then pay past back taxes and a \$1,000 fine. Critics call this a “rite of passage” required from each adult applicant, as if they had committed some crime. Moreover, they may lose the right to gain RPS if unemployed, or if they do have RPS they may lose it if they remain unemployed longer than sixty days.

The letter cited studies revealing that approximately 40% of the undocumented “may be disqualified [...] by the harsh employment and income requirements.” If they are unable to pay back taxes, which data has shown that given the low wage categories that many live and work in, 15% to 20% of the undocumented may not be able to pay taxes and thus risk ineligibility for RPS.<sup>42</sup> Day workers would certainly find it difficult to prove employment and wages above the poverty level. Opponents cite this measure as one that forces the RPS holder to maintain employment and earn above poverty wages at all costs, easily subjecting them to employers’ powers to arbitrarily determine workers’ wages, work conditions and freedom

to lodge complaints, to organize workers or join a union. The lone bright spot is the DREAM Act; the legalization for immigrant youth provides a smooth and relatively quick legal status.

On the other hand, the conditions defining the initial evaluation to determine RPS for adults, the DREAMers’ parents, may leave as many as four to five million undocumented immigrants unqualified for RPS according to research conducted by the Center for Human Rights and Constitutional Law. Even when gaining RPS, many may still not be able to gain citizenship for up to twenty years or perhaps not at all. Such would “plunge millions in immigrant and border communities into a more profound crisis than the one we already have [...] and thus] puts punishment over people and enforcement over citizenship.”<sup>43</sup> MAPA referred to the initial evaluation and uncertain outcome, the yearly report to federal immigration offices, and the long wait for citizenship as a form of “de facto indentured servitude” for having sought to escape hunger and poverty.<sup>44</sup>

The border security amendment designed to bar entrance to undocumented migrants by adding 18,000 border guards, 24 hour-a-day drones, and 700 miles of walls in the vast desert is expected to cost \$40 billion. The measure added significantly to the arguments against S.B. 744, viewing the border security provision as a virtual militarization over border communities largely populated by Mexican migrants and their families, as well as an economic boon to the defense industry.<sup>45</sup>

The William C. Velázquez Institute (an organization with immediate contact with Latino communities) addressed a letter to the House of Representatives which maintained that “Latino voters do not support the border militarization or ineffective legalization components of S.B. 744.”<sup>46</sup> Latino communities overwhelmingly supported immigration reform, in particular a pathway to legalization and citizenship. However, Latinos largely opposed key measures within S.B. 744. A poll conducted in May-June 2013 by Latino Decisions revealed that 81% of those polled believed that reform should focus first on a pathway to citizenship, while only 13% supported the focus on securing the border before a pathway to citizenship is to open.<sup>47</sup>

**Coalición de Derechos Humanos.** The *Coalición de Derechos Humanos* is a grassroots civil and immigrant rights organization in Tucson, Arizona, co-chaired by NNIRR board member and attorney, Isabel García. The

materials on the Coalición website reveal why the organization signed onto the above letter, as stated in the sub-headline of their “Response to the Senate ‘Gang of Eight’ Immigration Reform Bill”: [An] enormous expenditure for walls, drones, agents, national ID system, guarantees for big business, mass family immigration and very little legalization for workers and families.<sup>48</sup>

Like many grassroots organizations, Coalición labeled the provision for a pathway to citizenship as little more than “a cruel misrepresentation” that has brought out “anti-immigrant voices” and “the immigrant community to believe that a fair process for their legalization will be put in place. [...]Neither is a reality.” The evaluation process, the yearly check-in, the fine, back taxes, employment and wages above the poverty level guarantees nothing, contended the leadership. The border security provisions would not only make “unlawful entry” into a crime and subject to incarceration, but also that “the Corrections Corporations of America (CCA) ... stands to at least triple its annual profit if this bill becomes law.”<sup>49</sup>

So who are the beneficiaries?

Coalición noted that the immigrant community would be on the lowest threshold when it comes to the benefits of reform, particularly in the reconstruction of visas for high-skilled workers and visas for low-skilled labor. Both measures were drawn to assure “private industry of new laborers while ignoring the very core of the issue of immigration—the reasons for migration and particularly the role of U.S. foreign political and economic policies ... in those sending countries migration patterns.”<sup>50</sup> Raising the role of the U.S. in shaping migration, the “very core” for explaining migration, is one approach that many organizations (and the media) fail to address. However, the matter of the U.S. role, at the core, in the construction of mass migration is one that the opponents of S.B. 744 have not overlooked.

**The Dignity Campaign.** The Dignity Campaign of 2013 brought 40 grassroots community, union, religious, and immigrant organizations into an association working to implement immigrant rights and a just reform.<sup>51</sup> The organization’s assessment of S.B. 744 appeared with a title that tells all: “The Dignity Campaign Opposes S.B. 744; Dignity is Not for Sale; No Compromises on Human Rights,” and further made clear that the bill was “not the immigration reform that we seek,” defining it as a “corporate boondoggle that will be a civil rights disaster for immigrant communities.”<sup>52</sup> In another statement

proposing “Real Immigration Reform,” the Dignity Campaign made clear that a reform must protect “human and labor rights.” However, it warned, the “powerful voices [...]the] employers’ lobby” (meaning the “corporate lobby”), plays a central role in constructing immigration reform in Washington, D.C. In identifying those voices, the Campaign registered the U.S. Chamber of Commerce and the Essential Worker Immigrant Coalition and delineated their role in reform: “They propose managing the flow of migration with more guest worker programs ...”<sup>53</sup> A guest worker program is one means to channel migrants into temporary worker status while the conditions which drive migration are not abated.

The Dignity Campaign declared that a just reform must account for why migrants are coming at the risk of their lives and often indebted. Not one supporter of the bill examined in any detail why migrants cross without papers except to say that they come because they are looking for work, applying the long held, traditional push-pull approach to explaining Mexican migration. In its “Real Immigration Reform” statement, the Campaign defined migration as a consequence of free trade agreements. The statement read:

So long as trade agreements like NAFTA and CAFTA create economic refugees, nothing will stop the movement of people. Migration is not the accidental byproduct of the free trade system. The economies of the U.S. and other wealthy countries depend on the labor provided by the constant flow of people.<sup>54</sup>

Mexico’s average tariffs dropped from 27% in 1982 to 1.8% under NAFTA, leading to a huge increase in highly subsidized U.S. agricultural products. Nearly two million peasants, unable to compete with cheap imports of corn, rice, soy, beef, chicken and more were driven off their lands.<sup>55</sup> That explanation, accounting for a huge rise in undocumented migration in the latter decades of the twentieth century, is one that the organizations addressed above applied in their opposition to S.B. 744.

The Campaign rejected further “horse trading and ‘compromises’” as the solution to reform and instead urged that “immigrant advocates ... look at alternative proposals for progressive immigration ... that reflect a

better understanding of global economics and human rights ... proposed many times by migrant communities ...” That the organization contends that migrant communities understand that free trade policies and NAFTA in particular drives migration from their native countries is not an exaggeration; it is an explanation commonly spoken about in Latino communities.

### EXPLAINING THE CAUSES OF MIGRATION

Elvira Arellano, a migrant and co-founder of the Chicago-based *Familias Latinas Unidas*, and who was once sheltered in a church sanctuary for a year, later deported and then returned, has written on the consequences of free trade policies on the economics of the sending countries:

We cross to find work, to rejoin members of our family or someone we love, sometimes our children. We do so because the economy of our country is not adequate. It is not adequate because of corruption and mismanagement—and because it has been raped by such projects as NAFTA which put five million agricultural workers out of work and sometimes off their own land; or such projects as “restructuring of debt” ordered by U.S. bankers which destroyed so many businesses.<sup>56</sup>

This explanation for Mexican migration stands apart from the historical explanation for Mexican migration upon which past U.S. immigration legislation and now S.B. 744 has been based. Migration is generally defined within public policy circles only upon migrants crossing the border. But studies have shown that Mexican migration originates in the interior of Mexico where the social consequences of NAFTA, opening the door to large scale agricultural and meat imports, uproots the peasantry and sends them on a migratory trail which continues across the border, where they are classified as illegal aliens.<sup>57</sup>

The united opposition began to organize public opposition to S.B. 744 in a politically active fashion. A review of a call for a public meeting to be held in Los Angeles sponsored by several organizations, including MAPA, the Labor Council for Latin American Advancement and the

*Frente Unido para la Justicia y la Dignidad*/The United Front for Justice and Dignity, centered the role of corporations in shaping reform. Frente Unido, an organization located in the farming community of Oxnard, California, defines itself as “an independent, grassroots formation organizing for the self-defense and empowerment of our community as a response towards the escalation of repressive measures aimed at migrantes, families and workers.” The call emphasizes a main point motivating the opposition:

[...T]he key strategic interest in reforming the present immigration system not only lies in imperial “national security” interests but in the introduction of “managed migration” schemes that will allow those sections of the economy currently built on a base of criminalized migrant labor to be formally replaced with “guest worker” programs ... similar to the notorious “Bracero Program” of indentured servitude ...<sup>58</sup>

Frente Unido makes the case that a guest worker program is a means of creating a permanent “flow” of temporary workers that will take the place of continual legal and undocumented migration from Mexico and Central America. If a guest worker program is enacted, the labor flow will be managed, controlled and institutionalized, performing what sociologists once referred to as circular migrations conforming to the “ebbs and flows” of the U.S. economy. An article published by the Migration Policy Institute, co-authored by Doris Meissner, former INS Commissioner who built Operation Gatekeeper and a supporter of S.B. 744, corroborated Frente’s argument. As Meisner and her co-authors tell it, temporary contract workers will be “recreating the migration rhythm between the United States and Mexico that existed before the hardening of the U.S. border [...] likely to become the norm in the next decade and beyond.”<sup>59</sup>

Twenty-five organizations joined with Frente Unido and signed on to attend the meeting scheduled for September 7, 2013. Although S.B. 744 appears dead in the water into 2014, the organizations actively struggling against it remain active, making their case heard across the Latino communities.

## CLOSING ANALYSIS: THE GUEST WORKER PROGRAM

The focus turns now to why the supporters believe that a guest worker program is appropriate to include in reform and why the opponents take a different path. Supporters are convinced that the provisions written into the bill to protect the interests of the guest workers, as well as those of the domestic workforce, will be enforced. Guest workers are guaranteed the highest available wages, standard work conditions, healthy living conditions, health protections, and more. As guest workers labor, the interests of domestic labor is protected as well, in that the measure assured that no guest workers are allowed until a labor shortage appears in a specific field or industry. Nor will wages be affected as guest workers are to be paid the highest rate.

Such stated “protections” are nothing more than wishful thinking, declare the opponents, who argue that the Bracero Program (1942-1964) contained identical protections which were seldom, if ever, upheld. And what brings the opponents to declare that the bill’s protection measures will mean little? They look to the present and see how the protections written into federal and state laws are enforced, and the evidence points to widespread violations of worker protections. Research substantiates the charge that workers, including H2A and H2B workers, are commonly exploited, abused, and denied protections written into their contracts. A 2010 study by Ruth Milkman, Ana Luz González, and Víctor Narro, in a work titled *Wage Theft and Workplace Violations* carried out in Los Angeles, provides ample evidence demonstrating “the nation is facing a workplace enforcement crisis, with widespread violations of many long established legal standards.”<sup>60</sup> While that focus was Los Angeles, other studies have corroborated the work nationwide.

The Southern Poverty Law Center conducted a study across the South in 2007 and found that “Wage theft—shortchanging workers of the wages they are owed—is becoming a defining trend in the 21<sup>st</sup> century labor market.” For guest workers, the violations of labor rights could not be worse. The report found “widespread abuse in H2A and H2B programs ... rampant wage violations, recruitment abuses, seizure of identity documents, and squalid living quarters.”<sup>61</sup> Moreover, the study concluded, “workers in the South are largely without recourse when their rights are violated.”

If these are the protections afforded to low wage domestic workers and guest workers under present laws, what can be expected of the protections written into guest worker provisions under S.B. 744? The opponents of S.B. 744 know too well the conditions under which workers labor and live for them to jump onto the supporters’ reform bandwagon. Opponents declared that it is better to struggle for an immigration reform that is democratic, just and humane, and recognizes the role of the U.S. in creating the conditions that cause the undocumented to migrate in order to escape. S.B. 744 opponents have decided to struggle for the rights of workers rather than support the corporations’ economic interests, particularly those of agribusiness, provided by cheap, accessible and disposable labor, border security measures, and the criminalization of undocumented migrants leading to increased detention facilities. These arguments against S.B. 744 have drawn a wide spectrum of organizations.

The American Friends Service Committee, a member of the Interfaith Immigration Coalition, which supported S.B. 744, defied the Coalition and joined the opposition. The Committee found that S.B. 744 “would not end the current cruel, costly, and inefficient system of detention and deportation, and it provides for astounding investments in the border militarization industrial complex—meaning billions [of dollars] for contractors ...”<sup>62</sup> The argument that the beneficiaries are the corporations investing in Comprehensive Immigration Reform is one circulated widely among opponents of S.B. 744.

Although the discourse has quieted significantly as S.B. 744 became lost in the Tea Party-controlled House and now appears to be going nowhere, the matter of migration, and particularly deportations, remains on the radar of the various organizations. The recent rise in child migrants has brought a new issue to the forefront. By the end of 2014, the projection is for 90,000 unaccompanied children to have arrived, mainly from Central America, to escape poverty and violence. This has led to calls for humane treatment and legalization rather than deportation. Whereas NAFTA uprooted nearly two million peasants and sent them in migration, “a covert and overt counter-insurgency program devised by the U.S. to control what were essentially pro-democracy social movements in Latin America” left Central America in violence and poverty leading to migration.<sup>63</sup>

Thousands remain overcrowded in detention facilities in Arizona and Texas, awaiting a final decision on their

status. As the latest phase of migration evolves, migrant rights and comprehensive immigration reform remains on the front page of the various organizations addressed in this article, along with their distinct political approaches.

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