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A U.S.–MEXICAN LAW SCHOOL FOR DEPORTEES: A
RESPONSE TO AMY KIMPEL

*Richard Delgado**

In a recent article in the print version of this *Review*¹, Professor Amy Kimpel points out that the United States annually deports hundreds of thousands of unauthorized immigrants,² most of them to Mexico,³ at great cost to the deportees,⁴ their families,⁵ and the two countries.⁶ If the Trump administration succeeds in ending the DACA program, this is likely to result in deporting up to an additional 700,000 to 800,000 young people, most of them in their late teens or early twenties.⁷ Kimpel proposes that a broad program of reentry services, many of which would be very similar to those now available for the general prison population,⁸ be extended to those who are slated for deportation, i.e., undocumented aliens.

Existing programs aim to prepare ordinary inmates for civilian life and to reduce recidivism, thus saving inmates quite a bit of misery, alienation, and society a lot of money.⁹ Deportable aliens languishing in jails and detention centers receive almost none of these services,¹⁰ yet providing them can ease their return to a country—often Mexico—which many of

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1. Amy Kimpel, *Coordinating Community Reintegration Services for “Deportable Alien” Defendants: A Moral and Financial Imperative*, 70 FLA. L. REV. 1019 (2018).

2. *See id.* at 1024 (estimating the total at 240,055 in a recent year); *see also id.* at 1023–24 (noting the large number currently in detention or jail, awaiting deportation).

3. *Id.* at 1026.

4. The deportees often suffer disorientation and both physical and psychological maladies. *See id.* at 1027–31, 1034 (noting that many are “deported to homelessness,” know little Spanish, and have difficulty finding help, medical treatment, or work).

5. The families are often left behind, suffering the loss of a parent and wage-earner. *See id.* at 1033–34, 1041 (noting that the government makes little effort to keep families intact).

6. Mexico must bear the cost of social services for the new arrivals, many of whom are not job-ready, speak little if any Spanish, and lack close relatives on whom they may rely for support. For its part, the U.S. must cope with the costs of supporting the families left behind as well as the cost of re-arresting and deporting the same deportees who, facing desperate circumstances in Mexico, will make repeated efforts to cross the U.S. border illegally again. *See id.* at 1042–43; *infra* note 19 and accompanying text.

7. *See* Karin Fischer, *Mexican Universities Prepare for a Potential ‘Tsunami’ of DACA Students*, CHRON. HIGHER EDUC. (Sept. 14, 2017), <https://www.chronicle.com/article/Mexican-Universities-Prepare/241198> [<https://perma.cc/U6FX-BETZ>].

8. Kimpel, *supra* note 1, at 1022 n.12. This movement, which aims to provide inmates with a panoply of services including education, medical care, mental health care, drug treatment, and assistance with housing following release, are the same concerns facing deportees. *See id.* at 1027, 1030–32, 1039–40.

9. *See id.* at 1019, 1022–23.

10. *See id.* at 1029 (noting that California is an exception).

them hardly know,¹¹ enable them to begin learning Spanish,¹² burnish their job skills,¹³ and treat any addiction, mental or physical illness they might suffer, while still in the detention facility or shortly after discharge.¹⁴

The advantages of her plan are substantial. With the assistance of a case worker, a deportee of any kind¹⁵ will be able to more readily locate distant relatives in her home country,¹⁶ find work,¹⁷ retrieve property and ID cards that the U.S. authorities have confiscated,¹⁸ and be less of a burden on the economy of Mexico. Facing a less desperate future, they will also be less inclined to make a repeat try at illegal entry back into the United States.¹⁹ Currently, their situation can only be termed desperate. Many of them now languish in run-down, makeshift camps in the outskirts of Tijuana without running water or other vital services.²⁰ Others are deposited in the Mexico City airport, plastic bags in hand, with very little idea of what to do or where to go.²¹

All these measures are entirely sensible. They would alleviate suffering and save both societies considerable sums of money, at least in the long run. Yet, insofar as most of them require federal action, they are unlikely to be put in place under the current (Trump) administration. Moreover even if they were, they would only ease the immediate misery of young adults suddenly thrown into an unfamiliar society with few, if any, resources. They would do little to improve their long-range prospects, much less address the current political situation which would continue to generate new victims year after year.

I propose that, in addition to the measures Professor Kimpel suggests, members of the U.S. academic community assist Mexican educational

11. *See id.* at 1020–22, 1025–26 (noting that Mexico is the largest source), 1028 (noting that many deportees hardly know that country).

12. *See id.* at 1028, 1044 (noting that many detainees will need to learn Spanish because many will have spent the main part of their lives in the U.S.).

13. *See id.* at 1028 (noting that many will need to burnish job skills or suffer the risk of joblessness).

14. *See id.* at 1043–44 (noting that some may need treatment for addiction or a mental illness).

15. That is, a former DACA individual or not.

16. *See Kimpel, supra* note 1, at 1033–35, 1041 (noting that many will need help locating relatives in Mexico or finding temporary housing there).

17. *See id.* at 1043 (noting the need to offer literacy training).

18. *Id.* at 1036–37, 1045.

19. *See id.* at 1019 (noting that currently a high percentage do).

20. *See id.* at 1026, 1031, 1039–40 (noting that some were reduced to living in sewer canals).

21. *See Kirk Semple, Young Migrants' Return to Mexico Is More 'Exile' Than Homecoming*, N.Y. TIMES (Mar. 24, 2018), <https://www.nytimes.com/2018/03/24/world/americas/mexico-daca-dreamers-immigration.html> [https://perma.cc/RW49-UYT9].

authorities by organizing and teaching classes and courses of instruction in Mexico for deportees eager to acquire university-level training. Gaining Mexican educational credentials can enable those deportees who, prior to their deportation, considered themselves college-bound, to envision and perhaps achieve more successful futures in their new country.

The advantages of such offerings have not been lost on Mexico. Educational authorities there are currently in the process of surveying their country's universities to locate professors capable of teaching classes in English for recent deportees, as well as the "tsunami" of DACA arrivals that they expect to arrive in the near future.²² The number of Mexican-based bilingual Spanish-English speaking professors is unlikely to turn out to be very large, but the U.S., with a much larger pool of faculty, might be able to send more. Retired U.S. professors might enjoy teaching for a year or two in Mexico, particularly at a top school like UNAM or Monterrey Tech, which are world class²³ and are located in attractive, modern cities. The Mexican government might facilitate this practice by offering short-term visas to U.S. faculty prepared to teach classes to the deportees. The host universities might offer faculty housing in charming, local facilities, possibly with housekeeping and maid services and cultural tours for families and children.

The Mexican authorities hope to guarantee scholarships ("becas") to help the new arrivals defray the cost of tuition at a Mexican university, as well as special tutoring and counseling.²⁴ They are also working to make it possible for students who started college in the U.S. to transfer their credits to one in Mexico.²⁵

Could new programs achieve accreditation in both countries? A few Mexican universities have American accreditation right now, mostly in border regions,²⁶ and teach ordinary subjects such as Spanish literature and culture, archeology, and business administration.²⁷ But some deportees might be attracted to the study of law, perhaps enough to warrant opening a small program in U.S.-Mexican law at an existing Mexican university or law school with instruction offered at first in English, then in both languages. Having had a brush with the law and felt

22. Fischer, *supra* note 7.

23. See *QS World Universities Ranking 2019*, QS TOP UNIVERSITIES <https://www.topuniversities.com/university-rankings/world-university-rankings/2019> [<https://perma.cc/RZ8Z-UCXC>] (listing UNAM #113 and Tecnológico de Monterrey #178) (last visited April 16, 2019).

24. Fischer, *supra* note 7.

25. *See id.*

26. *University in Mexico Receives U.S. Accreditation*, CISION PR NEWSWIRE (Oct. 22, 2012), <https://www.prnewswire.com/news-releases/university-in-mexico-receives-us-accreditation-175215661.html> [<https://perma.cc/E4QU-QUDE>].

27. *See id.*

the sting of injustice, many might approach their study with real enthusiasm. They might aim to become human rights attorneys, redressing harms to Mexican indigenous populations,²⁸ or suing U.S. corporations for environmental injustices perpetrated on defenseless Mexican people through unsafe mining operations or operating assembly plants with poor sanitary and labor conditions.²⁹

Others might enroll with the intention of practicing international business law in Mexico, benefiting both countries by increasing trade and commercial relations. Some might become immigration attorneys, serving clients in either country. A small law program along these lines might easily appeal to one of the top universities in that country,³⁰ and could begin by offering undergraduate legal education and introduction to law courses for deportees, and J.D. programs later.

For a J.D. program, winning ABA approval would be essential if the graduates are to be able to practice in the U.S., remotely or by affiliation, but the ABA House of Delegates recently approved a resolution expressing solidarity with the DACA children³¹ and may back accrediting a legal program of study that operates in concert with a well-regarded Mexican law school and a U.S. school serving as partner. In 2017 NYU opened a satellite campus in one of the wealthy Arabian states³² and plans to offer an undergraduate major in legal studies beginning in fall 2018.³³ A similar undergraduate program in Mexico would be inexpensive to start and operate, and would need only a handful of faculty and a small library.

A full-fledged program leading to a U.S. degree and a Mexican law degree would naturally be a much greater undertaking, particularly in light of the difference between the two legal systems.³⁴ Achieving ABA

28. See, e.g., *Alien Tort Claims Act*, GLOBAL POLICY FORUM, <https://www.globalpolicy.org/international-justice/alien-tort-claims-act-6-30.html> [<https://perma.cc/6Q79-QDNQ>] (discussing some of the litigation brought under this statute).

29. *Id.*

30. Such as UNAM or Monterrey Tech, which are highly acclaimed. See *supra* note 23 and accompanying text.

31. See Lee Rawles, *Congress Should Enact Legislation Allowing DACA Recipients to Apply for Citizenship*, ABA House Says, A.B.A.J. (Feb. 5, 2018), http://www.abajournal.com/news/article/aba_midyear_house_of_delegates_daca [<https://perma.cc/LM43-7HRN>].

32. See NYU/ABU DHABI, <https://nyuad.nyu.edu/en/> [<https://perma.cc/JJP3-TGRM>].

33. *Legal Studies Major*, NYU/ABU DHABI at <https://nyuad.nyu.edu/en/academics/undergraduate/majors-and-minors/legal-studies-major.html> [<https://perma.cc/47EN-3EWR>] (describing the new program) (last visited April 16, 2019).

34. For one thing, the U.S. is a common-law based legal system, while Mexico's is based on civil law. Daniel F. Cracchiolo Law Library, *Mexican Law: A quick reference guide to conducting legal research on Mexican Law*, THE UNIVERSITY OF ARIZONA JAMES E. ROGERS COLLEGE OF LAW (last updated Dec 6, 2018 6:54 PM), <http://libguides.library.arizona.edu/law-library/mexicanlaw/legalsystem> [<https://perma.cc/73DK-KYT7>]. For an overview of the rigors of

accreditation process requires substantial backing in the form of a law library and full-time faculty.³⁵ Only a major foundation with a commitment to hemispheric peace and prosperity could supply that. Soros' Open Society Foundation might be one possibility, since Soros, until recently, operated a university in Hungary dedicated to advancing democracy in Eastern Europe.³⁶

If the money were available, it should not be difficult to locate law professors with an interest in both social justice and U.S.–Mexico legal relations to answer the call. Currently, a consortium of three U.S. law schools and one Mexican law school operate a summer program in Guanajuato for U.S. law students interested in brushing up on their Spanish and learning about Mexican commercial law.³⁷ The proposal sketched above would flip this arrangement, using, perhaps, some of the same faculty but with the student body composed of recent deportees—including, possibly, DACA kids—Americans in all but name. Attracting a strong faculty should not prove too difficult. Retired law faculty with adult children who have flown the nest might be attracted to the prospect of a year or two of service helping abet a growing international crisis.³⁸ Bilingual lawyers looking for a change of scene would be another possible source.

Perhaps the reader is familiar with the children's story about the clever rabbit who beggled the farmer not to throw him into the briar patch.³⁹ The farmer did; the rabbit thrived.⁴⁰ A program catering to deportees in

studying the law of many different systems at the same time, see, e.g., *Centers, Programs and Institutes*, TULANE UNIVERSITY LAW SCHOOL (last visited June 17, 2019), <https://law.tulane.edu/programs> [<https://perma.cc/YH27-3GSU>].

35. See AM. BAR ASS'N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2018–2019 ch. 4, ch. 6 (2018).

36. See Susan Adams, *Why Hungary Forced George Soros' Central European University to Leave the Country*, FORBES (Dec. 4, 2018), <https://www.forbes.com/sites/susanadams/2018/12/04/why-hungary-forced-george-soros-backed-central-european-university-to-leave-the-country/#65f7ac63533e> [<https://perma.cc/8XW5-NUEF>] (describing his plans to move the school to Vienna).

37. See *Guanajuato Summer Law Inst.*, TEX. TECH. U. <http://www.depts.ttu.edu/law/programs/international/guanajuato/index.php> [<https://perma.cc/JG2Y-7Z7F>].

38. Mexico has now largely solved its crime problems and, with good weather, friendly people, and a low cost of living rates high in most lists of desirable places to retire. E.g., *The Worlds' Best Places to Retire in 2019*, INT'L LIVING (Jan. 1, 2019), at <https://internationalliving.com/the-best-places-to-retire/> [<https://perma.cc/FV37-FXRT>] (rating Mexico third in the world).

39. See *Brer Rabbit*, ENCYCLOPEDIA.COM, <https://www.encyclopedia.com/history/encyclopedias-almanacs-transcripts-and-maps/brer-rabbit> [<https://perma.cc/J9BM-7F5W>] (noting that brer rabbit deployed reverse psychology to obtain the upper hand over the voracious fox by imploring the fox not to cast him into the briar patch—where, of course, the smaller rabbit thrived).

40. *Id.*

Mexico would have that quality and would be an object lesson to administrations, such as President Trump's, who believe that they can deport people and impose punitive trade relations without repercussions. It would yield a body of trained lawyers, conversant with both Mexican and U.S. law, bilingual, and able to restore relations between the two countries to something approaching equality and justice. Perhaps the next presidential administration will change course without the need for litigation. But if not, well trained lawyers may be necessary to recall the world to its senses.