

Lauren Hirshowitz
June 30, 2008

Transcription of Interview with Dr. Jorge Bustamante, June 13, 2008, 11am

Dr. Jorge Bustamante, originally from Mexico but having obtained a PhD in the US is a leading member of many networks devoted to studying U.S.-Mexico relationships and has helped lead to new understandings of migration nationally and globally. Has made immense contributions on researching international migration and human rights. He has acted for numerous human rights NGO's and was appointed in 2008 as UN Special Rapporteur on Human Rights of Migrants. In March 2008, he published a report for the UNGA on the situation of Migrants in the United States. He has obtained countless honors and awards including appointment as Chairman for the UN Intergovernmental Group of Experts on International Migration and Human Rights in Geneva, Switzerland as Honorary Consul of Japan in Baja California. Dr. Bustamante participated in the Joint Public Advisory Committee of the Trilateral Commission of Cooperation for the Environment of U.S.-Canada-Mexico. He was a member of the Bi-national study of US-Mexico Migration appointed by the Mexican Ministry of Foreign Affairs and was the first elected president of the NAFTA formed Border Environmental Cooperative Commission. Dr. Bustamante is the Founding Member of the Mexican Academy of Human Rights.

Dr. Bustamante is a professor and researcher in Sociology at the University of Notre Dame and at El Colegio del Frontera Norte, Tijuana, which he established and is now the most prestigious urban planning academy for advanced degree students on US-Mexico issues. He is also the founder of the journal *Frontera Norte/The Northern Border*. Dr. Bustamante has served as educator worldwide teaching courses at the University of Paris and University of La Coruña, Spain.

LAUREN HIRSHOWITZ: Could you start by telling me a little bit about your background and how that lead you to be a scholar in U.S.-Mexico relations?

BUSTAMANTE: Well I have been doing research on Mexican immigration to the U.S. lately on Central Americans to Mexico to the U.S. and my research has lead to more than 200 publications on the topic and I have been working between the University of Notre Dame and El Colegio de Frontera Norte so I spend half of the year in Notre Dame and half of the year in San Diego- Tijuana. I guess that it is my publications and my CV that lead to an appt from the United Nations which was based on the evidence they find on the independence of the U.N. Special Rappateur and they found that to be my case because I do not work for the government or any institution to Mexico or the US other than the University of Notre Dame which is just regular academic work. And so based on my experience and doing research on international migration and my independence from any institution I was appointed three years ago and my appointment has been renewed about two weeks ago. It was renewed for over 3 years. So the basic cost of my mandate is to go on fact-finding missions around the world because it is a worldwide mandate to see if this is what the governments and the civil society and NGOS are doing about the human rights of migrants. The main purpose is to produce a report to present to UN General Assembly.

In the case of the United States, I did a tour of 10 cities beginning in SD and going along border and then going up to the North and ending in Washington DC. The most questioning issue I found in migrant community were the raids, the ICE (Immigration and Customs Enforcement) raids and the complaints about all kinds of stories about violence and arbitrary detentions and particularly more dramatic in front of the kids of the house where the parents are handcuffed and taken away. Very often the children are left alone and in conditions that are very dramatic. You know, people some compare those conditions to Nazi detentions in Nazi Germany because that is the degree of violence and

harassment that many people I have interviewed have experienced. The most dramatic aspect is when kids are left alone. Often, people find a neighbor that they request to be take care of children. Sometimes children are American citizens and parents are undocumented immigrants, and the tactics the ICE use is that they are looking for someone a real people or pretend names someone who doesn't live in house in the house. As police approach door and get answer from inside they enter using in force. That is when the true moment begins.

Some new phenomenon has arrived out of detentions, coincidentally, American children are left in house and later have to follow the parents who are expelled to Mexico. Children of undocumented immigrants trying to reunite with parents have to go to Mexico, a country they don't know anything about, they don't know the language, they don't have any reference people to find assistance for the,. I have interviewed some of these children and I have heard very dramatic stories about the conditions they find in Mexico. One child of 9 years of age, when I asked what was the worse problem that he found in Mexico? He said, it is full of dogs in the street and I am very much afraid of dogs. Actually he had some phobia of dogs and that created some sort of mental disorder for him. And it is true, there are dogs all place in Mexico and obviously that is in contrast with US where that doesn't happen that is one instance of a case I have presented in Mexico to the courts but I do not know if there ahs been any response there is none I am aware of.

In the United States, the most salient issue that came about my visit was that I requested authorization to visit some detention centers in Texas and in New Jersey. The permission was granted so I made plans for visiting. Once I was in the U.S., I was notified that the visit and permission had been cancelled and I couldn't visit. Obviously, the DHS didn't want me to see certain things that had been recorded in press, abuses of hr that were recorded in press. So I was not permitted to enter the centers that I had received authorization before I came to the US and so I recorded that in my report. Also, the many aspects of violations of human rights such as suppressions of family, human rights of children, arbitrary detentions and many others who I heard testimonies in a number of cities that I visited in the US. Basically, that is it.

LAUREN HIRSHOWITZ: Could you talk about some of your recommendations for policy?

BUSTAMANTE: well to make more transparency operations in detention centers and to follow human rights in such away that there is a warranty on the part of the US government that those hr are respected. There is a very common misconception that because undocumented immigrants enter illegally to the US they don't have any rights, which of course is wrong. And very often, this misconception transfers into behavior and there is disproportionate behavior as a result of that which is nourished in the media like Lou Dobbs and people on FOX channel. They are very inflammatory about anti immigrant notions about immigrants that they are criminals and they come here to rob the children and these are lies because there is not much awareness in the US that that is a report not the facts. There was a recent research published on 3 media important actors showing how use only ideologies and not facts but present it as facts... like the case of Lou Dobbs.

LAUREN HIRSHOWITZ: How do you think that can be improved? Is that through NGO's and other institutions or do you think there can be a real change of policy on the federal level?

BUSTAMANTE: Under these conditions, none. Under these conditions there is no way, particularly because you find that the US government insists that the phenomenon of undocumented immigration is domestic problem. That is complete contradiction n that the fact that the phenomenon of migration is bilateral; nationals of one country entering into another that is not theirs. That makes it bilateral. The US doesn't accept that. The US doesn't accept a fact that is part of the phenomenon that it is bilateral; and the extent to which the US government insists to treat the phenomenon and its consequences as a domestic problem and that the problem will never be solved by a unilateral approach.

LAUREN HIRSHOWITZ: You have written before about how the past relationships between the US and Mexico have been labor accords. And a lot about migrants have been objectified in the US and also how they see the US as labor. What causes this? Is it economics?

BUSTAMANTE: The phenomenon is bilateral not only because it is nationals entering into another country but because there is an interaction that shapes the phenomenon consisting of a demand of the labor force of the migrants that is endogenous to interaction to the factors that produce the supply. This is the interaction that is at the core of the phenomenon but this interaction is not accepted by the US...at least officially.

LAUREN HIRSHOWITZ: So objectification is rooted in ideology or is there economics involved?

BUSTAMANTE: Both. Out of the reality of supply and demand there is a set of ideas that justifies for the US to say this is a domestic problem based on asymmetry of power between Mexico and the US.

LAUREN HIRSHOWITZ: If there were to be some kind of bilateral agreement like the “Big Enchilada,” what do you see it being? How would it be most efficient?

BUSTAMANTE: Well one that is based on realities of real demand interacting with real supply that derives from realities of such an interaction. So I see the bilateral nature of phenomenon reflected in bilateral negotiations that could be as complex as NAFTA, and I hope that becoming, making to the main actors being represented in negotiated in actions such as employers in many sectors in US and union representations from the 2 sides. Perhaps, in a format that resembles ILO such as employers, workers and the state. And, discussing the proposals in an open transparent manner related to the issues of real demand and real supply. I see that as the only rational way top solve the problem because the solution will have to come out of these negotiations with responsibilities for the main actors involved.

LAUREN HIRSHOWITZ: Taking into consideration National security which, post 9/11 U.S. is a big part of policy, certain scholars such as Peter Andeas argue that tightened border security people are more concerned with public image and people feeling safer than actual security?

BUSTAMANTE: Well that is the role of the U.S. the U.S. government would bring that issue for sure and legitimately I would add. And the Mexican government would have to respond in a bilateral way so that position on the part of the US. I think it is a legitimate position

LAUREN HIRSHOWITZ: So you think policy makers are actually interested in security?

BUSTAMANTE: No [*laughs*]. Not that we have seen, we have seen part of the campaign in the primaries. The issue of immigration was almost absent. I am sure that will change with the campaign for the presidency between the Democrats and the Republicans. Already yesterday, Obama said that he would have as a priority a proposal on immigration.

ROBERT DONNELLY: I just wanted to clarify something; it seemed to me that in response to the question of security mandate post 9/11, you thought it was a legitimate issue?

BUSTAMANTE: Yes.

ROBERT DONNELLY: That is a reality that Mexico has to address?

BUSTAMANTE: In a bilateral way.

LAUREN HIRSHOWITZ: In the policy post 9/11 can you talk about how you see that see affecting human smuggling into the US and how that relates to migration routes?

BUSTAMANTE: Well there certainly has been a growth in migration from assumption undocumented immigrants' threat shows the possibility of terrorists to come to the US. That is a common assumption not based on facts. There has not been one single terrorist that has been identified as entering from Mexico, not one. And, nevertheless, the public believes that. Even though there hasn't been one case as a danger, it is a legitimate question that has been raised by the US government that should be incorporated into negotiations with the US and Canada.

LAUREN HIRSHOWITZ: How do you think it should be incorporated in?

BUSTAMANTE: With responsibilities from 2 sides as any agreement should happen.

LAUREN HIRSHOWITZ: Do you think the US would be more likely to expand temporary labor programs than to talk about immigration and citizenship?

BUSTAMANTE: There is a very manifested demand for temporary workers so that could be one aspect the US side would discuss with Mexican side

LAUREN HIRSHOWITZ: can you talk about human rights issues you see important in migrants brought across border.

BUSTAMANTE: The perspective of the issues from the US and Mexico is different. From Mexico, it is a violation of human rights. From the US, it is a problem derived from criminalization. From Mexico they see the problem as bilateral whereas in the US they see the phenomenon as a domestic problem. In Mexico, it is an economic labor related question where in us it I a crime related phenomenon that can only be solved by police actions or military nature. You see there questions that the US sides are at odds.

LAUREN HIRSHOWITZ: So by having the perfect agreement, will hr be ensured or will hr provisions be in agreement?

BUSTAMANTE: US would have to respond to human rights issues, in congruence with the position of the US for human rights expressed in ratification of International convention on Civil and Political rights. That is part of the law of the land of the US. So that the Mexican government would be demanding in this kind of bilateral agreement would be in congruence with ratification on the part of the US senate.

LAUREN HIRSHOWITZ: how should the US treat the issue of drug smuggling in the US and a question of security and how should it be handled?

BUSTAMANTE: Drug trafficking is related to the question of security and should be handled bilaterally.

ROBERT DONNELLY: One thing that you mentioned was that, how likely do you see a bilateral agreement similar to Casenada's proposal in 2000 and 2001? How likely do you see a special relationship between Mexico and the US on immigration. What are the prospects on that? How can that be sold to the US public?

BUSTAMANTE: So the thing is that the US public opinion is dominated by the definition of the question that one related to find. And that is not based on facts. So, that what I see as possibility has to do with consciousness in relation to the United States:

- 1) That labor migration from Mexico is good for us economy
- 2) That the negative aspects related to that could be arranged by bilateral agreement
- 3) This is the practice of the world and the most rational way to solve differences in countries

ROBERT DONNELLY: You are almost using labor negotiations in a company, in a contract as a metaphor for labor negotiations in the US and Mexico. What kind of bargaining power does Mexico have?

BUSTAMANTE: The bargaining power is related to realities of demand of labor force of immigrants including undocumented immigrants. There is a real labor demand for immigrant The US public opinion must get closer to the reality of that demand.

LAUREN HIRSHOWITZ: You've written before about how migrants are particularly vulnerable in other countries, can you define that a little bit?

BUSTAMANTE: I have defined vulnerability of migrants as conditions of powerlessness, one that is certainly counteracted by fact that undocumented immigrants have rights recognized in context with UN and in the US. This is something that has to do with old tradition in the US, supporting human rights. But the obstacle comes from the element of domination of ideologies over realities of the context of immigration in the US.

LAUREN HIRSHOWITZ: How do you convince the US electorate and the voting public of the importance of migrant labor to the economy?

BUSTAMANTE: Just to bring the facts to the screens, to the waves of radio to the American public. The American public doesn't know phenomenon such as the extent to which the presence of undocumented immigrants has opened the opportunities for women to enter the labor force because of the availability of someone they trust to take care of house. And that is something that is not known. And I wonder, what would be the reaction of knowing that for a fact. I think that Americans would react positively by being confronted with the facts of research projects abundant and not just by being bombarded by ideas such as Lou Dobbs almost daily for several years talking about something not based on facts and presented as factual.

ROBERT DONNELLY: I think it is interesting, I do not know if you have any views about Arizona, the State law Proposition 200 that has passed, the economy is suffering greatly, well many employees are upset about this law and the math of it and also having a big impact on human rights...

BUSTAMANTE: well those suffering because of labor shortages that have been part of anti immigrant campaign and anti immigrant shortages have not reached the American public. The American public does not know what are the basic aspects of labor shortages provoked by anti immigrant ordinances to the extent that there is no politician to speak about that so the public. And many sectors of the American public don't want to know.

LAUREN HIRSHOWITZ: Do you think in the long run, all the state laws cracking down on hiring undocumented workers, people realize the problem?

BUSTAMANTE: Well hey have to realize first that the ordinances that you are referring to are unconstitutional. The US constitution is published with the exclusive right of the government to deal with immigration and prohibits other government from dealing with immigration other than the federal government. Nevertheless, the ordinances are numbered in more than 2000.

ROBERT DONNELLY: Do you think those ordinances like proposition 200, or state laws, agree that they are authentic representations of how the US public thinks, or...

BUSTAMANTE: Yes. Any result of a manipulation... if a manipulation is misused, a sector of the American public believes it and if it is reflected in a product such as these manipulations those could be assumed as authentic reflections which is not to say that is correct or well counted.

ROBERT DONNELLY: One thing you mentioned is that for any agreement to stick it has to address the fundamental economics of the situation; there is an interaction between real supply and demand. What do you think about economic demand in Mexico as a means to calibrate or balance those two courses?

BUSTAMANTE: There should be an element for that in the bilateral agreement. I am sure the Mexican government would pursue that. It is not any kind of right for Mexico. It is something that drives the outmigration factors for Mexico. I think that as in any bilateral agreement, Mexico will make proposals that will not be acceptable for the US and the other way around.

LAUREN HIRSHOWITZ: Do you think the US should assist in development?

BUSTAMANTE: No, I think if the US accepts to help in development, that will alleviate the problem and it would be in the US' best interest to do that as has been the case in many negotiations around the world. You see, there is no awareness of the existence of the bilateral labor agreements between the US and Canada. There is a bilateral agreement drafted over the last 4 years. It follows the principle of rationality of every other bilateral agreement. I am not suggesting that is perfect but it is very very distant of the conditions of Mexico and the US.

ROBERT DONNELLY: Do you foresee a framework for which to coordinate economic development in Mexico

BUSTAMANTE: The framework I see resembles NAFTA. NAFTA was a complicated development that was handled bilaterally with negotiations of the actors concerned. Something like that would have to happen in the case of immigration.

ROBERT DONNELLY: A real structure, preexisting to coordinate a very complex operation...

BUSTAMANTE: Yes, correct. It would follow the de facto structures of the labor market that exists, de facto.

ROBERT DONNELLY: I am curious about the use or exploitation of the law. I don't know if exploitation is the right word but it seems that the law in the US is used in such a way that causes very egregious outcomes and very inconsequential and petty outcomes but in the case of the man who was fishing without a license and deported. Or I was reading in the New York Times about a man who was driving and his taillight out and he was deported. Is this a new trend?

BUSTAMANTE: It has been for years already.

ROBERT DONNELLY: What do you see in the future for U.S. immigration policy?

BUSTAMANTE: It will very much be decided by the [presidential] campaign. And after that, as many people, I have already predicted that the Democratic Party will win the presidency and the majority in Congress. And that sometimes is viewed wrongly in Mexico as deriving from some sort of dichotomy between Republicans and Democrats because you will find anti-immigrants in the Democratic Party abundantly. But I think the victory of the Democratic candidate in Congress will represent a distance from the Citizen Brenner kind of Projects. There will be openings for something closer to the realities that I was saying before even though I don't think that that closeness will lead to a bilateral approach. That is too much in the ocean. I have been criticized when I speak of the bilateral nature of the issue and people say "How do you dare to say that we don't have the right to decide what to do with the illegal aliens." You know, right there is the end of the conversation. So I think it is too rooted in ideologies that the US has the right to decide an even international phenomenon with no participation from anyone else. Which is actually a notion based on power not on facts.

ROBERT DONNELLY: What could Mexico do to improve its bargaining power to negotiate with Washington?

BUSTAMANTE: You are speaking about lobbying power, I don't see Mexico developing, and I don't see a way to ensure that the Mexican government could change the conditions of immigrants to the public. I see one element which we have not spoken about here: the Latino vote. Latinos will become increasingly a major factor of the position of the US about immigration. Not a determining factor but an increasing importance of the weight they will have in the position of the US.

LAUREN HIRSHOWITZ: Do you think there is any position of Mexico being backed by other countries in Latin America to increase their bargaining power?

BUSTAMANTE: Yes but that will be irrelevant. That will not change one vote on the public part of the anti-immigrant.

ROBERT DONNELLY: Which candidate do you see as the one candidate for making a comprehensive...?

BUSTAMANTE: Obama... Obama came out yesterday in the papers saying that the Mexican interest should be recognized in the US and seems to be very positive about the possibilities of a solution.

LAUREN HIRSHOWITZ: Thank you for your time.

