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BINATIONAL ATTEMPTS TO DETER HUMAN RIGHTS
VIOLATIONS ON THE U.S.- MEXICO BORDER

by
James Scott Jiménez

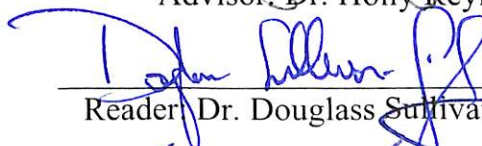
A thesis submitted to the faculty of The University of Mississippi in partial fulfillment of
the requirements of the Sally McDonnell Barksdale Honors College.

Oxford
May 2007

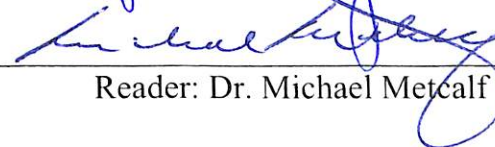
Approved by



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ABSTRACT

JAMES SCOTT JIMÉNEZ: Binational Attempts to Deter Human Rights Violations on the U.S.- Mexico Border (Under the direction of Dr. Holly Reynolds)

For my thesis, I wanted to look at the movement of human rights of legal and illegal immigrants across the U.S.- Mexico border. I researched the theory of human rights in general, the history of the U.S.- Mexico border and how it became violent and dangerous for potential immigrants, the previous efforts of both the United States and Mexico to improve the situation along the border as well as future plans of both countries' administrations to solve the problem. I found that both countries have put forth efforts in regards to binational coordination along the border in order to deter the violence that comes with the high level of drug trafficking that occurs along the border in addition to human trafficking of migrants. Now, both countries are still in the process of contributing to a future solution by each countries' own means. The United States continues to work on legislation that will create a means for immigrants to come to the U.S. in order to fulfill a labor market that needs workers. On the other side, Mexican officials have strived to continue cooperative programs with the U.S. Border Patrol in order to ensure effective rescue missions as well as independently strived to promote human rights of migrants passing through Mexico to the U.S.- Mexico border. In conclusion, I found that the politics surrounding this issue have hindered progress. Due to the political aspect of U.S. legislation and the idea of granting some sort of amnesty to illegal immigrants, the U.S. continues to debate legislation that will effectively fill America's gap in the labor market. Within Mexico, economic infrastructure continues to be a problem in attempts to create jobs and stipulations for Mexican workers to stay in Mexico. A solution might be achieved when both the U.S. and Mexico become politically invested in each others' economies, but under the current political atmosphere, the U.S. seems to be more focused on walls while Mexico struggles with its own issues of political corruption and informal economy.

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Introduction

The border between the United States and Mexico is the longest international border in the world. Stretching nearly 2,000 miles from San Diego, California/Tijuana, Baja California in the west to Brownsville, Texas/Matamoros, Tamaulipas in the east, it is the most frequently crossed international border with approximately 350 million people legally crossing it annually. The border between the United States and Mexico has brought forth prosperity and grief for both countries. The relationship shared by these two countries has been an example of economic cooperation through agreements such as NAFTA as well as political cooperation through guest worker programs such as the Bracero program (1942-64). However, interstate borders can be a place of high tension. One instance of tension is illegal immigration. Recent militarization of the border, accelerating during the 1990's due to the war on drugs and increased U.S. concern over illegal immigration, has led to an increased number of human rights violations of immigrants crossing the border. Reports of murders, rapes, abuse, torture, and the deprivation of food and water while in custody are just some of the violations recorded by human rights groups along the border. In addition, the process and methods of crossing have become more dangerous due to the increased number of Border Patrol agents in "hot spot" crossing areas. As a result, a "balloon effect" pushes potential migrants away from these areas into desolate desert regions where the potential for dehydration and heat exhaustion is very high. However, both countries have initiated various policies in order to combat these violations and ensure the security of migrants and border citizens alike.

How has the border evolved from when it was first established to the present day, and how has this history affected the human rights of migrants? How have American immigration policies influenced and changed Mexican immigration? How has this change affected migrant rights? What are the theories of migrant rights? What are the perceived public opinions of illegal migrants? What are the violations, and who are the perpetrators? What have the American and Mexican governments done to improve the human rights situation and have these efforts been successful? What policies do both countries have in plan for the future?

By examining these questions, I feel that one can understand how the human rights problem has evolved and what both countries can do in order to solve it. Efforts by each country to enhance its role in alleviating the problem and joint cooperation by both countries' federal governments can ensure and protect the rights of migrants, regardless of status, on both sides of the border.

History of Militarization on the Border

By first examining the historical trends of violence that emerged within the border society, one can see how its militarization would later affect the human rights of immigrants. This chapter examines why U.S. military forces were first sent to the border, how the violence used by government troops and the Texas Rangers laid a basis for violence on the border, and the stages of the militarization. In addition, the U.S. government has relocated immigration policy among different government departments according to the political stigma of immigration within the U.S. During the “rotating door” period when the nation was first in a labor shortage, the policy of immigration was enforced by the Department of Labor. It later moved to the Department of Justice as immigrants were identified as potential criminals. As of March 2003, immigration resides under the Department of Homeland Security, suggests that immigrants are a potential threat to the nation’s security. With these changes, the potential for human rights violations increases due to rising tensions between the Border Patrol and increasing numbers of illegal immigrants.

Before the Border Patrol was officially established in 1924 with the Immigration Act, there were many historical conflicts that preceded the organization and established the need for an organized border enforcement group. Through the Treaty of Guadalupe Hidalgo in 1848 and the Gadsden Purchase in 1853, Mexico lost 1.45 million km² of land to the United States. Despite the settled agreements, there were still many conflicts between Mexicans and Americans over the ownership of property within the newly annexed territory of the United States (Dunn 1996). Violence increased as Mexicans felt exploited due to the loss of their land to Americans through legal manipulations and

intimidation, as well as to the problem of court costs incurred in deciding the rightful owner. As a result, the first series of U.S. Army forts was established along the border including Fort Bliss in El Paso County, Texas in 1849 and Fort Huachuca in Cochise County, Arizona in 1877. As the dispossession of their land continued and violence increased at the hands of the Texas Rangers, Mexicans residing in Texas decided to rally in order to combat further land seizures and murders. In 1911, 400 Mexicans organized in Texas at the Congreso Mexicanista¹ and condemned the violence against their people, called for an end to discrimination, and encouraged current landowners to resist the selling of their land (Montejano 1987).

From that point up until 1920, what followed was a Mexican uprising against the American suppression. Under the Plan de San Diego of 1915, Mexicans in Texas proclaimed independence, calling for a unified rebellion by all minorities including Mexicans, Blacks, Japanese, and Indians (Montejano 1987). The guerrilla plan, signed by up to 3,000 men of the Texas-Mexican community who feared the expansion of the American farm economy, called for every American above the age of 16 to be killed as well as the establishment a new independent republic. What followed were guerrilla raids against Anglo ranches, farms, railroads, and other targets of Anglo development. In response, one can see the first signs of border militarization as the U.S. government sent Texas Rangers and approximately 1,900 U.S. Army troops into the Rio Grande Valley that same year to repress the insurrection. The results included 126 deaths of American civilians and soldiers while estimates vary (300 to 5,000) for the Texas Mexicans killed

¹ The Congreso Mexicanista, sometimes referred to as El Primer Congreso Mexicanista, took place in Laredo, Texas from September 14 to 22, 1911 and established the Gran Liga Mexicanista de Beneficencia y Protección (The Grand Mexican League of Welfare and Protection) in order to advance culture, education, and civil rights among Mexican Americans.

as the insurgency ended by July 1916 (Ibid.). During the following months, nearly 28,000 federalized National Guard and active Army troops were deployed in the Lower Rio Grande Valley (Dunn 1996).

However, the conflict over land was not the only reason surrounding Mexican insurgency. During this same time, the entire country of Mexico underwent a revolution. Along various areas of the northern border, many revolutionary movements developed, spurring the U.S. government to deploy more troops in the region. By the fall of 1916, over 100,000 National Guard troops had been deployed along the border (Ibid.). For example, from 1916 until 1919, the West Texas Big Bend area was home to several cross-border raids by different revolutionary factions. The Texas Rangers retaliated with the execution of 19 Mexicans who were unaffiliated with the revolutionary uprisings (Justice 1992). As a result of the actions by the Texas Rangers and the increased military presence on the border, the Mexican insurrection was suppressed along the border, decreasing the need for further drastic militarization in the following decades.

It was also during this time that the U.S. saw a drastic increase in legal Mexican immigration. Before the revolution, from 1901 until 1910, legal immigration stood at 49,642. Then, in the following decade, legal immigration rose to 219,004 (United States Department of Homeland Security 2006). (See Appendix I for full statistics of legal Mexican immigration into the U.S. from 1821-2003).

As the pacification of the border was achieved, policies regarding immigration also changed. The United States adopted what was known as a “revolving door” policy in which many immigrants arrived to fill the American need for labor and were later deported en masse. In 1924, President Coolidge signed the Immigration Act or the

National Origins Act that restricted further immigration of Asian and European laborers. Cheap Mexican labor thus became essential to the development of businesses within the border region; however, controlling the constant flow was not easy (Montejano 1987). The Immigration Act of 1924 also officially created the Border Patrol under the Immigration and Naturalization Service (INS) whose primary mission was to exclude “illegal aliens.” However, due to Prohibition in the U.S. at that time, the Border Patrol found its main objective to be stemming the smuggling of alcoholic beverages across the border. After the repeal of Prohibition in 1933, the Border Patrol shifted its focus to preventing the flow of illegal Mexicans, but with very few resources its success was limited.² Realizing the main reason for Mexican migration, the Border Patrol established connections with local Texan employers. This began the idea of exploitation of Mexican workers through the fear of deportation looming over their heads (Cockcroft 1986).

In regards to human rights, the original members of the Border Patrol mainly consisted of ex-Texas Rangers. Given their historically violent and paramilitary actions against Mexican Americans, this attitude became rooted in the Border Patrol’s establishment (Dunn 1996). One common violation of human rights occurred with the unjust deportation of Mexican laborers following the preceding years of the Great Depression beginning in 1929. Mexican immigrants became scapegoats for the economic crisis as 500,000 to one million were instantly deported or intimidated to return to Mexico, some of whom were children born in the United States (Cockcroft 1986). Between 1930 and 1940, the Mexican population within Texas dropped by 40% as a

² While there are records of legal immigration to the United States during this time, exact details of illegal immigration are poor or non-existent. The lack of structure in the apprehension and deportation system and inability to enforce legal immigration along the border are probably the most contributing factors to illegal immigration at this time.

“repatriation” campaign swept across the southwest (Acuña 1988). Then, in 1942, as the United States entered World War II and experienced a drastic labor shortage, the U.S. government reached an agreement with the Mexican government and established the Bracero program. This program would allow Mexican laborers to temporarily enter the U.S. legally and work in certain areas of the economy without fear of deportation. This guest worker program lasted until 1964.

Another step in the militarization of the Border Patrol took place in 1953 and 1954 during a period of mass deportation known as Operation Wetback. The INS acquired a new commissioner, Lieutenant General Joseph Swing, who had retired from the U.S. Army. Swing introduced military terminology and tactics into Border Patrol procedures by emphasizing flexibility and mobility when patrolling the border. The Border Patrol became a consolidated force that moved between hot spot crossing areas and regions of highly concentrated illegal aliens, conducting massive roundups and pushing Mexicans back across the border (Dunn 1996). As the Border Patrol moved from west to east along the border, annual INS apprehensions increased from 182,000 in 1947 to 850,000 by the end of 1953. In summary, Operation Wetback epitomized the “revolving door” policy in which Mexicans were welcome to the U.S. in times of labor shortage as seen through the Bracero Program during World War II. However, with the unanticipated numbers of Mexicans that illegally overstayed their guest worker visas, the U.S. government felt pressure from unemployed Americans as labor was no longer in such high demand given the end of World War II. It also firmly reinforced the negative connotation of Mexicans as enemies that should be under surveillance at all times that

had begun during the earlier insurrection. This included Mexican-Americans who were constantly on guard to provide their proof of citizenship or risk deportation (Ibid.).

During the following years, the numbers of INS apprehensions of undocumented immigrants sharply declined due to the number of immigrants already established in the U.S. through the Bracero program. Through the expansion of the Bracero program during the 1950s, the Border Patrol did not pursue a strict enforcement policy towards already established undocumented immigrants. Even though Mexicans' allotted work time had expired, they remained in the U.S. as the Border Patrol focused more on the illegal crossings along the border. After the conclusion of the Bracero Program in 1964, the Border Patrol did not resume its aggressive enforcement position toward undocumented immigration as the issue of illegal immigration then took a diminished role in U.S. policy until the mid to late 1970s (Dunn 1996).

The next period of Border Patrol growth and increased resources for enforcement took place during the presidential administrations of Jimmy Carter and Ronald Reagan. After the U.S. economy experienced a recession in the late 1970s, some within American society began to fear illegal immigrants crossing the border to take scarce American jobs (Dunn 1996). The INS then pressured the Carter administration to take back control of the border. Carter then established a think tank to examine immigration and refugee issues: the Select Commission on Immigration and Refugee Policy. The committee decided that the immigration issue had great "national interest" and should be approached with strong law enforcement. The notion of national security became more relevant as immigrants, not just from Mexico, continued to arrive to the United States. In 1980 alone, the U.S. saw 125,000 Cuban refugees arrive to Miami via the Mariel boatlift, and tens of

thousands more Haitian refugees arrived in South Florida. Supporters of stricter immigration policy used these examples to accuse the current administration as having a weak immigration policy and lax border enforcement. Carter received criticism for his decision to delay significant resources for the Border Patrol in order to wait for research findings from the Select Commission on Immigration and Refugee Policy (Ibid.).

Due to the political restraints that came with Carter's special commission, the Border Patrol assumed a partially strengthened role in which it only saw a limited increase in its personnel and funding. Congressional appropriations for the Border Patrol staff increased from 2,580 in 1978 to 2,915 in 1980 (a 13% increase) while Border Patrol funding increased from \$78.1 million to \$82.6 million (an almost 6% increase) in the same respective years (Dunn 1996).

The Border Patrol encountered another political constraint when incidents of mistreatment of undocumented immigrants came to light in the national press. In 1980, two Border Patrol agents were convicted for civil rights violations against undocumented immigrants. Upon questioning, INS Commissioner David Crosland openly admitted that such incidents were not isolated but rather commonplace within the Border Patrol.³ While "the publicity surrounding those abuses damaged the political image of the Border Patrol, [it was] not enough to stem the growing tide of restrictionist sentiment favoring an expansion of the unit. (Dunn 1996, 41).

Following the Carter years, the Border Patrol saw its biggest expansion yet during the Reagan administration with the passage of the Immigration Reform and Control Act (IRCA) of 1986. Reagan adopted an aggressive approach to immigration by emphasizing

³ "We are not satisfied that this was an isolated incident and do not believe that this one case will serve as an adequate deterrent to others whose activities are less than profession." Crosland during Senate Committee on the Judiciary 1980: 623.

the potential terrorist threat that illegal immigrants could cause. After the passage of IRCA, border security saw the rise of another national security issue: the smuggling of illegal drugs across the border. With the combined issues of illegal immigration, giant inflows of refugees, terrorism, and drug smuggling, the political environment was set for a massive expansion of the INS. Between 1980 and 1988, congressional appropriations for the INS increased by 130% and authorized personnel levels increased by 41%. The Enforcement Division of INS received 60% of the new funds and 82% of the new available jobs. Within the Enforcement Division,⁴ the Border Patrol accounted for 27% of the funds and 58% of the staff increases (Dunn 1996).

The Border Patrol not only saw an increase in its manpower but also in the technological advances at its disposal along the border. With the increased budget, the INS wanted to improve the border enforcement technology, including additional helicopters, airborne infrared radar, additional electronic intrusion-detection ground sensors, and an increased number of night-vision scopes. The Border Patrol also experienced procedural modifications between 1984 and 1986 in order to improve its local image among border citizens in light of civil rights abuses. Horseback and foot patrols alongside local police departments were created to deter the rising crime rate in border areas as well as improve connections with the local authorities, create accountability between the two organizations, and improve the Border Patrol's reputation among local border town citizens as ambassadors between the federal and state levels of border enforcement (Dunn 1996).

⁴ The Enforcement Division includes the following INS units: Border Patrol, Detention and Deportation, Investigations, Antismuggling, and Inspections.

Through IRCA and the political atmosphere during the Reagan administration, the Border Patrol experienced a giant overhaul in regards to its resources and its legitimacy. The next stage in Border Patrol expansion occurred during the George H.W. Bush administration. From 1988 to 1992, congressional funding for the Border Patrol increased 59% while appropriated staff decreased 11%, mainly due to the 77% increase in the average amount of funds per agent during the same years. The biggest change concerning INS and the Border Patrol during the George H.W. Bush era was caused by the War on Drugs. In the War on Drugs, the Border Patrol was given a new role on the border as it acquired the “primary responsibility among federal agencies for drug interdiction between official ports of entry along the U.S.-Mexico border.”⁵ The Border Patrol also experienced an expansion of its legal jurisdiction beyond drug and immigration enforcement. With the Immigration Act of 1990, INS officers could make arrests for any offense under U.S. law, not just crimes related to drug smuggling enforcement (Dunn 1996).

During this time, as in the Reagan era, the Border Patrol took measures to improve its public image. The Border Patrol strove to improve its public image through school visits by dog-teams, drug education programs, and the implementation of Explorer Scout groups. The Explorer Scout groups participated with agents on borderline watches as well as served as a method of recruitment (Ibid.). However, civil and human rights abuses returned to the forefront at the end of the Bush administration.

The War on Drugs helped establish political legitimacy for the violent actions of the Border Patrol. As drugs became a more pertinent issue than immigration along the

⁵ In the Base Program Descriptions of House Committees on Appropriations of 1989b, 1990b, 1991, and 1992, the Border Patrol is listed as having this responsibility. Prior to 1989, this responsibility was not listed under the Border Patrol.

border regions, the issue of drugs and the potential danger and violence of drug smuggler presence on the border became a reason for the Border Patrol to heighten the level of physical force used when apprehending immigrants. Terms such as “illegal alien” and “drug trafficker” became closely connected, resulting in the notion that if an undocumented immigrant ran from the Border Patrol, he was assumed to be a drug smuggler (Dunn 1996). This led to greater a potential for human rights abuses.

Through the historical account of the militarization of the border, one can see how the violent atmosphere of the border has developed and how the Border Patrol has evolved from a group of counterinsurgents into an organized task force now assigned to protecting our country from terrorism. As the U.S. took a more conservative turn during the end of Carter’s presidency and throughout Reagan’s, it is easy to see the steps taken to increase the power of INS. Total INS funding by Congress increased from \$283.1 million in 1978 to \$807.8 million in 1988. In addition, allocated staff jumped from 10,071 to 15,453 in the same years (Dunn 1996). With the view of immigrants as potential smugglers, drug traffickers, and job usurpers, immigrants faced an uphill battle in seeking better lives and wages in the U.S.

Strict American Immigration Policy and its effects on Mexican Immigration

Most experts see 1994 as the landmark year in which Border Patrol policy took a giant leap in resources and enforcement with the passage of Operation Gatekeeper. Rather than spreading out all of the government's financial and manpower resources across the border, the U.S. government decided to isolate its efforts within the four segments of the border through which 70-80% of illegal aliens cross. These regions include San Diego, California, El Paso, Texas, central Arizona, and southern Texas. The Border Patrol hoped that by securing the popular regions, the dangerous geography along the border would further deter possible migrants. It was assumed that by increasing the costs, dangers, and difficulty of crossing the border, illegal immigration would decrease. However, the Border Patrol underestimated the willingness of Mexicans to put their lives at risk by crossing the mountainous and desert regions.

Because of increased Border Patrol resources placed at the San Diego region, one can see a shift just over 100 miles further east towards El Centro, California in deportable aliens caught by the Border Patrol. From 1992 to 2000, the number of deportable aliens caught in the San Diego region decreased by 73% while that same amount increased by 697% in the El Centro region. Likewise, during those same years, Tucson saw a 767% increase in apprehensions due to the Border Patrol's attempt to push immigration outside of San Diego (see Appendix II for full statistics on deportable aliens by region). This balloon effect in which pressure is placed upon certain areas only to shift the pressure to other regions, in this case treacherous and dangerous regions, has caused many migrant deaths to occur in the Arizona deserts. In 1995, before the effects of Operation

Gatekeeper had made their way further east, no illegal migrants were known to have died in the Arizona desert (Latin News 2006).

Due to the political nature of these statistics, there are many contradictory sources regarding the total deaths along the border since Operation Gatekeeper. Border Angels, an NGO based in San Diego estimates that as of October of 1994, 4,000 immigrants had died while crossing the border (Border Angels 2006). In 2004, Migration Information Source (MIS)⁶ estimated more than 2,640 border related deaths as of 1994 (MIS 2004). Because border deaths are a negative stigma on the Border Patrol's success in border security, the Border Patrol has been accused of using loopholes in its accounting methods, such as excluding skeletal remains or bodies found by local authorities (Almond 2004).

Because the Mexican government recognized the increasing danger of the border crossing process, the Mexican Ministry of Foreign Relations issued a 32-page guide with tips and advice on how to cross the border safely. In November 2004, the Mexican Secretary of Foreign Relations distributed 1.5 million copies to immigrants planning to migrate to the U.S. The guide contains information regarding high-risk crossing zones such as the desert and along the Rio Grande as well as issues of dehydration, *coyotes*, and how to react upon being detained. It also addresses the behavior and conduct that undocumented Mexicans should maintain while in the United States and covers all the rights migrants have if they are detained or arrested (Aguayo Quezada 2005). While the guide does emphasize legal migration through proper procedures of passports and visas, many anti-immigration groups have accused the Mexican government of promoting

⁶ MIS provides authoritative data from numerous international organizations and governments in order to consolidate information concerning global migration. It falls under the Migration Policy Institute, an independent think tank in Washington D.C.

illegal immigration (BBC 2005). The guide is designed like a comic book, which has received lots of criticism for making it appealing and accessible to migrants of lower socio-economic status. The question then remains: how do Mexican immigrants decide they have the capacity to migrate?

There are many approaches and conditions that must fall into place before a potential Mexican immigrant makes the trip across the border. Regardless of how an immigrant might cross, there is usually an opportunity for migration via already established family or friend connections in the U.S. The creation of family networks in the U.S. has been a major contributing factor for a continued increase in Mexican immigrants. A recent Pew Hispanic Center survey of Mexicans applying for a *matrícula consular*, an identity card issued by Mexican diplomatic missions⁷, examined the importance of these family networks to potential immigrants. Only 13% of those interviewed said they did not have relations other than a spouse or children in the United States while 44% said they had six or more relatives in the U.S. (Suro 2005). These family networks help potential immigrants with social, financial, and legal obstacles in the immigration process such as lining up jobs or assisting with the costs of paying a professional smuggler (Custred 2000). While professional smugglers, also known as “*coyotes*,” can be risky, the business of human trafficking along the border has risen drastically.

Due to increased border enforcement, the business of human smuggling along the border has become a major factor in the process and security of Mexicans seeking to cross. According to an International Organization for Migration study conducted in 1999, approximately 70% of Mexicans who entered the U.S. that year did so with the assistance

⁷ See section on successful policies for more information regarding the *matricular consular*.

of traffickers (Finckenauer 1999). As more American security efforts pushed potential immigrants into desert regions, the cost of and demand for hiring a smuggler has also increased, especially after September 11, 2001. Andy Greenberg interviewed an undocumented immigrant who used the assistance of a *coyote* to cross the border in 2000 and 2005. The immigrant noted that there were many drastic differences in security since September 11th. “Before, the *coyotes* could take sixty or seventy people, but now they take only ten, and they still often are caught by *la migra* [the border police]. Now you have to pay a *coyote* \$300 just to get to the border, before you even cross” (Greenberg 2006). The journey across the desert now costs anywhere from \$1,500 to \$2,000 (Ibid.). Because of increased prices and difficulty in crossing the border, many Mexicans are making a point to remain in the United States as long as possible, even if returns to Mexico were planned in order to assist their families. Now the U.S. has changed the reality of Mexican migration from “revolving door,” in which migrants would return to Mexico regularly to “locked inside,” in which unauthorized Mexicans permanently reside in the U.S. Regardless of price, *coyote* human smuggling remains one of the ways in which human rights are violated along the border.

Due to the economic disparity between the U.S. and Mexico in addition to established family communities that make the transition easier, the reasons for migration are increasingly practical. However, with the increasing danger of the journey across the border thanks to policies such as Operation Gatekeeper, the U.S. has experienced a phenomenon in which immigrants choose to stay in the U.S. illegally and remit their income rather than return to Mexico. In addition, with the number of increasing illegal immigrants that cross the border, the potential for human rights violations increases.

Immigrant Rights and American Opinion of Immigration

Human rights can be defined as “those freedoms or powers that are or can be claimed by human beings, which are derived from the dignity and worth inherent in (or ascribed to) human persons, and which enable them to engage in activities essential to their growth and development” (Sweet 2003, 2). These rights are considered universal for all humanity and include, but are not limited to, rights to life, liberty, property, security of person, freedom of conscience and thought, equal protection under the law, and peaceful assembly and association (Ibid.). While the issue of human rights remains a highly debated issue, one can see the importance of human rights in the discussion of illegal immigration. The debate involving human rights and illegal immigration concerns the nation-state rights granted to non-citizens and the extent that international human rights law covers illegal immigrants. While the flow of goods and people across the border has become easier, the fluidity of rights across borders remains a highly debated issue, especially when migrants are crossing illegally. As illegal immigration continues to rise, it challenges a state-centered administration of rights. In this section, I will look at the question over who has rights and how U.S. policy and society affect the allocation of those rights.

Kristen Maher looks at the notion of citizenship and how it can be a determinant in the access to human rights (Maher 2002). In 1994, the state of California voted on Proposition 187 to deny access to primary education, public health care, and other social services to illegal immigrants. While the proposition passed with a vote of 58.8%, a district judge later deemed it unconstitutional in 1998 before it could legally be put into practice. The question and debate still remained whether illegal immigrants should have

access to public services, at times at the expense of American citizens. Maher analyzes two dimensions of the position that migrants lack a claim to rights. The first dimension concerns social contracts and migrants as criminals when they violate the law during the act of crossing the border illegally. The second dimension looks at a broader aspect of global societies in which First World societies are privileged with a greater entitlement to rights and visitors to these societies are not automatically granted this same access due to racial prejudices (Ibid.).

The first dimension claims that within all societies there exists a social contract between citizens and the state. America's liberalism focuses on contract and consent as the foundations for human relations. The two bodies of the contract include law or the state and the people of the state. By adhering to the limits of the law, the people are assured rights under the state. When one breaks the law and violates the social contract, there can be limits to how far their rights extend. This theory states that upon crossing the border illegally, migrants potentially sacrifice their accessibility to state protected rights within the receiving country in exchange for the opportunity of a better economic lifestyle. This consent to "rightslessness" comes with a known violation of American law (Maher 2002).

The second dimension looks at racial differences between Americans and the prejudice against minorities due to their association with the "Third World." Rogers Smith (1993, 1997) identifies the historical context of the American process of denying citizenship due to gender, race, ethnicity and national origin as ethnocentrism. Employers during the beginning of the industrialization period of the late 19th century saw foreign immigrants as socially subordinate workers for low skill end labor. This established a

notion of Latinos as socially inferior and continues to maintain itself as most of the jobs that Latino immigrants still occupy are low-end agricultural, service, and manufacturing jobs (Maher 2002). After stating the reasonings behind the assertion that illegal immigrants should not have rights, one can look at the theory that all migrants have rights.

The debate over the application of rights can be seen through the conflict between international and domestic policy. The relationship between the individual and the state has been replaced as globalization brings forth international relationships between nation-states as the utmost priority (Forsythe 2000). The primary article used in discussing the flow of rights across national borders is the Universal Declaration of Human Rights. The United Nations General Assembly adopted and proclaimed the 30-article UNDR on December 10, 1948. With the establishment of international human rights policy through the UDHR, the idea of natural international rights contests the sovereignty of nation-states to implement their own rights. David P. Forsythe (2000) believes that state sovereignty serves as a social construct and can be changed in order to protect the rights granted to every person. By restricting and redefining the policies of state sovereignty, one can allow for a greater emphasis of universal human rights. Still, states should maintain the right to enforce security along their borders and deny illegal immigration into their country. Herein lies the problem of protecting the international rights of potential illegal immigrants as they attempt to cross a border that is rightfully protected by a sovereign state.

The U.S. government must then discern between its duty to uphold its laws and provide for its citizens while also maintaining its obligation as a promoter of international

human rights. Despite the policies of the government, American political opinion varies in regards to the issue of legal and illegal immigration.

Traditionally, reasons for limiting immigration have stemmed from three categories of fear from some segments of the American public (Engerman 2002). The first category is an economic fear; more illegal immigrants increase the costs of social services. Migrants arriving without financial support in the receiving country are more likely to look to the receiving country's government for support through social services such as health care, welfare, and public education. Another category of fear can be seen in a concern over national security. Especially following 9/11, immigrants have been seen as a potential threat to increasing social costs through criminal or terrorist behavior. Finally, there is an economic fear that increased illegal immigration would lower wage rates and increase unemployment in the host country (Ibid.).

However, recent Gallup polls have shown that American citizens and investors are not so much concerned about legal immigration as about illegal immigrants. From Gallup polls administered in June 2005 and 2006, 61% and 67%, respectively, of the persons polled felt that immigration was a good thing for the country (Carlson 2005, Jones 2006). However, 81% of Americans agreed that illegal immigration was out of control, while 80% of American investors felt that the government should do more to stop illegal immigration. At the same time, 68% of American business owners felt that illegal immigrants are costing taxpayers too much by exhausting government services, while only 25% think that illegal immigrants will become productive citizens paying their fair share of taxes. An analysis of the investor survey is surprising since investors still supported stronger government control of illegal immigration despite the fact that, as

investors and business owners, they benefit the most from today's illegal immigration problem through the availability of low wage workers (Jacobe 2006).

While the debate over the rights of illegal immigrants remains a highly contested issue, through Gallup polls one can observe that the American public sees immigration as a positive aspect of the U.S. and yet feels that the government should take action in combating illegal immigration. This public pressure against illegal immigration has resulted in an increase in human rights violations through high expectations of border security.

Human Rights Violations on Both Sides of the Border

Within the U.S., the focus of human rights violations falls primarily on the actions of the Border Patrol, while in Mexico human traffickers and corrupt government officials are the main perpetrators. While the violations within the U.S. have come under more scrutiny due to the political openness within the U.S., Mexico has struggled greatly with the violence against migrants within its own borders as well as corruption related to human smuggling.

Mexico

While one could say that the violations themselves do not primarily occur in Mexico, the Mexican government still faces challenges in improving the conditions of violent border regions and protecting the rights of its people who choose to migrate.

In response to the violations and in addition to Mexico's past corruption, President Fox planned to change the country's international image related to political corruption and the government's willingness to permit domestic and international scrutiny. With the election of Vicente Fox as president in 2000, Mexico saw an end to the PRI (Partido Revolucionario Institucional) party's seven-decade control of the executive branch. In the past, the Mexican government has rigged elections, violated the rights of its citizens, and blatantly practiced corruption. President Fox made great progress in pursuing openness and transparency by allowing for international inspection and granting public access to government documents. On the first day of Fox's administration, he gave permission to the United Nations High Commissioner for Human Rights (UNHCHR) to assess and suggest improvements to the country's human rights practices (HRW 2006). As Mexico continued to open its doors to international inspection, it moved to do the

same on a domestic level. In 2002, the Mexican Congress passed a “transparency law” that would finally allow public access to government documents that had previously been hidden from public view. The law also created a powerful institution known as the Federal Institute for Access to Official Information (IFAI). This transparency law has immensely helped the movement toward protecting human rights in Mexico.

In response to Fox’s openness to international scrutiny, many international observer groups made their way to the Juarez region in the northern Mexican state of Chihuahua in order to conduct research concerning the violations. One such individual was the United Nations Special Rapporteur on the Human Rights of Migrants, who visited Mexico in early 2002, including the U.S. border. While in Mexico, the Special Rapporteur noted that a prevalent abuse of migrants occurred with the exploitation of migrants (in addition to Mexicans) in transit through Mexico to the United States. Knowing that migrants are carrying money for the journey through Mexico, there have been incidents of extortion by Mexican police authorities of migrants. One of the more serious human rights violations in the country was the corruption linked to human smuggling and *coyotes*. The Special Rapporteur acknowledged that the Mexican government faces a difficult challenge in dismantling organized smuggling groups especially considering the large amounts of money involved in the activity (Pizarro Mexico 2002).

During the visit to the border, the Special Rapporteur said that the greatest risks include the following: “lack of protection against smugglers in the irregular crossing of the border; the problem of trafficking in persons; excessive use of force against migrants; crossing of the border through dangerous areas; vulnerability of children on the border;

racist, xenophobic and discriminatory attitudes; and the conditions in which undocumented migrants are detained, especially when they are in the custody of private security agencies,” (Pizzaro Border 2002, 2). The report also looks at the deterioration of border communities in which thousands of impoverished migrants wait to cross the border. This places strains on the social services and basic provisions within these communities. While the Special Rapporteur did not make a detailed study of the human rights situation on the border, she emphasized the vulnerability of the migrants once they reach the United States, leading to a high chance of human rights violations (Pizzaro Border 2002).

At the end Vicente Fox’s term there were many recommendations to Felipe Calderón’s administration (2006-2012) to expand where Fox could not. Human Rights Watch summarizes its recommendation with four essential goals: openness, transparency, accountability, and law enforcement. Openness refers to the continued practice of permitting international scrutiny and collaboration with human rights monitor groups. Calderón’s government should also increase transparency by expanding the transparency law to include political parties and non-state organizations to show how they are spending public funds. Through establishing an autonomous truth commission to account for past abuses and support efforts to prosecute those guilty, the Mexican government can further its own accountability for past violations. Finally, the next government should require all confessions to be made in front of a judge and incorporate the presupposition of innocence in the Mexican constitution in order to improve law enforcement standards. Through these four policies, Mexico can improve its consolidation towards democracy by

establishing firm rule of law standards for all state organizations and grant justice to the victims of past human rights violations (HRW 2006).

Due to the historical corruption of police officials and organized human trafficking, the Mexican government has an uphill battle in improving the human rights of its citizens that choose to migrate as well as those foreigners that migrate through Mexico.

United States

Within the United States, a majority of the human rights violations related to the border are connected to the U.S. Border Patrol. As previously mentioned, since the militarization of the border, Operations Gatekeeper, Hold The Line, and Safeguard, and the reorganization of the Border Patrol under the Department of Homeland Security, the border has received drastic increases in its budget and manpower.

The American Friends Service Committee⁸ documented human rights abuses through the Immigration Law Enforcement Monitoring Project, examining human rights violations along the border from 1989 to 1991. It documented 971 abuses by members of several border police organizations in four border areas (San Diego, southern Arizona, El Paso, and the Lower Rio Grande Valley). Of these offenses, the Border Patrol staff accounted for 49.8% of the recorded violations (America's Watch 1992). More recently, the Border Network for Human Rights (BNHR) has become the main group in documenting and reporting human rights violations along the border.

⁸ The American Friends Service Committee organizes development, service, social justice, and peace programs throughout the world. It has a special branch geared towards immigrants' rights with regional locations not only in the southwest but also in cities with high immigrant populations such as Chicago and Miami.

The Border Network for Human Rights (BNHR) is a network of different human rights organizations in the El Paso and southern New Mexico region. BNHR's main mission is to facilitate the organization, education, and participation of border communities for the protection and promotion of human and civil rights. The BNHR emphasizes the violations not only at the hands of the Border Patrol but also from local police and sheriff authorities. As of June 2006, BNHR has established over 100 Rights Promoters who lead their communities in teaching border citizens their rights and documenting the status of human and civil rights in their area. BNHR has released several reports concerning the status of human and civil rights along the border.

According to various reports from human rights advocacy groups, violations occurring on the border include but are not limited to: "the illegal search of persons and their private property, verbal, psychological, and physical abuse of persons, child abuse, deprivation of food, water, and medical attention, torture, theft, use of excessive force, assault and battery, and murder" (Huspek 1998, 112). Other violations include "denial of liberty/wrongful detention, endangerment, wrongful confiscation of property" and "asking for immigration documents" (BNHR 2003, 7). The perpetrators of these violations include the Border Patrol as well as local police and sheriff authorities. Timothy Dunn notes that from 2002 to 2003, there were 258 recorded abuses within the El Paso/Ciudad Juarez region alone. The Border Patrol was responsible for 70% of these infractions (Dunn 2006, 224). More recently, police authorities have been accused of more of the violations. Within the same region from January 2004 to February 2005, BNHR processed and filed 85 abuse incidents, 43% of which were committed by police and sheriff authorities while the Border Patrol committed 20%. Of the incidents involving

local police and sheriffs, 32% included those officers performing federal tasks such as detaining immigrants and demanding immigration documents (BNHR 2005).

In addition to less serious human and civil rights violations, there have been many cases of Border Patrol officers killing and/or injuring immigrants. While Border Patrol officers are armed and instructed to only shoot in life-threatening situations, there are many accounts of officers shooting Mexicans as the potential migrants were running back towards the Mexican border or climbing back over the walls constructed in certain regions along the border. On February 22, 2003, a Border Patrol agent shot and killed 19-year-old Juan Patricio Peraza Quijada while he was taking out the trash from a migrant safe house in El Paso, Texas. As witnesses made their way to the local police department to report the incident, the Border Patrol ambushed them and attempted to deport them. The witnesses were protected by a Grand Jury subpoena. The Border Patrol agent was found not guilty in a closed Grand Jury trial. On June 4, 2003, a Border Patrol agent shot 22-year-old Ricardo Olivares Martinez five times as Martinez attempted to climb back over the border fence. Requests by the *Arizona Star* through the Freedom of Information Act to receive copies of surveillance footage and an autopsy report were unsuccessful. What has been the INS and U.S. government response to such killings? In December 2005, an 18-year-old male was mortally shot in the back while fleeing from a U.S. agent. In a follow up press conference in the town near the shooting, Homeland Security Secretary Michael Chertoff said, "This is the kind of thing that occurs when people try to illegally cross the border. There is zero tolerance for violence along the border" (Auken 2006).

The violence and tension is not just on the U.S. side. The Border Patrol also released a report showing how rock-throwing incidents by Mexicans had increased from 112 in 2004 to 218 in 2005 within the San Diego area. Yet, it failed to release any information regarding the number of migrants who had been shot during this same period. The issue of “answering rocks with bullets” caused many Mexicans to accuse Fox of subordinating himself to the U.S. regardless of the murdering of Mexicans. The PRI party issued a statement in response to the shooting and Fox’s inaction. “The Mexican government should demand that international human rights organizations intervene to sanction the US authorities responsible for these barbaric methods that are contrary to international law” (Auken 2006). They further noted that Fox’s administration’s response was “lukewarm and spineless” (Ibid.).

Aside from outright killing and human rights violations by the Border Patrol and local police and sheriff authorities, U.S. policies to tighten border enforcement have indirectly increased immigrant deaths while crossing the border in rugged desert areas. As previously mentioned, desert crossings and the usage of *coyotes* have become more popular. However, many human rights violations occur as a result. In addition to the financial costs, there have been incidents of rape, forced servitude, or even death at the hands of the *coyotes*. In other instances, migrants have been locked in trailers with little food or water until their families can pay off the debt (BNHR 2006). A more recent and publicized incident occurred in 2003 when 19 migrants died in the back of a tractor-trailer with over 50 other undocumented aliens. Karla Patricia Chavez, the organizer of the operation, confessed in June 2004 and faced criminal charges for harboring and transporting immigrants. Then, in February 2006, Chavez released the names of the other

smugglers in her ring, resulting in the indictment of 13 other smugglers (Lozano 2006). Despite Chavez's case, the capture and conviction of smugglers is very rare. Smugglers often threaten migrants with the death of their families back home should their role as a smuggler be revealed (BNHR 2006).

Recently, many community organizations that promote human rights from all four U.S. border states formed a network named the Border Community Alliance for Human Rights (BCAHR)⁹. The BCAHR released guidelines for alternative border enforcement policies and practices in the latest BNHR report of 2006. As in Mexico, many feel that problems arise due the lack of infrastructure in the system of reporting the violations. In order to establish accountability, BCAHR recommended the creation of an Independent Review Commission. The Commission would operate at the federal and regional level in order to guide the development of human rights enforcement on the border. It would also review the policies and practices of border authorities. The BCAHR also recommended a human rights certification process for local and federal agents in order to ensure ongoing training in ethics, community relations, and human/civil rights. The final step in improving accountability along the border is an efficient complaint filing system. Upon interview, many immigration officers were uninformed about the internal complaint process while migrants avoid the complaint system out of fear of deportation. Thus, there is a need for an independent auditor to review the complaint process and make changes where needed (BNHR 2006). Upon searching for the implementation of these recommendations, I was unable to find any response from the Border Patrol. However, I encountered various other reports suggesting these same changes and addressing the

⁹ The BCAHR consists of the American Friends Service Committee, the Border Network for Human Rights, the U.S./Mexico Border Program in California, the Border Action Network in Arizona, and the Latin America Working Group Education Fund in Washington D.C.

necessity to revise immigration policy in order to guarantee independent accountability and reform the current complaint filing system.

While the violations on both sides may differ, it is evident that public and official accountability of organizations that enforce human rights is part of the solution to eliminating the violations and bringing those guilty to justice. Without independent organizations to hold government agencies accountable by releasing information to the public regarding the violations that occur, government agency indifference to violations will continue to hinder the advancement of human rights.

Policies by Mexico and the United States to improve the human rights situation

Recently, both countries have attempted to alter their policies in order to improve the condition of migrants who cross the border. Mexico has initiated the use of a legal document known as the *matricula consular* in order to assist with the simple but overwhelming problem of identification in the area of illegal immigration in addition to the implementation of Beta Groups to assist and inform Mexicans about the journey across the border. Meanwhile, the U.S. has initiated the use of a special type of visa in order to protect victims of human smuggling as well as continued its efforts to have a Border Patrol willing to work together with Mexican government authorities and whose agents are aware of and exposed to human rights training.

Mexico

The federal government of Mexico has been successful in improving the journey to the U.S. through its use of the *matricula consular de alta seguridad* (MCAS). The *matricula consular* is an official government document specifically for Mexican citizens outside of Mexico. It includes the bearer's name, recent photograph, place and date of birth, address within the United States and more than seven forms of high technology security in order to reduce the chance of falsification. It is a valid document for the return trip to Mexico but it is not valid for traveling to other countries or the execution of migratory procedures. It also does not imply any direct access to health or education services within any country, including Mexico (Cabrera 2003). While the *matricula consular* has its limits within more formal operations, it serves its primary purpose of identification, a problem in the culture of immigration.

This *matricula consular* has helped identify and register migrants who plan to send remittances from the U.S. to Mexico and permits them to open American bank accounts while also protecting them from businesses that charge high percentages for sending money to Mexico. The first *matricula consular* was issued in March of 2002 and from that point to July 2004, MCAS helped remit \$2.2 million to Mexico. MCAS can also be used as a form of identification within the United States. Since its installation, it is accepted as legal identification within 377 cities within 33 states in addition to 178 financial institutions and over 1,000 police departments (Aguayo Quezada 2005).

In the summer of 2004, the Mexican National Institute for Migration (INM) and the Secretary of the Department of the Interior (SEGOB) organized the Program for the Protection of Migrants in which new actions were taken to make the journey across the border safer for potential migrants. In collaboration with the Mexican Red Cross, SEGOB increased medical response personnel and resources in the Sonora desert. Also, through a partnership with the Mexican National System for the Integral Development of the Family (DIF)¹⁰, SEGOB organized two centers in Baja California in order to assist migrating minors who might have lost their family in the process of crossing the border. SEGOB also added 1,359 preventive signs within dangerous crossing areas to warn migrants of the risks connected to the climate and mountainous regions. Finally, they added more paramedics and personnel from the National System of Civil Protection to the Beta Groups in order to increase their versatility when caring for migrants (NII 2006).

The National Institute of Migration within the SEGOB coordinates 15 Beta Groups. Beta Groups provide food, protection, lodging, and legal representation to

¹⁰ DIF is a Mexican public institution that works for the social assistance of strengthening and developing the welfare of Mexican families.

migrants, regardless of their nationality and status. These Beta Groups work on both the northern and southern borders of Mexico in order to protect the personal integrity and rights of migrants. The first Beta Group started in Tijuana in 1990 later followed by Nogales in 1994. The latest two Beta Groups were added in 2004 in the Sonoyta and San Luis Río Colorado regions in the state of Sonora. According to the SEGOB's website, the Beta Group's actions are based around rescue and lifesaving, protection of human rights, and legal and social orientation and assistance (NII 2006).

Each year the INM releases statistics regarding the actions taken by each regional Beta Group. The actions taken by the Beta Groups on the northern border are as follows:

Table 1	
Beta Group Actions on the northern border, ^a 2006	
Attention to Migrants	Total
Rescued migrants	7,497
Attention to injured migrants	391
Attention to lost or stray local migrants	119
Social assistance to migrants	90,728
Legal assistance to migrants	159
Migrants protected from criminal behavior	100
Oriented migrants ^b	412,950
Migrant human rights handbooks delivered	146,447
Preventive handbook guides delivered	134,773
Repaired preventive signs	160
Repatriated migrants	104,640
Attention to migrants with mutilations	1

^a Includes Beta Group Tijuana, Beta Group Tecate, Beta Group Mexicali, Beta Group Nogales, Beta Group Sásabe, Beta Group Agua Prieta, Beta Group San Luis Río Colorado, Beta Group Sonoyta, Beta Group Ciudad Juárez, Beta Group Piedras Negras and Beta Group Matamoros

^b Migrants taught through Beta Group orientations about the dangers of the area, how they can receive assistance from the Beta Groups, and the rights they have while migrating.

Source: NII, 2006

(See Appendix III for detailed regional statistics).

Through assisting migrants with their journey and informing them of the dangers that loom with treacherous crossing regions and human smugglers, the Mexican government has made a big step in providing protection to its citizens' human rights.

United States

In response to the increasing number of human trafficking victims being brought into the United States, the U.S. government has adopted the use of “T” and “U” visas. Both visas were created through the passage of the Victims of Trafficking and Violence Protection Act of 2000. Approximately 50,000 people, mainly women and children, are believed to enter the U.S. through human trafficking each year as sex, domestic, garment or agricultural slaves. “T” visas are offered to victims of human trafficking who could suffer “extreme hardship involving unusual and severe harm” if deported to their host country and permit them to remain the United States legally while actions are taken to pursue the trafficker. This allows the undocumented victim to contact authorities in regards to the traffickers without fear of immediate deportation. “U” visas are similar to “T” visas in which they are available to immigrants who are victims of or who possess information regarding crimes in addition to human trafficking. Some of these crimes include: rape, torture, slave trade, kidnapping, murder, prostitution, etc.¹¹ In order for the immigrant to receive a “U” visa, a federal, state, or local official must confirm that an investigation or prosecution would be hindered without the assistance of the immigrant. Both visas permit residency within the United States for three years. Thereafter immigrants can apply for legal permanent residency. The annual limit of “T” and “U” visas is 5,000 and 10,000 respectively (NILC 2000).

On January 24, 2002, Attorney General John Ashcroft announced that the Department of Justice would soon be issuing “T” visas. In an online interview with

¹¹ “Rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, hostage holding, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, or attempt, conspiracy, or solicitation to commit one of these offenses.” National Immigration Law Center. 2000.

Assistant Attorney General Alexander Acosta on July 16, 2004, Acosta was questioned about how success was being measured. He replied that success is measured through the number of rescued victims and that the Department of Justice had helped 584 victims obtain a “T” visa. He also explained that the Department of Justice has helped nearly 500 of those victims obtain “continued presence.”¹² Acosta also emphasized the importance of prosecutions and convictions of human traffickers in measuring success. He emphasized that over the last 3 ½ years, the Department of Justice had charged 150 individuals for human trafficking which is three fold the number charged within the 3 ½ year period prior. Also, the Department of Justice has convicted 107 individuals of human trafficking. In addition, in 2001, the Department of Justice added a national hotline for people to call if they feel there is human trafficking occurring in their neighborhood (Acosta 2004).

Due to the increased human rights allegations by different border network NGOs, the Border Patrol has strived to maintain a strenuous application policy. The application process can take up to three years and tests potential agents under stressful situations in order to ensure that they will react without violence. The original screening and hiring process is initiated by the Border Patrol and then passed to the Office of Personal Management that administers tests, interviews, and background checks. The written test consists of logical reasoning, the Spanish language (or ability to learn Spanish), and an assessment of job related experience and achievement. After passing the written test, three Border Patrol agents conduct a structured oral interview in order “assess a candidate’s judgment/sensitivity to the needs of others” (U.S. Customs 2005). Once

¹² “It is a term we use that allows victims to stay in the US pending an outcome of a trial.” –Assistant Secretary General Alexander Acosta. Internet interview.

offered a position, the potential agent is appointed to a sector and sent to training at the Border Patrol academy. For five months, the potential agent studies immigration law, statutory law, criminal law, arrest techniques, and self defense, and undergoes firearms training, police driving training, ethics training, sensitivity training, training in family violence awareness, and training in cultural diversity. Once graduated from the academy, potential agents continue the application process by attending a field training officer program for 4 months in which they endure more situational testing. During the 7th and 10th month of training, potential agents must also take Spanish and Law tests to confirm continued improvement. After the field training program, potential agents enter a two-year probationary period in which they are still observed. Only after this period, without failing any tests or showing signs of potential violence in stressful situations, does the potential agent receive official certification (Moser 2006).

In addition to having a strenuous application process, the Border Patrol has worked together with the Mexican government to improve collaborative efforts in improving border security for all citizens. The Border Patrol works closely with the Beta Groups through joint water rescue and EMT training. In the fiscal year of 2004, the Border Patrol logged 688 hours of training with Mexican authorities. Also, the Mexican liaison unit of the Border Patrol has placed numbered poles 80 miles along the Rio Grande starting from approximately the New Mexico-Texas border in order to better organize meeting places if problems arise. In the fiscal year of 2005, 480 people were rescued through water rescue operations. Doug Moser, customs and border patrol spokesman for the El Paso sector, made this comment concerning the Border Patrol's efforts in working with the Mexican government: "Border security is not something that

is exclusive to one side or the other, one country or the other. It is the responsibility of both countries. Grupo Beta and the whole concept of working with the Mexican government on a local basis are very important. When you have an international boundary where you have to find a meeting point where you can work together to be able to achieve the common goal” (Moser 2006).

Through efforts in improving identification methods, educating potential immigrants about the dangers involved in crossing the border, utilizing new visas to incriminate human traffickers, and enhancing Border Patrol employment methods and relationships with the Mexican government, one can see the how both countries have enacted policies in order to help improve the human rights conditions.

Possible steps to improving the human rights problem

While addressing the issue of why Mexicans migrate remains a difficult one, there are steps that can be taken by both states, separately and jointly, in order to protect the human rights of those immigrants that cross the border. Within the United States, there are efforts to establish a new and improved guest worker program while the Mexican government continues to strive towards transparency and self-accountability. In addition, through various protocols, both governments are working together in order to share the responsibility of improving border security by eliminating border violence and crime.

Mexico

Mexico is still pursuing transparency in order to oppose corruption within its government. Through the Operative Program for Transparency and the Combat of Corruption (POTCC) and the Interministerial Commission for Transparency and the Combat of Corruption, government agencies undergo an annual filing process of their progress in serving the Mexican citizens. The Commission's review of the Mexican National Institute for Migration inspects the INM's achievement, or lack thereof, in serving and protecting migrants. The report consists primarily of two parts: 1) the Commission reviews and scores the organization's fulfillment of goals determined by the Commission; and 2) the Commission issues recommendations in order to accomplish certain policies. First, the Commission looks for possible corrupt conduct, such as participation with human trafficking and/or possible involvement in migrant extortion. Then it examines what efforts the INM has made together with other federal organizations, such as the Beta Groups, that can help with immigration issues. In the evaluation of the INM, the goals are based on the favorable satisfaction of users of the

program, charges against those in violation of human trafficking, and fulfilling the eleven points¹³ of the Integral System of Migratory Operations. After the review, the Commission issues recommendations in order to improve the organization's transparency and accessibility to the public. For the INM, the Commission recommends the continued delivery of border crossing safety guides and independent reviews of migrant surveys in order to establish efficiency and accountability within the agency (NII 2005). Through continued transparency and accountability, Mexico will continue its role in deteriorating its country's infamous history of corruption.

United States

One plan that has been proposed by George W. Bush since 2004 and is currently under debate in the House of Representatives and the Senate is the idea of a revamped guest worker program. According to a report issued by *Time* magazine on March 31, 2006, the American people are in favor of a guest worker program and a process that would allow illegal immigrants residing in the U.S. to become citizens. Out of 1,004 adults that participated in the *Time* telephone survey, 79% said they would favor a guest worker program that would allow undocumented workers to stay in the U.S. for a fixed period of time. Meanwhile, only 47% said they were in favor with the idea of deporting all illegal immigrants back to their host countries. In addition, 78% said that those illegal immigrants who learn English, have a job, and pay taxes should have an opportunity to obtain citizenship. On the other side, 71% feel that employers that hire illegal immigrants should suffer major penalties, while 62% want the U.S. to take whatever steps necessary

¹³ Migratory flows, secondary revisions, migratory control, filing of boat journeys (i.e. migrants that cross the Gulf of Mexico), repatriation, assistance in migratory lawsuits, insured migrants, FM1 electronics (taxes for electronics bought in the U.S.), migratory documents archive, migratory procedures, and migratory rights.

in order to secure the Mexican border, including posting military forces. This two-sided approach has forced Bush and the Congress to find a balance when dealing with immigration reform (Thottam 2006).

Senators John McCain (R-AZ) and Edward Kennedy (D-MA) are the current lead sponsors of the latest bill under debate in Congress regarding immigration reform. The Secure America and Orderly Immigration Act (SAOIA) would create two new types of visas eligible to undocumented workers already residing in the U.S. as well as future immigrants coming to work in the U.S. for the first time. H-5A visas will be eligible for workers coming into the U.S. to fulfill jobs that American workers cannot or will not fulfill. After security, criminal, and medical examinations as well as a \$500 application fee, the worker would be eligible to work for a three-year period that can be renewed for another three years. H-5A workers would be entitled to the same labor protection laws as American workers and guaranteed prevailing wages for their work. Initially, 400,000 H-5A visas would be available for the first fiscal year after the passage of the SAOIA and changes will be determined by how quickly this cap is reached or if following caps are not reached. After four years of H-5A status, employees would be able to apply directly or through their employer for permanent residency status.

In addition to H-5A visas, the bill would create H-5B visas for those illegal immigrants already residing in the U.S. Applicants would have to prove that they had been working in the U.S. before the introduction of the SAOIA and then pay a penalty fee of \$1,000 in order to be authorized for six years of H-5B status. They would be able to adjust to the status of permanent resident after their six years of H-5B status pending an additional \$1,000 fine as well as medication, civics, and English examinations and

criminal/security background checks (VisaLaw 2005). With the American public support of government control of the immigration situation as well as bipartisan support from both Republican and Democratic senators and representatives, including those from border states,¹⁴ SAOIA seems to be the most realistic and comprehensive immigration reform capable of solving the illegal immigration problem. By offering legal methods to obtain working visas for potential immigrants, this would deter immigrants from having to journey through dangerous crossing regions, hiring *coyotes* with the possibility of leading to human trafficking, and risking the possibility of human rights violations at the hands of the Border Patrol. Creating legal means for already established undocumented immigrants to become legal workers would help reduce the possibility of employers exploiting their workers through fear of deportation.

With the continued expansion of “T” and “U” visas in order to ensure the safety of human trafficking victims in addition to a new guest worker program that will create legal means to fulfill the need for Mexican workers and grant already undocumented workers a way to work legally, the United States can continue its part in protecting the rights of its future potential citizens.

U.S.-Mexico Cooperation

Another step in the progress of human rights along the border is to continue to enhance the relationship between the two countries’ governments in correspondence and cooperation in the fight against border violence. While it is important to remember and respect the sovereign right of each nation to create and enforce its own laws, mutual responsibility is necessary in order to improve the problems on the shared border.

¹⁴ Sponsors for the SAOIA within the Senate include: McCain (R-AZ), Kennedy (D-MA), Brownback (R-KS), Chafee (R-RI), Graham (R-SC), Kerry (D-MA), Lieberman (D-CT), Martinez (R-FL), Obama (D-IL), and Salazar (D-CO). Of the 24 sponsors for the SAOIA with the House, nine come from border states.

Through the U.S.-Mexico Binational Commission (BNC)¹⁵ that met in 2003, both governments agreed to the creation of Border Liaison Mechanisms (BLMs) which would be co-chaired by U.S. and Mexican consulates in order to address local issues. In January 2005, the consul generals of the twin cities of San Diego and Tijuana restructured their BLM and had 61 meetings between January 2005 and February 2006 (usually BLMs meet four to five times annually) in order to discuss public safety, infrastructure and ports of entry, immigration and consular affairs, as well as environment and natural resources (Stewart 2006).

In addition, on March 3, 2006 in Brownsville, Texas, the Department of Homeland Security and the Secretary of Governance of Mexico signed the Action Plan to Combat Border Violence and Improve Public Safety. This agreement was made in order to strengthen the procedures between federal law enforcement agencies on both sides of the border. Through the Action Plan, a Border Security and Public Safety Working Group was created to operate within the BLMs in order to establish protocols that will improve operational communications between government personnel about incidents of border violence and crime and ensure bilateral coordination of investigations. The Action Plan also emphasizes the use of binational landmarks known to both sides and the sharing of information in order to allow first responders from either side to arrive quickly and be informed of the situation. U.S. Department of Homeland Security Secretary Michael Chertoff commented that both governments are “pledging swift and aggressive action to combat violent criminal activity at the border, and we'll continue to share critical information to target and dismantle these dangerous criminal networks” (Department of

¹⁵ Established in 1981 by Presidents Reagan and Lopez Portillo, the BNC serves as a forum for cabinet-level exchanges in order to discuss issues important to U.S.-Mexico relations.

Homeland Security 2006). Also, with the cooperation of both federal agencies comes each agency's accountability for its actions, further improving accountability of government officials in their actions along the border. Through the binational cooperation of sharing the job of securing the border and pooling their efforts, the task of ensuring human rights to all migrants can be easier for both countries.

Due to these recent changes in policy as well as the politics behind obtaining human rights violations information, I was unable to find concrete proof that these efforts have directly caused a decrease in human rights violations. However, I believe that as the SAOIA bill continues its progress within Congress and the American and Mexican public become more exposed to both governments' immigration policies, the issue of human rights will become equally important in constructing and developing a safe and prosperous U.S.-Mexico border.

Conclusion

The issue of human rights on the border will continue to remain a problem until both countries are willing to commit to the solution fully. This remains a difficult problem considering the tremendous economic and global power disparity between the two countries. Due to the historical violence along the border during its establishment and development, there are deep roots of hostility related to the immigration process that can only be remedied by joint efforts on each side. In addition, the separation of international rights and sovereign rights, such as the right to protect and enforce a country's borders, continues to hinder complete cooperation and respect for foreign aliens attempting to cross legally or illegally. However, with continued collaboration and coordination, a solution is not out of reach.

Through the commitment of Mexico shedding its historically corrupt government through transparency and accountability of its government agencies, the efforts of the United States to establish legal means for willing Mexican workers to fill vacant spots in the American labor sector, and the joint collaboration of both countries in establishing improved methods of communication and interaction in order to end border violence, the future for human rights on the U.S.-Mexico border will develop into a secure environment for its migrants and citizens.

Government agencies play a crucial role in improving the human rights of migrants. On the U.S. side, the Border Patrol must continue to strive towards human rights knowledge and consideration of those migrants that cross the border, regardless of legal status. In Mexico, the government must continue to support and fund the Beta Groups which have made many accomplishments in making the journey across the border

safer by informing migrants of the dangers of human smuggling and providing provisions along dangerous routes. In addition, NGOs must continue to serve as outside observers, bringing attention, accountability and recommendations to improving the human rights situation.

In conclusion, while the U.S.-Mexico border remains a complex society between two drastically different nations, I feel that both countries can put such differences aside in order to create a shared border that promotes the respect for human rights of both nations' citizens. From there, the U.S.-Mexico border can set an example to other global borders which are challenged by the flow of economic migrants from a developing country to an advanced industrial country in such a way that will promote human rights on a world wide scale.

Appendices

Appendix I. Legal Mexican Immigration into the United States from 1821 to 2003

Year(s)	Immigrants		Year(s)	Immigrants
1821-30	4,817		1981-90	1,655,843
1831-40	6,599		1991-93	1,288,693
1841-50	3,271		1991-94	1,400,108
1851-60	3,078		1991-95	1,490,153
1861-70	2,191		1994	111,415
1871-80	5,162		1995	90,045
1881-90	1,913		1996	163,743
1891-1900	971		1997	146,680
1901-10	49,642		1998	130,661
1911-20	219,004		1999	146,436
1921-30	459,287		1991-99	1,770,883
1931-40	22,319		2000	171,748
1941-50	60,589		1991-2000	1,942,631
1951-60	299,811		2001	204,844
1961-70	453,937		2002	217,318
1971-80	640,294		2003	114,984

Source: United States Department of Homeland Security, Yearbook of Immigration Statistics: 2006

Appendix II. Deportable aliens 1992-2000 by Border Patrol region

Program and Border Patrol sector	1992	1993	1994	1995	1996
All southwest sectors	1,145,574	1,212,886	979,101	1,271,390	1,507,020
San Diego, CA	565,581	531,689	450,152	524,231	483,815
EL Centro, CA	29,852	30,058	27,654	37,317	66,873
Yuma, AZ	24,892	23,548	21,211	20,894	28,310
Tucson, AZ	71,036	92,639	139,473	227,529	305,348
EL Paso, TX	248,642	285,781	79,688	110,971	145,929
Marfa, TX	13,819	15,486	13,494	11,552	13,214
Del Rio, TX	33,414	42,289	50,036	76,490	121,137
Laredo, TX	72,449	82,348	73,142	93,305	131,841
McAllen, TX	85,889	109,048	124,251	169,101	210,553
Years continued	1997	1998	1999	2000	
All southwest sectors	1,368,707	1,516,680	1,537,000	1,643,679	
San Diego, CA	283,889	248,092	182,267	151,681	
EL Centro, CA	146,210	226,695	225,279	238,126	
Yuma, AZ	30,177	76,195	93,388	108,747	
Tucson, AZ	272,397	387,406	470,449	616,346	
EL Paso, TX	124,376	125,035	110,857	115,696	
Marfa, TX	12,692	14,509	14,952	13,689	
Del Rio, TX	113,280	131,058	156,653	157,178	
Laredo, TX	141,893	103,433	114,004	108,973	
McAllen, TX	243,793	204,257	169,151	133,243	

Source: United States Department of Homeland Security, Yearbook of Immigration Statistics: 2004

Appendix III. Beta Group action regional statistics

Attention to Migrants	Baja California			Sonora					Chihuahua	Coahuila	Tamaulipas
	Beta Tijuana	Beta Tecate	Beta Mexicali	Beta Nogales	Beta Sásabe	Beta Agua Prieta	Beta San Luis Río Colorado	Beta Sonoyta	Beta C. Juárez	Beta P. Negras	Beta Matamoros
Rescued migrants	331	581	165	3,171	925	1,268	735	170	108	23	20
Attention to injured migrants	51	12	1	213	3	25	5	1	11	58	11
Attention to lost or stray local migrants	6	0	0	2	0	6	0	1	4	88	12
Social assistance to migrants	5,034	1,511	3,094	28,310	25,433	3,841	2,209	1,917	3,032	11,228	5,119
Legal assistance to migrants	2	132	0	0	0	13	12	0	0	0	0
Migrants protected from criminal behavior	12	34	3	0	0	0	46	0	0	0	5
Oriented migrants	35,537	2,343	3,094	20,179	295,971	13,135	5,317	8,120	9,664	17,083	2,507
Migrant human rights handbooks delivered	34,817	2,929	3,094	16,725	37,663	12,719	5,819	5,291	7,974	16,962	2,454
Preventive handbook guides delivered	34,953	2,929	3,094	27,552	27,560	12,586	5,769	7,751	7,438	2,687	2,454
Repaired preventive signs	0	0	0	0	0	0	0	2	1	157	0
Repatriated migrants	32,145	3	42,289	16,434	0	1,303	337	0	2,326	8,015	1,788
Attention to migrants with mutilations	0	0	0	0	0	0	0	0	0	1	0

Source: NII, 2006

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