

CHAPTER III

An Assessment of Border Policing Measures

The aim of this third and final chapter will be the assessment of “Prevention through Deterrence” policies brought up in the past section. An evaluation of the border build-up, will give us a glance of these measures’ reach, limitations and repercussions. Throughout this chapter I attempt to explain why the enhancement of border security has produced adverse effects as it has failed in ending the incoming of Mexican illegal migrants into U.S. territory. Moreover and counterproductively, deterrence measures have made immigrant smuggling a very profitable and recurrent practice. To accomplish that, I consider it important to revise the most recent developments in border enhancement policy, put into the perspective of the relatively uncertain political environment of the 21st century. At the end of this chapter, I will discuss the various initiatives that plan to substantially contribute to the regulation of immigration and the possible construction of a regional regime.

3.1 The Turn of the 21st Century

Illegal migration is, without question, a growing dilemma.

Available data clearly suggests that the United States will be unable to stop the movement of people northward as long as the North American economic integration continues, migrant networks exist to direct the flow and allocate jobs, and the communities sending migrants need their remittances for investment and insurance purposes.¹

¹ David Lorey. *The U.S.-Mexican Border in the Twentieth Century: A History of Economic and Social Transformation*. (Delaware: Scholarly Resources Inc., 1999), 168.

Therefore, the relation between border control and the rise of a transnational labor market is, without a doubt, divergent. While trying to reconcile the two, some ten years ago, U.S. immigration control agencies created an image of the border similar to a 'revolving door.'² Today, that door far from disappearing, has become rigid and –in some cases- unappealing. As employer demand in the United States has remained a constant pull factor, the market's attraction for Mexican labor migrants has perpetuated the path leading them to leave their home countries to look for an opportunity in the United States. Conversely, border build-up has made the chances of accomplishing that last objective, become ever more difficult. Thorough border patrolling and increased border enforcement spending certainly have modified and complicated the customary patterns of Mexican migration to the United States in terms of cost, risk and temporality, among others.

But as much as the United States' border enforcement has tried to stop illegal flows, it has not entirely 'shut the door' to its territory. For reasons as diverse as political, economic or electoral, migration is after all a potential benefit for both countries. Migration then, the multifaceted issue that it is, has not escaped the realm of security interests of the United States. At the dawn of this century, the threat of global terrorism has elevated the awareness of the protection of the homeland, including the porous southwestern border. In that sense, the overall reach of terrorism requires that the hemisphere, and especially the North American block, unites against this global threat.

In this new era, in which the securitization of the Mexico-U.S. borderland is aggregated to U.S. national security interests, the re-directioning of the relation towards greater integration, calls for the construction of regional security mechanisms that

² Joseph Nevins. *Operation Gatekeeper: The Rise of the "Illegal Alien" and the Remaking of the U.S.-Mexico Boundary.* (New York: Routledge, 2002), 35.

include matters so diverse as natural disasters, drug and arms control, law enforcement in the fight against terrorism, or the fight against transnational organized crime, and, of course the construction of a migratory regime that takes into account the disparities between the two countries.

Furthermore, as an advance away from mere geopolitics, fully securing common borders would require a multileveled bilateral coordination that not only regulates the correct and disciplined flux of people, but that considers their development. This is, security mechanisms should revolve around the optimization of the living conditions of the citizens of both countries, and in this case, on the wages and living conditions of migrants.³ The former can be achieved if the appropriate means are situated in operative, feasible governance networks of state, non-state and private sectors.

3.2 Why Smuggle?

It is often asserted that the globalization of the world's economy has provoked the gradual disappearance of borders. Nonetheless, when national interests outweigh the ones of the international community, the most paradoxical results come along. Certainly, the growth of economic activity raises the margins of exchange in goods and the crossings of people; but, these activities –although more frequent- are not necessarily lawful. Oscar J. Martinez said that

[m]ore than any other activity, smuggling exemplifies the tendency of borderlanders to function outside of established national rules. Surreptitious trade is found in border zones throughout the world, and it flourishes in those

³ “Biopolitics establishes “...security mechanisms [...] around the random element in a population of living beings so as to optimize a state of life” It maintains homeostasis, not through a disciplinary technology of drilling or training but by establishing a “...a technology of security”” Foucault in Mark Duffield and Nicholas Waddel. “Human Security and Global Danger: Exploring a Governmental Assemblage.” (University of Lancaster, 2004), Available from <http://www.bond.org.uk/pubs/gsd/duffield.pdf> Consulted, April 8th, 2005.

areas where economic disparity between one side of the border and the other creates special opportunities for entrepreneurs seeking to make fortune, workers in search of more remunerative employment, and shoppers in quest of bargains.⁴

Following Martínez's line of thought, illicit activities in the U.S. southwest border have been and will remain a constant since

(...) workers from Mexico have been attracted to the border area for the many possibilities it offers to make a living, (...) because of the prospect of earning higher wages paid in a stronger currency than that of their own country [and because] working conditions and benefits are also much better in the United States than at home.⁵

Moreover, as it will be analyzed throughout this chapter, broad border restrictions and a strong security machinery can result pernicious for the health of neighborly relations. "For example, high tariffs and import export restraints inevitably produce smuggling. [Likewise,] (...) immigration controls spur illegal migration, upsetting central governments bent on maintaining tight controls over their borders."⁶ Therefore, and as long as economic disparities between north and south of the border continue, and as long as high tariffs continue to obstruct the consumer's demand for goods, smuggling will continue to grow.⁷

Then, how can governments facilitate the legitimate exchange of goods and the flow of tourists, students, labor and business migrants and obstruct terrorists and smugglers at the same time? Peter Andreas has commented that in a way, security has become a sort of trade barrier, impeding the free and overall the legal flow of people. He insists that heightening the levels of security even more would be like imposing an

⁴ Oscar J. Martínez. *Border People: Life and Society in the U.S.-Mexico Borderlands*. (Tucson and London: The University of Arizona Press, 1994) 23.

⁵ Martínez. *Border People*. 50.

⁶ Lorey. *The U.S.-Mexican Border in the Twentieth Century*. 15.

⁷ "Surreptitious trade has been especially dynamic in large population centers like El Paso-Ciudad-Juárez. (...) Interestingly, borderlanders accept smuggling as a normal activity because it is considered a natural part of the unique economic interaction in the binational region." Martínez. *Border People*. 53.

embargo on oneself.⁸ Certainly, the generalized feeling of the public is one of a safe territory, but it might as well mean the slowdown of integration. But rather than being an impediment, security concerns can catalyze integration. Robert Pastor suggests that the former would require new structures, true leadership and cooperative institutions, but progress can occur.⁹

The current

(...) predominance of security concerns, especially homeland security, means that issues of global circulation – of people, weapons, networks, illicit commodities, money, information, and so on, – (...) determine the consolidating biopolitical function of development. That is, security considerations increasingly direct developmental resources toward measures, regions and sub-populations deemed critical in relation to the dangers and uncertainties of global interdependence.¹⁰

For instance, since the mid-nineties, the presence of *coyotes* along and across the boundary has spread to such a large extent that it is virtually impossible for an undocumented migrant to succeed in crossing the border without them. Likewise, drug trafficking has become more sophisticated and has merged with the immigrant smuggling phenomenon. These situations presented the possibilities that greater criminal entities, like terrorist or weapons, could permeate the security of the U.S. border through Mexico. Without a doubt, one of the conducting forces in the future of Mexico-U.S. relations, will be the fight against terrorism,¹¹ although “(...) [t]he logistics required to transport a weapon of mass destruction, (...), across the border into

⁸ Peter Andreas. “A Tale of Two Borders: The U.S.-Mexico and U.S.-Canada Lines After 9/11.” *CCIS Working Paper No. 77*. (CCIS: California, 2003), 7.

⁹ Robert Pastor. “North America’s Second Decade.” *Foreign Affairs*. (January-February. Vol. 83 No. 1. CFR, 2004)

¹⁰ Duffield and Waddel. “Human Security and Global Danger.” Consulted, April 8th, 2005.

¹¹ Perpetrated in the U.S. from bases allocated in Mexico, or by terrorist entering U.S. soil through the Mexican border. U.S.-Mexico Binational Council. *U.S.-Mexico Border Security and the Evolving Security Relationship: Recommendations for Policy Makers*. A Report of the U.S.-Mexico Bi-national Council. (Washington, D.C.: CSIS-ITAM, 2004), 2.

the United States probably surpass the capabilities of most Mexican criminal trafficking organizations.”¹²

3.2.1 Deter, therefore Prevent

Doris Meissner, a former commissioner of the INS, said that “[p]revention is by far the best policy to protect a nation.”¹³ As I stated in a previous chapter, protecting a nation’s territory requires securing its borders. The United States has traditionally done so through border patrols and immigration inspectors at its ports of entry (POE). In the mid-nineties, the idea behind border enforcement was that the apprehension of considerable amounts of illegal migrants would discourage other migrants-to-be from trying to cross.

As reiterated in chapter two, border build-up experienced a remarkable expansion in the years following Operation Hold-the-Line and the 1993 federal border enforcement escalation. But even though “[i]llegal entry is certainly more difficult and dangerous,” there is little evidence to affirm that the underlying logics of prevention through deterrence, that suggests that migrants are giving up and heading home, has worked. On the contrary, “(...) the new efforts may simply be redirecting unauthorized immigration flows to more remote -and dangerous- regions of the border.”¹⁴

More recently, some signs of antagonism between the two countries in that particular item of the agenda have emerged. The performance of U.S. Border Patrol agents has caused formal complaints from the Mexican Government and wide media

¹² U.S.-Mexico Binational Council. *U.S.-Mexico Border Security and the Evolving Security Relationship*. 4.

¹³ Doris Meissner. “After the Attacks: Protecting Borders and Liberties.” *A Policy Brief* of the Carnegie Endowment for International Peace. (Washington D.C.: CEIP, 2001), 2.

¹⁴ Marcelo M. Suárez-Orozco. (ed.) *Crossings: Mexican Immigration in Interdisciplinary Perspectives*. (Cambridge: Harvard University Press, 1998), 31.

coverage at national level. Operations Hold-the-Line, Gatekeeper and Safeguard have eventually increased the tension on the relationship.

Even with the significant expansion of border enforcement mechanisms and agencies, the most recent developments in the criminalization of the area show that “[u]nauthorized crossings went from being mostly self-smuggling to a process structured by widening circles of illegality.”¹⁵ Immigrants now try to cross the border at more difficult points of entry, having to rely on professional alien smugglers. Indeed, as “(...) the border crackdown fueled the emergence of more skilled and sophisticated transnational migrant smuggling groups, creating a more serious organized crime problem along and across the border,”¹⁶ the need for the remaking of border enforcement policies is evident.

In the last couple of decades, the U.S. Congress has advised and commanded the Executive branch to implement prevention through deterrence policies aimed at stopping and preventing the entrance of illegal aliens. As I researched for this particular topic, I collected the testimonies of various federal and local U.S. officials speaking before congressional instances on “The Deadly Consequences of Illegal Alien Smuggling”. (See Appendix 6) The common argument of Chief Patrol Agents, Chiefs of Sector, former local Attorneys, etc. was that the mindset of their enforcement strategy was more than an apprehension-based plan of action.

However, none of them reported actions different from the deployment of more patrol agents, budget expenditures and surveillance and technology-based methods of identification. Moreover, their own assessment of prevention through deterrence strategies in their own sectors was based on the number of aliens apprehended and the smuggling groups virtually dismantled. They did recognize that a comprehensive

¹⁵ Suárez-Orozco. *Crossings*. 32.

¹⁶ Andreas. “A Tale of Two Borders.” 3.

immigration reform was necessary and that it should encompass greater interior enforcement. That way an incremental strategy should enable customs, immigration and anti-criminal efforts at the southwestern border, to better safeguard the homeland.

Nevertheless, little has been done on the cases of student monitoring, tourist and workers overstays and other maneuvers to skip migratory laws that do not necessarily involve the complete process of entering the territory undocumented, which only show the limitations of “prevention through deterrence.”

3.3 The Failure of Prevention through Deterrence

Generally speaking, official records have shown that prevention through deterrence policies have redirected the flux of undocumented migrants to inhospitable areas, producing a larger number of deaths due to terrain and climate conditions. This has made smuggling organizations more profitable and well organized, which can only complicate its eradication; and has modified the cyclical and temporary characteristics of traditional immigration patterns by prolonging or even perpetuating the stay of undocumented in the U.S. territory.¹⁷

Wayne Cornelius has outlined the pervasive effects of escalated border enforcement. His sketch of policy failure attends both the enforcement at the border and at the workplace, and suggests that, the available data evidences that 1) illegal entries have redistributed along the borderline; 2) the cost of illegal entry has more than quadrupled; 3) migrants are choosing to stay longer; 3) deaths resulting from crossing

¹⁷ Santiago Creel. “La migración y la seguridad entre México y Estados Unidos: Caminos diferentes, metas comunes, nuevos aliados.” *Foreign Affairs en Español*. (Abril-Junio Vol. 4. Núm. 2. México, D.F: ITAM, 2004), 5.

clandestinely in inhospitable areas have increased sharply and; 4) there has been a surge in vigilante activity that is immigrant-unfriendly.¹⁸

For instance, previous to 1993, San Diego and El Paso were the usual entry points of undocumented migrants. But after the rise of border enforcement at those points, the state of Arizona, Tucson to be specific was the entry spot towards which migration was redirected. Furthermore, in order to reduce the chances of apprehension, migrants have sought more often the assistance of *coyotes* that professionally transport people from one side of the border to the other or, from the deserted areas to the cities. As the demand for smugglers has risen, the cost of their services has skyrocketed.

Another pernicious effect associated with border enforcement has been the increased number of deaths of Mexican nationals. The harsh conditions of the Arizona desert and the periodical growth of the Rio Grande pose threats to the lives of migrants. Early in the Fox administration, Juan Hernández, the presidential appointee for migratory issues, recognizing the need to stop the deaths of Mexicans at the border, even thought of providing survival kits to attempters. These would contain water, poison antidote, and a brochure, developed by the Mexican INM, with the migrant's rights in case they were apprehended. The policy was severely criticized even by immigrant advocates since these Happy-Meal-like kits contained condoms and chili, but more importantly, they argue, the kits sent migrants false signals of security.¹⁹

Additional to the deaths of those who chose to go through the desert or the river, were the ones of those who died in the hands of smugglers. The case of an abandoned trailer in Victoria, Texas in the year 2000 set the spotlight on the issue. The officials speaking before congress reiterated that the death of 19 individuals was certainly tragic,

¹⁸ Wayne Cornelius. "Controlling 'Unwanted' Immigration: Lessons from the United States, 1993-2004." *CCIS Working Paper No. 92*. (CCIS: California, 2004).

¹⁹ James F. Smith. "Mexico Weighs Ideas to Reduce Migrant Deaths." *Los Angeles Times*. (May 25, 2001)

and that it was around these kinds of incidents that their enforcement strategies should be based upon. But cases like the abandoned trailer in Texas remain unresolved because there is practically no follow up of the cases. The numbers of seizures has risen, but the cases presented to court and actual sentencing has lacked, and therefore impeded the eradication of criminal activities.

Finally, vigilant activities have also been propelled. Ranch Rescue, American Border Patrol and more recently the Minutemen Project are examples of the 'homemade', civilian patrols that operate as paramilitary groups -as they are fully armed- that sometimes collaborate with the U.S. Border Patrol.²⁰ Most notably, these groups are responding to a growing fear of terrorism and the spread of organized crime, and to the inadequacy of governmental efforts. For instance, vigilantes are equally concerned about the presence of gangs like *Mara Salvatrucha* (or *Maras*), crimes related to drug trafficking and immigrant smuggling attributed to this group. The attitude of vigilantes is often aggravated with media reports and declarations of officials about the rise in violence in the region.²¹ Thus, vigilantism has been disapproved by the Mexican government. In the United States, it has been widely criticized by civil liberties advocates, claiming that vigilant reactions set a backslide to bi-national cooperation.²²

Clearly, the volume of undocumented migration is anything but decreasing. In the past, "prevention through deterrence" initiatives have failed to halt the smuggling of goods, arms, drugs because they concentrate on enforcing the borderline and disregard, in many instances, the original sources of the problem. In the same way, they have entirely failed at stopping the entrance of illegal migrants and it is almost certain that that they will fail at detecting and or obstructing terrorists.

²⁰ Cornelius. *Controlling 'Unwanted' Immigration*. pp. 14-15.

²¹ Such as Tony Garza's letter, although the diplomatic 'misunderstanding' was settled promptly.

²² Several on-line news briefs have quoted presidential disparagement on vigilante projects.

All in all, prevention through deterrence policies, in matters of illegal migration and drug trafficking, can be viewed as a “politically successful policy failure.”²³ Certainly, the figures show an actual increase in the volume of apprehensions of undocumented migrants, but the number of illegal immigrants residing temporarily or establishing in the United States has, in some cases, more than doubled. Nonetheless, the border build-up made entry points appear to be under complete state control; as if not being able to see the illegality meant having finished with it. Thus, for bureaucrats, politicians, and the media the image of an orderly border seems to have a greater value than the poor, pervasive deterrence efforts.

3.4 Border Policy for the 21st Century

In the post-Cold War era, two new pressures on both governments to improve the current state of their cooperation are noteworthy; one is the transnational nature of today’s security problems. The other is the progressive attempt within the hemisphere toward the creation of a regional system of cooperative security, an initiative being championed by the Organization of American States OAS.²⁴

In the Twenty First century, it becomes more necessary to increase the level of cooperation in questions of intelligence sharing and joint training. Mexican intelligence services have traditionally been very hermetic and have been characterized for lacking the organizational and infrastructural development of its northern neighbor’s. Additionally, the relation between Mexico and the United States –and Canada- is very peculiar, since developing security relationships will require a bureaucratic framework that is tedious and confusing.

²³ This expression is original to Peter Andreas. See Andreas. “A Tale of Two Borders.” 3.

²⁴ John Bailey and Sergio Aguayo-Quezada (eds.) *Strategy and Security in US-Mexican Relations beyond the Cold War*. (San Diego, CA: Center for US-Mexican Studies, 1996),188.

For instance, enforcement dependencies in the United States are usually autonomous in their actions, and are part of a very complicated governmental machinery. They either belong to the departments of defense, justice or homeland security, but hardly ever share information among them. This was actually one of the flaws detected by the 9/11 Commission, and that once they are rearranged, will enormously facilitate the work of the domestic agencies, and the coordination with Canadian and Mexican homologue authorities.

However, meeting the terms of U.S. domestic enforcement policies that affect Mexican national policy seemed, at least until very recently, very unlikely. Mexico, has never experienced the need to enhance its national security measures to such an extent that requires the restructuring of the relation with its neighbors for reasons pertaining to its own national interests. Nevertheless, Mexico has now recognized a transnational potential threat in matters like drug trafficking or organized crime as to engage in a multinational enforcement movement.

Canada bragged for years about the fact of sharing one of the longest undefended borders in the world with the United States, but the new demands of the international system as a whole, and of U.S. security in particular, have put the Canadian State into scrutiny by its southern neighbor. Mexico has started to gradually move in a multilateral direction. Especially after the year 2000, with the arrival of President Fox to the presidency, the discourse of the Mexican government has moved away from the relative isolation to the search of multilateralism. The dialogue between the two countries has reaffirmed their will to engage in regional security cooperation mechanisms.

For instante, with the first Regional Conference on Migration “(...) *se inicia un proceso de consulta entre gobiernos y actividades regionales denominado Proceso de*

*Puebla en el cual, a petición de los países involucrados, la OIM ha brindado cooperación para apoyar los esfuerzos regionales en materia migratoria.*²⁵ The Puebla Process and the following Panama Plan of Action are the framework for coordinated actions aimed at the sharing of information, the combat of smuggling organizations and the hardening of sentences for smugglers.

Among the operational objectives of the Panama Plan of Action are: the modernizing of control, intelligence, security and information systems. On a political and juridical sphere, the round of conferences has recognized that “[e]n casi todos los países del Grupo, la política migratoria se vincula con la política de protección de sus respectivas fronteras y por ende, se ubica dentro de la agenda doméstica de seguridad nacional y/o seguridad pública”²⁶ In that sense, domestic migratory policies often collide with other nation’s interests, a fact that is disregarded when elaborating national regulations.

3.4.1 The 9/11 Aftertaste and After

The morning of 9/11 there were as many agents on the entire Canadian border as there were in the state of Texas.²⁷ Perhaps, there was generalized sense of confidence or the unawares of the vulnerability of the territory did not interest policy makers in terms of securing the U.S. northern border. In response to that, following the 9/11 attacks, the United States has made a recurrent practice of the deployment of a considerable amount of new agents in the northern and southern borderlines.

²⁵ Ministerio de Asuntos Exteriores de Guatemala and OIM. “Resumen de las Seis Conferencias Regionales sobre Migración (Proceso Puebla).” *Cuadernos de Trabajo Sobre Migración*. Available from <http://www.oim.org.gt/Cuaderno%20de%20Trabajo%20No.%2006.pdf> Consulted, April 8th, 2005.

²⁶ Ministerio de Asuntos Exteriores de Guatemala and OIM. “Resumen de las Seis Conferencias Regionales sobre Migración (Proceso Puebla).” Consulted, April 8th, 2005.

²⁷ Andreas. “A Tale of Two Borders.” 7.

The September 11 events, brought about a renewed approach to the migratory debate, as border control occupied the most part of the United State's national security agenda. Entrants detailed screening and inspection became a priority and the first line of defense against terrorist threats. As reported by the Congressional Research Service (CRS), just months after the attacks, Congress enacted several pieces of legislation aimed at the enhancement of border security. Such were the USA PATRIOT Act of 2001, the Homeland Security Act and the Enhanced Border Security and Visa Entry Reform Act of 2002.²⁸

The hardening of U.S. policies placed the migratory issue on standby. The narrowing of safe-flow parameters obstructed, for instance, the transit of Canadian trucks towards U.S. companies that had been working under the 'just in time' scheme thanks to NAFTA provisions. If a true partnership had existed, the immediate response to 9/11 would have been a trilateral union, and a joint identification of a same threat. Instead, a series of fast-crafted unilateral decisions were imposed on the U.S.'s two neighbors. The absence of security institutions led to formation of bilateral arrangements embedded in the 'smart borders' agreements. The sense of those initiatives has prompted the establishment of express lanes for frequent crossers, and the extension of the hours of operation at the busiest points of entry.

This way, 9/11 has called for the creation of more extensive forms of coordination deemed necessary for the biopolitical regulation of global populations.²⁹

Important here is ensuring protection through the building of a comprehensive international infrastructure that shields people's lives from menacing threats.

This requires working institutions at every level of society, including police

²⁸ Lisa M. Seghetti. "Border Security: Immigration Issues in the 108th Congress." *CRS Report for Congress*. (Washington D.C.: CRS, 2003), 1.

²⁹ Duffield and Waddel. "Human Security and Global Danger." Consulted, April 8th, 2005.

systems, the environment, health care, education, social safety nets, diplomatic engagements and conflict early warning systems.³⁰

In an attempt to promote multilateral institutions, Mexican and American governors from both sides of the border have joined together to work for the securitization of the border region. They have plans to exchange information and constantly communicate with each other, as well as training their police and law enforcement corporations together.³¹ They have acknowledged the importance of collaboration and coordination at the border level to improve the bilateral relation altogether. Governor Martínez y Martínez of the Mexican state of Coahuila, and chair of the Border Governors Conference, has insisted on that point by saying that “(...) *la mejor respuesta no son soluciones de fuerza, sino la parte del tejido social de colaboración institucional de las autoridades locales y federales de las dos naciones.*”³²

And although the response of the United States seems self-interested, it could be seen also as an opportunity for cooperation as the creation of a Homeland Security Department should not only prevent future terrorist attacks and guarantee safer borders but also welcome immigrants legal or illegal and promote the free and safe flow of commercial items. Indeed, the Homeland Security Department was created to “(...) *preservar nuestras libertades y proteger a los Estados Unidos, y [brindar] seguridad a nuestra patria.*”³³ But the security of the homeland ought not to be concerned merely on manmade attacks, it should widen its scope to natural disasters, mutual support in terms of development, and a legitimate concern about the overall security of the region.

³⁰ Duffield and Waddel. “Human Security and Global Danger.” Consulted, April 8th, 2005.

³¹ Biopolitics of human population are based upon global forms of coordination and centralization largely formed from the integration of existing aid networks, programs and datasets. Duffield and Waddel. “Human Security and Global Danger.” Consulted, April 8th, 2005.

³² Enrique Martínez y Martínez. “El desafío de la frontera México-Estados Unidos.” *Foreign Affairs en Español*. (Enero-Marzo Vol. 5. Núm. 1. México, D.F: ITAM, 2005), 57.

³³ Tom Ridge. “Dos patrias, una misión: Cómo la seguridad interna y la respuesta estadounidense al 11-S han unido a México y Estados Unidos.” *Foreign Affairs en Español*. (Abril-Junio Vol. 4. Núm. 2. México, D.F: ITAM, 2004), 17.

3.4.2 Smart Borders for the 21st Century

The imminent need for cooperation on the September 11 aftermath has stirred the advance in the sharing of information and the set up of identification technologies for frequent travelers. Mexican authorities have placed greater determination in combating organized crime and preventing transnational terrorism. In the ongoing economic exchange, “[the] increasingly favored coping mechanism has been to emphasize new cargo tracking systems and inspection technologies and innovative traffic management strategies to both ease border congestion and enhance security at the same time.”³⁴

And although a Smart Border³⁵ initiative like the U.S.-Canadian has not yet been entirely crystallized with Mexico, some substantial changes have set forth the environment for greater bi-national or even regional coordination. In that sense, Mexico created a central immigration data base, and has installed new technology systems that prevent the use of forged documentation in the northern and southern checkpoints.³⁶ The current Mexican government has often insisted that Mexico is looking for a bilateral migratory agreement that includes provisions for legal mobility between the two countries, regularization of the immigration status of millions of undocumented already in U.S. territory, and a channel for future or potential labor-migrants.

In a meeting of Presidents Bush and Fox, border partnership initiatives were endorsed in a Smart Border Plan that was signed by Santiago Creel and Colin Powell in the city of Monterrey, Mexico six months after September 11.³⁷ The Smart Border

³⁴ Andreas. “A Tale of Two Borders.” 8-9.

³⁵ Formally known as the U.S.-Mexico Border Partnership Agreement.

³⁶ Mexico’s Central American neighbors have complained about the hardening of its borders; they have viewed it as if it was repeating the U.S. pattern in the south, or even as a buffer zone for the U.S. borderline.

³⁷ Ridge. “Dos patrias, una misión.”

initiatives consist of a 22-point agreement that focuses on three areas, the first is creating and keeping the infrastructure that is sensible to the amount of trade, the second dealing with guaranteeing a safer transit of people and the third with the transit of goods.

So far, the reach of a multilaterally-gearred securitizing effort from Mexico has led to this country's *Gobernación* and *Relaciones Exteriores* SRE secretaries, and of the State and Homeland Security departments in the U.S. to put together their ideals and objectives in two official documents. The first is the Memorandum of Understanding on the Safe, Orderly, Dignified, and Humane Repatriation of Mexican Nationals. This establishes the criteria, principles and procedures for the treatment of immigrants, avoiding unilateral actions, and protecting the immigrant's lives from the hazardous conditions of the desert. But more importantly, repatriating Mexican nationals prevents the continuity of the vicious circle of smuggling.

The second is the Joint Communiqué that establishes the Border Security Plan for 2004. This one is aimed at reducing the deaths of border crossers; both countries announced commitments to accomplish this task. For instance, each will start whatever campaign they find appropriate to prevent, alert and orient attempters about the risks of crossing through remote risky areas. Mexico is supposed to enhance the combat of organized people smuggling, and increase the presence of *Grupos Beta*, that offer protection to migrants in high risk zones like the Sonora desert. Both countries must share information to help combat the people smuggling business.³⁸

The U.S.-Mexican plan emphasizes the use of technology and bilateral cooperation to facilitate the work of the authorities, and so reaffirming the modernization of the area. In the United States, the Department of Homeland Security has installed inspection systems that provide greater security at the entry points. The

³⁸ Creel. "La migración y la seguridad entre México y Estados Unidos."

sharing of information and the creation of data bases for frequent crossers or commuters has been a major advance through the launching of the Secure Electronic Network for Traveler's Rapid Inspection SENTRI.³⁹ SENTRI not only avoids the formation of bottlenecks at checkpoints, but assists in the curbing of smuggling activities. These kind of governmental programs look for the expansion of the use fast lanes for previously registered crossers. Improved data bases will allow the identification of frequent crossers and differentiate harmless individuals from potential criminal threats.

A similar undertaking is being put into practice by the Immigration and Customs Enforcement agency of the DHS. Specifically, the specialized agency has pre-certified schools that have engaged in academic exchange deals and facilitates the paperwork of incomers. SEVIS, was designed for students and exchange visitors that qualify as non-immigrants. Additionally, this program monitors their stay and therefore avoids the usual 'law skipping' practices of overstaying or misusing visa documents.

Likewise, since December 2003 the DHS unveiled the Visitor and Immigration Status Indicator Technology, the US-VISIT, to verify the identity of travelers at the entry points upon their arrival. These technologies include biometric parameters of identification, and in some cases, promote the creation of new full-proof documentation. (See Appendix 7) In the cases of goods, similar technologies have been developing in order to pre-approve the entrance of shipments, without being subject to inspection by certifying companies beforehand. Like in the case of people's flow, the sharing of information is essential, as is the use of cutting edge technology systems.

All of the former are clear examples of the logics of the new 'idealization' of the visitor and non-immigrant, of the redefinition of the desirable and the undesirable, under a justification of higher/lower risk for the entire security of the country.

³⁹ U.S.-Mexico Binational Council. *U.S.-Mexico Border Security and the Evolving Security Relationship*. 7-8.

Smart Border initiatives are an example of a multileveled, schematic, and utterly cooperative efforts for global security. It is certain that in the cases of terrorism, transnational drug trafficking and immigrant smuggling, *“Ninguna nación puede hacer frente de manera unilateral a tales amenazas. La seguridad será el resultado de la cooperación y la acción colectiva, para lo cual es preciso someter los procedimientos a exámenes frecuentes y compartir las mejores prácticas.”*⁴⁰ In that sense, Mexico and the United States have launched media campaigns to alert prospective crossers about the dangers of the desert; in an attempt to draw attention to migrants deaths, the U.S. is training Mexican officials at the border to perform rescue activities.

In the particular case of immigrant deaths at the hands of smugglers, and on the eradication of this activity as a whole, Secretary Ridge reported that,

*(...) nuestros gobiernos están realizando investigaciones coordinadas para desmantelar las organizaciones de contrabando de personas y perseguir a los “coyotes” que consideran más importantes las ganancias que la vida humana y ponen en grave peligro a las familias inmigrantes. Ya hemos enjuiciado y desmantelado varias organizaciones que trafican con personas.*⁴¹

But a far reaching migratory agreement is still lacking. Allegedly, President Bush’s proposition for a Temporary Worker Program would contemplate the enhancement of the quality of life of the crossers, yet, it would do nothing to stop the flow of immigrants.⁴² A worker program would mean an economic opportunity for immigrants and an incentive to use lawful means to enter the U.S. territory. It would also be an incentive to denunciate smuggling and exploitation practices. However, there

⁴⁰ Ridge. “Dos patrias, una misión.” 25.

⁴¹ Ridge. “Dos patrias, una misión.” 26.

⁴² There are several bipartisan bills that increase the number of temporary worker visas, or create new farm worker ones. The proposal of Arizona congressmen differs from the White House’s by providing means to document and legalize the current flows. Washington Post. “True Border Security.” ([washingtonpost.com](http://www.washingtonpost.com). Tuesday, January 4, 2005). Available from http://www.washingtonpost.com/True_Border_Security.htm Consulted, January 4, 2005.

are serious doubts about U.S. capacity to administer a temporary worker program. Still, an institutional solution seems to be the best of options. As to earned legalization, or in other words, amnesty, it faces strong –even bipartisan- opposition in Congress.

Sketching a Worker Program will require a lot of time, since targeting the optimal industries and other workplaces for Mexican workers will not be easy nor undisputed. It will necessarily require interior enforcement through employer sanctions.⁴³ It will also be very necessary to periodically oversee and evaluate the results of the program. Policy makers should keep in mind that these measures will bring legality to the border environment, but it is sure that illegal migration will continue.

The final agreement should include the basis for a dignified treatment to migrants, the curbing of smuggling organizations and of dangers and criminality, the building of a viable borderland and development initiatives to reduce the supply side.⁴⁴

It is certain that borders in the 21st century will require international cooperation to be fully protected. Intelligence agencies will be necessary to contest threats embedded in terrorism, organized crime, immigrant and narcotics smuggling, the mal-use of natural resources and the menace of plagues and diseases. Smart borders will necessarily have to be more transparent and efficient in their processes of admitting visitors, migrants, vehicles, cargo and goods in general. High technology equipment will be essential in securing the transit across the border, both back and forth. Border policies must be aware of the integration of the northern block of the hemisphere, the

⁴³ U.S.-Mexico Binational Council. *Managing Mexican Immigration to the United States: Recommendations for Policy Makers*. A Report of the U.S.-Mexico Bi-national Council. (Washington, D.C.: CSIS-ITAM, 2004), 12-13.

⁴⁴ The U.S.-Mexico Migration Panel. "Summary of Recommendations." *Mexico-U.S. Migration: A Shared Responsibility*. (ITAM and Carnegie Endowment for International Peace. February, 2001). Available from <http://www.ceip.org/files/Publications/SumofRec.asp?from=pubtopic> Consulted March, 2005.

responsibility of cooperation, the sovereignty, and the protection of rule of law, human rights and privacy of each country.

Although the rising number of immigrants is no evidence of an increased number of immigrant criminality, “the discourse of the criminal alien contributes to a mounting panic about Mexican immigration to the United States.”⁴⁵ As Kelly Lytle explained, the rhetoric of the illegal border crosser as a law offender, or moreover as a criminal, helped in the construction of a somewhat paranoiac image of the migrant.

As I contested in previous chapters, in the precise case of immigrant smuggling, border enforcement does not take the supply and demand factors into account. Even though these policies have failed, they seem to demonstrate the U.S. government’s resolve to protect their territory, by primarily regaining control of the border.

⁴⁵ Kelly Lytle. “Constructing the Criminal Alien: A Historical Framework for Analyzing Border Vigilantes at the Turn of the 21st Century.” *Center for Comparative Immigration Studies CCIS Working Paper No. 83*. (CCIS: California, 2003), 7.