

## The Complicated Relationship: A Snapshot of the U.S.-Mexico Border (2010)

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### 1. Introduction

The United States-Mexico border has long been a place of exchange: Mexico was the United States' third largest supplier of goods imports in 2008.<sup>i</sup> The U.S. also sends its goods to Mexico, its second largest goods export market. Other things cross the border: people, capital, technology, services, contraband goods, even human and plant diseases. With each year, the border changes in complexity and composition.

For decades, the north of Mexico, with Tijuana as its emblem, has been a place where United States Servicemen and other U.S. tourists go to enjoy "rest and relaxation" with cheap drinks and adult entertainment. It is a place where U.S. teenagers travel to consume alcohol, taking advantage of lax enforcement of the minimum drinking age. Before the violence of the drug cartels escalated, some 5,000 teenagers would go each weekend through the San Ysidro Point of Entry into Tijuana for a night of partying. Increasingly, it is the elderly who make their way "south" to buy less-regulated gene and stem cell therapy, and less expensive medications, dental care, and plastic surgery. Tijuana is the destination for lower cost lifestyle expenses – for a vacation or for health, orthodontic and other beautification services. In addition to its elderly and sick people, the U.S. has also exported a culture of consumption. It is not just children in the United States who are suffering with obesity. Childhood obesity is now an epidemic in Mexico, as it has been in the U.S. for years.<sup>ii</sup>

The United States also sends its guns south. The Mexican side of the border is a destination for military-style assault weapons, grenades, and handguns used by *narcotraficantes* against each other and against Mexican law enforcement authorities. With submarines and tunnels, the *narcotraficantes* have stepped up their game. Mexico is the destination for U.S. attack helicopters and high tech surveillance tools that have been specially ordered by Mexican police and military authorities for use against the drug traffickers themselves. This is driven in part by the joint U.S. and Mexican Mérida Initiative to bring an end to the terror that the *narcotraficantes* have inflicted upon Mexico's civil society. The U.S.-Mexico border is a place where much of that expensive gear is in use. The corridor is now a major draw for technology – monitoring the border and stemming the flow of illegal drugs and undocumented people into the United States. The U.S. Navy has even trained Mexican police officials.

The transfer of technology dates back to the 1960s, when the Mexican Government provided incentives to foreign investors to set up production facilities along the U.S. border to create lower skilled manufacturing jobs. The Japanese, Korean, and U.S. multinationals heeded that call (and tax deduction). The Mexican side of the border also developed into a destination for hundreds of thousands of internal migrants –

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those leaving the subsistence agricultural lives of Southern Mexico for the *maquiladoras* of Ciudad Juárez and Otay Mesa, just east of Tijuana. Migrants from Michoacán mingle with their fellow indigenous people from Oaxaca and Chiapas as they work on assembly lines in the hundreds of these border factories. Occasionally a Central American, having survived his or her way through Mexico, can be found also vying to make it north of the border. They work in *maquiladoras*, chasing the dream that the North America Free Trade Agreement – the trade pact among Mexico, the U.S. and Canada - can benefit people, and not just corporations, in the expansion of trade and the sharing of benefits from globalization. At least in the *maquiladoras* that are still open since the Chinese took many of those jobs in the first decade of this century.

Since the North American Free Trade Agreement went into force on January 1, 1994, the same day as the start of the Zapatista uprising in Chiapas, trade among Canada, Mexico, and the United States has more than trebled. Free trade exists for most products, services, and investments. Tariffs, quotas, and technical barriers to trade were gradually eliminated. Factories were opened along the U.S. Mexico border to take advantage of duty drawbacks and other benefits under the regional trade bloc. Companies outsourced for lower cost labor and less enforced environmental laws.

Many of these factories lasted only half a decade. Corporations took advantage of tax benefits, but then closed down with operations moving to China, where cheaper labor made it more economical for globalized manufacturers to operate – even with the shipping costs. The thinking went like this: Why pay a Mexican worker \$48 to \$60 a week when you can contract for a Chinese worker at \$18 a week? The question for the Mexican worker then became – why be unemployed when you can cross into the U.S. and earn \$10 an hour doing gardening work or building houses in *el norte*?

The demand for Mexican labor has changed again to favor Mexico, given the increased cost of shipping from Asia. Mexico is again a place of growth in the manufacturing sector, particularly along its northern border with the United States. It is no surprise that Mexico's population in the border region has grown exponentially in the last several years, much higher than the national average: Baja California's population grew by a factor of fifty between 1930 and 2005, and Tijuana's population alone grew at a rate of 3.9 percent (almost double the national average in the same period) from 2000-2005. The city is estimated to expand at a rate of 2.25 hectares a day.<sup>iii</sup> Out of the entire population in the border region, an estimated 41.4 percent were born in another state, twice the national average, further showing the weight of border-city migration. Nogales and Ciudad Juárez also have enjoyed high growth increases, with a majority of their respective state's population focused in these two cities.

For many, to participate in the global economy meant moving from subsistence labor in rural states like Chiapas, Zacatecas, and elsewhere to minimum wage assembly line work on the Mexican side of the U.S. border. The living standards in Mexico have improved in some places, but the social dislocation costs associated with urbanization, internal migration, and assimilation of entire villages and indigenous populations have been heavy. That many *maquiladora* workers live in improvised shantytown housing without paved roads, running water, or electricity, is also a large problem. These factories were established to take advantage of regional value content and other tax incentives provided by the Mex-

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ican Government. But this *boom or bust* cycle has brought about much social dislocation. The murders of hundreds of women in Ciudad Juárez, many of them *maquiladora* workers, remain uninvestigated, never mind solved. With the introduction of terrorism and car bombs as a tactic against the police, Ciudad Juárez is becoming more dangerous than Baghdad and Kabul. Public insecurity is assured along the near 2000-mile border as renewed efforts by Mexican authorities to quell the violence come at a time of resurgence of the Institutional Revolutionary Party (PRI), judging from the July 2010 state and municipal elections.

This report will detail some of the major issues concerning the U.S.-Mexico border and the interconnected nature of the problems. It first examines the violence between *narcotraficantes*, that which has resulted in the crackdown against them by the Mexican Government through mobilization of the military. The resulting violence and kidnappings have brought about minimal confidence in civilian authorities, the administration of justice, and democratic governance. This report discusses the resulting public insecurity that has afflicted Mexico in the last few years. This has had an immeasurable impact on the border region as upper middle class and even middle class Mexicans flee north to escape the violence. The border is not just for Mexicans to cross, of course. Lots of people cross into the U.S. from Mexico: Indigenous people from Southern Mexico and Central America, Chinese indentured workers being trafficked by snakeheads to sell pirated goods in Los Angeles' The Alley, Brazilian surfers en route for the swells of Southern California, and Ukrainian women lured into prostitution – all interact with the border. This report explores the economic contours along the U.S. border, and the reactions of the U.S. Government to what is happening in the north part, and at times, the entire country to the south. This report then examines the clampdown on illegal immigration, and the border security-homeland defense industries.<sup>iv</sup> Lastly, this report then explores how, despite all the nastiness, the U.S.-Mexico border remains a place of hope and courage.

## 2. Narcotraficantes

One cannot underestimate the dynamics of drug trafficking on the U.S.-Mexico border. Because of the endemic poverty in Mexico, it is no surprise that the huge profits that come with drug trafficking are very alluring. Since the early 1980s, Mexico has been economically dependant on the illicit narcotic industry, which is estimated to net some thirty to fifty billion dollars per year.<sup>v</sup> As much as 90 percent of the cocaine entering the United States now transits through Mexico.<sup>vi</sup> The drug cartels have become increasingly sophisticated and powerful. They dominate illegal drug markets in the U.S. – the tons of cocaine, methamphetamine, marijuana, heroin, and MDMA that are imported into the country annually.<sup>vii</sup> A steady stream of soldiers is ready to fight other cartels and the authorities, and take over when cartel leaders are arrested or killed. A subculture has emerged with its own *corridos* (traditional folkloric songs), *telenovelas*, jewelry, apparel, and even mausoleums that glamorize the lifestyle of the *narcotraficantes*. But aside from these questionable contributions to popular culture, the illicit drug industry has made the U.S. Mexico border a fundamentally lawless and dangerous place.<sup>viii</sup>

Violence has significantly increased as transit routes for drugs from Colombia are fought over by competing cartels.<sup>ix</sup> The *narcotraficantes* - Mexico's main drug trafficking organizations including the Gulf, Sinaloa, and the Juárez cartels<sup>x</sup> - have formed alliances with other cartels

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and with each other, employed street gang members as enforcers, or *sicarios*, and corrupted law enforcement officials nationwide. Notably, the Gulf cartel has become a powerful militia by enlisting the *Zetas*, a group of disaffected former paramilitary troops. This gang has been joined by corrupt federal, state, and local law enforcement officers to become kidnapers, drug dealers, money launderers, and assassins for Osiel Cárdenas' Gulf cartel. Following suit, the Sinaloa cartel, an ally of the Juárez cartel, recruited the *Negros* and *Pelones* armed enforcement gangs and allegedly enjoy police protection. The playing field is constantly changing and so is the death toll. Corruption runs deeply as major institutions have been rocked by scandals involving senior officials in the payroll of the drug cartels. There is now much talk over July 2010's elections and the *narco* connections that many PRI candidates are alleged to have had.

Then there is the violence from the Mexican authorities, including the military. From the moment he became head of government, Mexican President Felipe Calderón has waged a war against the *narcotraficantes*.<sup>xi</sup> He deployed some forty thousand military troops to prosecute this fight.<sup>xii</sup> There have been some victories along the way: In 2009 the Mexican Government arrested 36,332 people and seized twenty metric tons of cocaine, 1,385 metric tons of marijuana, 665 kilograms of opium gum, and 277 kilograms of heroin.<sup>xiii</sup> Roadblocks, massive uses of force, and smarter intelligence have netted bigger loads of illicit drug en route to the United States. With this remarkable success, there also emerged egregious violence and some say there were human atrocities on the part of military forces against the civilian population.<sup>xiv</sup> Over 1500 of such complaints have been registered with the National Human Rights Commission.<sup>xv</sup> To date, over 23,000 people have been killed since December 2006 when Felipe Calderón was sworn in as President of Mexico.<sup>xvi</sup> In 2009 alone, over 8,000 people were killed, half of them in states along the U.S.-Mexico border.<sup>xvii</sup> Drug-related killings are highly concentrated in a few states of Mexico: In 2008, more than 60 percent of the killings were in three cities: Tijuana, Culiacán and Ciudad Juárez, all along the U.S.-Mexico border.<sup>xviii</sup> These are clearly the strategic locations for drugs and weapons trafficking to and from the United States.

Ciudad Juárez, Mexico's most violent city, has suffered a death toll of 2,600 in 2009, with another four hundred so far in 2010.<sup>xix</sup> On January 31, 2010, a shootout claimed the lives of 15 people, many of whom were students with no connections to the drug gangs. On March 13, 2010, a U.S. Consulate official, her husband, and an Arizona rancher were killed when gunmen shot at their vehicles. The *Aztecas*, a street gang on both sides of the U.S.-Mexico border, was contracted by *La Línea*, the Juárez cartel's armed wing, to complete the targeted assassinations.<sup>xx</sup> The first weekend of May 2010, twenty-four people were killed in the span of twenty-four hours. Because of police complicity and inefficiency, a string of unsolved murders of young women, many former workers in *maquiladoras*, remain unsolved. As cartels battle for the city, a corridor for drug shipments to the U.S. in the state of Chihuahua, more violence is in the offing.<sup>xxi</sup> Car bombs have now been used as a tactic by the *narcos*.<sup>xxii</sup>

### 3. Public Insecurity: A New Export Industry?

The U.S.-Mexico border remains a very dangerous place. On June 28, 2010, gunmen killed Rodolfo Torre, the Gubernatorial candidate for the Institutional Revolutionary Party (or PRI) who was expected to win

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the election in Tamaulipas only a few days later.<sup>xxiii</sup> Tamaulipas is on Texas' southeastern border and has been the site of fighting between the Gulf cartel and the *Zetas*. The violence has now spread beyond the U.S.-Mexico border region to other parts of the country as the *narcotraficantes* fight each other. A few examples tell the story: Some 50 hooded gunmen took over a Monterrey hotel and terrorized guests.<sup>xxiv</sup> Four people were killed in an ambush of the security minister of Michoacán.<sup>xxv</sup> In Morelos, nearly 50 people died in gunfights and drug violence.<sup>xxvi</sup> Despite arrests, cartels continue to exercise power, often *en masse*.<sup>xxvii</sup> Clearly, the Mexican Government does not have the monopoly of force in much of the country, so endemic is the culture of corruption, and now, violence.

The drug cartels have unquestionably penetrated law enforcement, policy-making circles, and the military over the years. Public security has eroded trust in the administration of justice and in the law enforcement community.<sup>xxviii</sup> Some are even calling Mexico a "failed state".<sup>xxix</sup> Such insecurity repels tourism, foreign direct investment, and general economic growth. The Mexican economy is expected to contract another 5.5 percent in 2010.

In the last few years, drug addiction has also become a domestic problem in Mexico.

With the new vigilance along the border, drugs intended for the United States have been interrupted. The drugs have had to go somewhere, so a Mexican consumer base was the next best thing to a U.S. consumer base. For decades, the Mexican Government had a pact with Mexican *narcotraficantes*: The *narcos* could transport the contraband that originated from South America and transited through Central America and the Caribbean as long as the illicit drugs were not distributed to Mexicans. This pact ended in 2000 when Vicente Fox assumed the presidency.

The decreased flow of drug cartels shipments has forced the *narcotraficantes* to look for other forms of revenue. It is no surprise that kidnapping in the border region has become a growth industry – particularly in Tijuana. Kidnapping has become a default activity for Mexican organized crime syndicates. So lucrative an enterprise, the police have increasingly often involved in kidnapping throughout the beleaguered country, forcing business people and their families to flee north, with visas or without. Unfortunately, the kidnapping industry has spilled over the U.S.-Mexico border too. The Federal Bureau of Investigation has opened dozens of cases of kidnapping which involved victims being taken in San Diego, California, and forcibly brought south across the border and held for ransom.

Firearm smuggling from the U.S. to Mexico is blamed for fostering the cartels' access to weapons that feed the drug war. U.S. purchased or stolen firearms account for an estimated 95 percent of Mexico's drug-related killings.<sup>xxx</sup> The Mexican Government estimates that over 2,000 firearms are smuggled daily, a number that has increased since the federal ban on assault weapons in the U.S. expired in 2004.<sup>xxxi</sup> But due to heightened efforts by the Calderón Administration, the number of guns confiscated has dramatically increased. It is too bad for U.S. weapons brokers along the border, as gun sales are a growth industry, particularly for a growing market: Mexico.

Bribery has run rampant. Transparencia Mexicana, a leading non-governmental organization, reported in its 2007 National Index on Corruption and Good Governance that there were 197 million acts of corrup-

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tion in Mexico that year, up from 115 million in 2005.<sup>xxxii</sup> Foreign direct investment declined with the global economic crisis. The economy in Mexico shrank 6.5 percent in 2009.<sup>xxxiii</sup> It is estimated to contract again in the first quarter of 2010.<sup>xxxiv</sup> The continued lack of public security along the border is not good for business. Neither was the Zapatista rebellion in Chiapas which protested the signing of NAFTA, the trade agreement that *Ejército Zapatista de Liberación Nacional* leader Subcomandante Marcos called "a death sentence for the indigenous people".<sup>xxxv</sup> The fear was over the lack of land reform and the mechanization of agribusiness that would put small plot farmers and landless people out of work and unable to afford even their own food. The *Zapatista* uprising, which quickly became the darling of the new Left in Europe and other alter- and anti-globalists, was the first of many protests against globalization, as expressed in multilateral and bilateral trade pacts.

#### 4. Economic Contours in Mexico and the United States

When NAFTA went into force in 1994, Canada, Mexico and the United States were to lower tariff barriers and other obstacles to the marketplace. The trade agreement among Canada, Mexico, and the United States has proven helpful to multinationals. Large trucking companies, low-skill manufacturers, insurance, agriculture, telecommunications, and other commodities providers did well entering Mexico. The U.S. financial sector also did well when it bought up the Mexican financial sector, a protected industry pre-NAFTA. Other winners from NAFTA include the largest importers and exporters, supply chain managers, and insurance companies. Manufacturing and agriculture industries have helped increase exports. Government procurement, services, and agriculture were opened to international competitors. State subsidies for staple foods were gradually removed and agribusiness moved into Mexico, pushing out small plot owners and subsistence farmers. These *campesinos* had to leave their land as agribusiness arrived with higher yields, monopolistic supply chains, and market manipulation, moving north to find jobs, hopefully something stable like a *maquiladora*.

With NAFTA factories would be staffed by low-skilled Mexican workers while higher-skilled U.S. workers invented everything – the software, film and other media and entertainment products, telecommunications, biotechnology, and other advanced industries. All of this relied on Intellectual Property, and all of it lucrative for the communities and individuals involved. This post-industrial economy may have worked if China and India had not begun competing seriously with subsidized European innovators to take on this U.S.-driven model of utilizing innovation to be an engine for economic growth. As U.S. labor costs remained high, unable to compete with new commercial entities on a global scale, it also saw U.S. workers were displaced in the global marketplace and at home by lower cost, undocumented labor. Why pay an American carpenter 24 dollars an hour when you can get a Mexican one, at the street corner outside Home Depot, for 10 dollars an hour?

Mexico has suffered an eight percent drop in Gross Domestic Product due to the financial crisis. The manufacturing sector, which accounts for about 30 percent of Mexico's Gross Domestic Product, contracted in real terms in 2009. Construction dropped by 7.5 percent in real terms as well. Tourism is down. PEMEX, the Mexican national petroleum company, does not have money to invest in supply chain maintenance so energy reserves are continually depleted. But Mexico has endured finan-

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cial crises in the past: The bank failures and nationalization of 1982 and the *peso* devaluation of 1994 when the property market bubble burst come to mind.

The financial crisis has also deeply hit the United States, even if it missed the damage done in 1982 and 1994 (except as a lender). The people along the U.S.-Mexico border have especially suffered. The collapse of the housing sector decimated the construction and renovation industries in the United States, resulting in the loss of jobs, not just of U.S. workers but particularly undocumented people from Mexico and elsewhere in the Americas who had increasingly been doing this work in the United States. It is no surprise then that remittances, the Mexico's second-largest source of foreign currency after oil,<sup>xxxvi</sup> have dropped. Remittances from Mexicans in the U.S. are well below their estimated \$23 billion in 2008 (and \$26 billion in 2007), declining by a significant 16 percent in 2009. This money is critical to assist families in Mexico as most remittances are spent on immediate consumption needs there. Foreign Direct Investment from the United States into Mexico, which was three billion dollars in 1993, a year before NAFTA, reached 23 billion dollars in 2008, only to be reduced to 11.6 billion dollars in 2009.

The crisis really signaled the end of the Mexican-American or Mexican dream of owning a home in the United States.<sup>xxxvii</sup> The Hispanic community is overrepresented among houses in Southern California that went into foreclosure. In addition, many Mexican families contributed to the down payment on the purchase of a home, often without legal permission to live and work in the United States, and used merely a Mexican *cédula* for identification in the loan application process. There are many cases of fraud among mortgage brokers and crimes perpetrated by unsavory representatives, often Mexican or Mexican-American themselves.

In today's globalized world, the public insecurity and endemic poverty in Mexico force the working age population to seek economic opportunities in the United States. In the lead up to NAFTA being agreed upon by the Parties, the sales pitch from the three governments was that there would be jobs created. But the job creation in Mexico was clearly not enough to stem the economic flight of young people from Mexico to the United States. Daily, hundreds of people are smuggled into the U.S. from Mexico through ports of entry, tunnels, and in the extreme weather and topography of the desert. The drug cartels, Chinese snakeheads, and Central American *maras* have forced their cargo, the illegal immigrants, into lives of economic exploitation and virtual slavery.<sup>xxxviii</sup> If *coyotes* (paid guides, facilitators of illegal crossings) are employed, the situation can turn into a kidnapping, forced labor, or some other relationship of duress.<sup>xxxix</sup> Human smuggling is particularly risky for female immigrants.<sup>xl</sup> Approximately six out of ten migrant women and girls are sexually violated.<sup>xli</sup> Mexican authorities themselves target internal migrants from Southern Mexico and those from Central American countries en route to the north, many by train.

The real winners in the economics of NAFTA have been the multinational corporations, particularly those attached to border security, homeland defense, and the prison industries. They profit from constructing the border fence, supplying the technologies to monitor the 1969 miles of border, and incarcerating the people caught trying to immigrate illegally or work illegally in the United States. Privately owned and operated prisons are now the norm and no-bid contractors from the War on Terror have built incarceration facilities for temporary influxes of migrants.<sup>xlii</sup>

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The unions have also done well – swelling their ranks among federal employees with government rolls growing.

While much is made of the push factors and pull factors in the relationship between Mexico and the United States, it is the *push back* factor that now dominates the headlines and public discourse about the border. This *push back* has come in states and municipalities taking on their own immigration reform. The *push back* can also be seen in the response from the United States Government in the form of military aid to the Mexican security apparatus. Instead of working in a meaningful way to facilitate trade with Mexico beyond the token increase in trucking lanes at the ports of entry along the border and decreased customs paperwork, the U.S. Government is approaching the U.S.-Mexico border through military means.

## 5. The Response from the United States

In dealing with many of these issues involving the U.S.-Mexico border, the United States Government has responded with its supply-side solutions. If Mexico would only stop the supply of illegal drugs and illegal immigrants to the U.S., runs the argument, then the problems would be solved. Never mind that there is a huge market in the U.S. for both commodities. So we must clampdown on illegal immigration, build a bigger border fence between the U.S. and Mexico, and militarize the border with more National Guard troops to fortify the already increased numbers of U.S. Border Patrol agents. This section of the report examines the actions taken in the U.S. concerning illegal immigration, the increase in troops to monitor the border, and the border itself in the form of a primary and secondary fence in places.

### a. Clampdown on Illegal Immigration

The North American Free Trade Agreement never dealt with labor or immigration issues, although a few provisions called for professional visas for treaty nationals to work in the other countries. Other matters, as with those relating to the protection of the environment, were left outside the dispute resolution mechanisms set up under NAFTA and instead placed into so-called “side agreements”. Mexico did not have to rise to the levels of its NAFTA partners. The countries in NAFTA needed only to execute their own respective national laws. In the case of immigration of Mexicans into the U.S., the treaty was silent for the most part.

NAFTA did not include labor provisions and provide for more open immigration among the three countries because Mexicans would flock *en masse* to the United States. And for good reason – they could make more money than in Mexico, and with far more opportunity for upward mobility. NAFTA was supposed to provide jobs. It did so but not provide enough of them. So millions of Mexicans went looking for work – in the United States. More than fifteen million illegal immigrants are estimated to live in the United States, the majority from Mexico. Despite much political pressure from the Hispanic population of the United States, the U.S. Government has failed to enact a new comprehensive immigration law reform. They have also failed to enforce the laws that exist to punish the employers of illegal immigrants and tighten border inspections.



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The laws that have emerged locally and statewide, as in Arizona with State Law SB1070, have demonstrated the racist underbelly of many in the United States, and provoked an ugly police state reaction in Arizona. On a state visit to the White House on May 19, 2010, Mexican President Felipe Calderón denounced Arizona's new immigration law (SB1070) as "discriminatory".<sup>xliii</sup> This new Arizona law requires police officers to ask for citizenship documents and may allow for racial profiling. Arizona is not the only state to turn toward state-based immigration policy.<sup>xliiv</sup>

Without immigration reform at the federal level, other jurisdictions and agencies will act where the federal government will not enforce its own laws to safeguard the security of the border and ensure orderly, rather than illegal, immigration into the United States. We have seen this in ordinances from cities like Escondido, California, which have tried to target illegal immigrants. For a brief period, it was illegal in Escondido to rent an apartment to an undocumented worker. Part of the reaction in the United States is racism and part of it is the sheer cost of integrating illegal immigrants into the U.S. economy. They do contribute to the tax base in many ways, but undocumented migrants still pose significant challenges for public services including public healthcare in the Southwestern United States. Often illegal migrants do not have health insurance and use emergency wards as primary care visits, costing Los Angeles County \$300 million in one year.

Migration, however, has dropped with the onslaught of economic crisis.<sup>xliv</sup> Furthermore, enforcement has increased along the border and ports of entry – so-called Operation "Gatekeeper" – in San Diego. This heightened vigilance forced migrants to enter through more dangerous routes in Arizona. Still the U.S.-Mexico border remains a very dangerous place for human trafficking and the tens of thousands of illegal border crossers each month. The U.S. Border Patrol has attempted to stem the tide of illegal crossing from Mexico (including migrants not only from Mexico but also from Central America, Brazil, China, and Ukraine), through great numbers, a bigger fence, and the employment of new technologies.

#### **b. Beefing Up Border Security**

A big recruiting push for the Border Patrol was prompted by the Bush Administration between 2006 and 2008. Some 6,000 National Guard troops were sent to four states that border Mexico. Operation "Jump Start" was a quite delayed response to post-September 11<sup>th</sup> attacks and emphasized preventing suspected terrorists or weapons of mass destruction from entering the U.S. Guard troops also helped build roads and fences in addition to backing up law enforcement officers at the border. They contributed to the arrest of more than 162,000 illegal immigrants, the rescue of 100 people stranded in the desert and the seizure of \$69,000 in cash and 305,000 pounds of illicit drugs.<sup>xlvi</sup>

President Obama has also been beefing up the numbers at the U.S.-Mexico border, ordering some 1200 National Guardsmen to help fight drug traffickers and other border criminality. He also asked Congress in June 2010 for funds to hire another one thousand Border Patrol agents, two drone airplanes, and enhance security. Some of the money was earmarked for ballistic and DNA analysis for Mexican law enforcement officials.<sup>xlvii</sup> This push to increase troops is in anticipation of bur-nishing the administration's border security credentials while pursuing

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some form of immigration reform in the run-up to the November 2010 mid-term elections. In addition, even Governor Arnold Schwarzenegger, himself an immigrant to the U.S. from Austria, ordered 224 National Guard troops to the U.S.-Mexico border to help with border security.<sup>xlviii</sup>

In addition to the human resources necessary to patrol the border, various parts of the U.S.-Mexico border have been fortified. Working in the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) is the federal agency responsible for securing the country's borders along and between ports of entry.

In November 2005, DHS announced the launch of the Secure Border Initiative (SBI), a multiyear, multibillion-dollar program aimed at securing U.S. borders and reducing illegal immigration. This system features *SBI net* a system that employs radars, sensors, and cameras to detect, identify, and classify the threat level associated with an illegal entry into the United States between the ports of entry. The system also creates the SBI tactical infrastructure: fencing, roads, and lighting intended to enhance the ability of Border Patrol agents to respond and arrest an illegal entrant.

Under the Secure Fence Act, the U.S. Congress directed that the DHS construct more than 700 miles of border wall along the southwestern border, including numerous areas of protected federal lands, habitat for threatened and endangered species, and other natural resources. CBP had completed about 73 miles of primary SBI fencing costing approximately \$198 million as of September 30, 2007, and about 215 miles of fencing costing about \$625 million as of October 31, 2008. Seventy-one of the miles completed as of September 30, 2007, were pedestrian fencing completed at costs ranging from \$400,000 to \$4.8 million per mile and averaging \$2.8 million per mile. CBP had also finished about two miles of vehicle fencing at a cost of \$2.8 million. Pedestrian fencing accounted for 140 of the miles that CBP had completed as of October 31, 2008, with costs ranging from \$400,000 to \$15.1 million per mile for an average of \$3.9 million per mile. Seventy-five of the miles were vehicle fencing and costs ranged from \$200,000 to \$1.8 million per mile, averaging \$1.0 million per mile. The per mile costs to build the fencing varied considerably because of the type of fencing, topography, materials used, land acquisition costs, and labor costs.

In 2009, CBP obligated \$58 million of fiscal year 2008 SBI funds to construct approximately 3.5 miles of secondary fencing in the San Diego sector at an average cost of about \$16 million per mile. This per mile cost is substantially higher than the cost for existing secondary fencing because of the difficult terrain where the secondary fencing is to be built. Some parts of the fence constructed in the mid-1990s near the San Ysidro Port of Entry are made from recycled pieces of the tarmac from airstrips built in the 1991 Gulf Conflict.

The contracts to build the fence along the U.S.-Mexico border is highly lucrative as is the contract to supply the U.S. Government with drone airplanes and other technologies to stem the flow of illegal immigrants in the United States. But the militarization of the border does not end there. It now continues in Mexico as the U.S. Government provides funding of Mexican military and security forces through the Mérida Initiative.

### c. The Mérida Initiative

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All hopes for increased public security in border cities have been pinned on the Mérida Initiative, an aid package for Mexico that was negotiated between Mexican President Calderón and former U.S. President George W. Bush in March 2007. A total of \$1.4 billion over three years is being channeled from the U.S. Government to the Mexican Government to fund the purchase of airplanes and helicopters for surveillance, counternarcotics, and counterterrorism operations by the Mexican military and for the purchase of scanners and armed vehicles, the establishment of law enforcement databases, the training of specialized police units to combat organized crime and anti-corruption activities of the federal police. This program, like some extra aid that the U.S. Department of Defense provides, is designed to disrupt the capacity of organized crime to operate, strengthen institutions that sustain the rule of law and human rights, build a twenty first century border, and build strong and resilient communities.<sup>xlix</sup>

The Mérida Initiative is a Mexican version of what Colombia enjoyed in over 5 billion dollars' worth of black helicopters and other high tech equipment including support aircraft and satellite technology to track drug shipments - a "Plan Colombia Light" of sorts but without as many death squads. Under the Mérida Initiative,<sup>l</sup> police intelligence gathering capabilities and institution building have been supplemented with funds from the U.S. Treasury. The Mexican authorities have even requisitioned a submarine to counter the strategic fleet that Colombian traffickers have been able to build and deploy.<sup>ll</sup>

But with great gear, comes great responsibility. The Mérida Initiative legislation provides that that some of the money to be spent on troops or agents may only be released after four human rights reporting requirements are met. The military has also been accused of corruption with the Sinaloa cartel. Violence has spread from the U.S.-Mexico border region to the rest of the country as drug cartels fight it out over supply routes and domestic control of trafficking. Criminality along the U.S.-Mexico border further exacerbated the rise of Central American gangs - the *maras* of San Salvador, Los Angeles, Houston, and Tegucigalpa. These organized criminal organizations ratchet up the level of violence and are involved in drug and human smuggling throughout the region.

## 6. A Snapshot of the United States-Mexico Border

The San Ysidro Port of Entry remains the most heavily trafficked pedestrian crossing in the world. Crossing is a part of life - the bifurcated, bi-national identities that hundreds of thousands of residents on both sides of the U.S.-Mexico border share. There is even a public television channel in Tijuana dedicated to the traffic patterns to go into the United States. Tens of thousands of people cross that border daily, going to work, to study at school, to get medical services, to attend religious services, and to visit relatives.

Some of the border crossers make their way to shopping malls to spend the money that was generated by NAFTA. This conspicuous group of Mexican consumers - some upper class but mostly upper middle class - has the financial wherewithal to maintain a life in the United States (as well as one in Mexico) or to merely visit shops that sell designer goods

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without fears of kidnapping or shootouts. Mexicans spend some four billion dollars annually in San Diego County. They are fast filling the retail zones around the border area – both as employees and shoppers. The U.S. is a destination for shopping for Mexicans for a number of reasons. Firstly is the selection – with a marketplace of 300 million people there is much more of a market selection. Prices are lower due to the lower tariff rates for luxury goods in the U.S. compared to those same goods imported into Mexico. There is a lower tax rate as well in the United States. The shopping malls around San Diego are filled with Mexican families hitting Banana Republic, Bloomingdales, Macy's, and Nordstrom. The financial crisis has put a dent into this, but not by much.

Legitimate goods are shipped across the border at the checkpoint in the eastern *delegación* of Tijuana called Otay Mesa. Illicit goods are taken in smaller packages by the so-called ant traffic of border crossers forced into the deserts of Arizona for a four-day trek due to increased vigilance in the San Diego-Tijuana sector or through the ubiquitous tunnels that run under the border. One group of workers who would like to provide more services on the U.S. side of the border are Mexican truckers, who continue to ply their way north, despite some temporary setbacks. U.S. drivers and regulators of the nation's highways will have to learn to not fear those truckers; a pilot program during the Bush Administration demonstrated that Mexican truckers scored better on safety than U.S. truckers.

A true leveling of the playing field is not exactly around the corner, but steps are being taken to converge our markets. This includes more common security initiatives: The Security and Prosperity Partnership of North America, a set of agreements and communiqués from the three NAFTA Parties, which started in 2005 and offered many objectives for harmonization of laws and procedures. Its results are still unclear. There is indeed still much to be done to fortify the borders of all partner countries and to develop the border region as a whole. It is no secret that poverty rates and lower socio-economic indicators increase within close proximity to the U.S.-Mexico border. The huge economic cold that the U.S. caught made Mexico even sicker. One can only hope that further growth can be generated along the U.S.-Mexico border without the same social dislocation costs that have wracked the region earlier, and without threatening the national security of both countries.

But the U.S. must stop addressing the issues that it faces only as supply-side problems: It blames the supply of immigrants from Mexico on Mexico and does not punish those in the United States who employ illegal immigrants in order to pay lower wages. Similarly, there is much focus on stemming the supply of drugs rather than trying to go after U.S. demand. There needs to be enforcement of employer sanctions enacted by the 1986 Immigration Reform and Control Act before we even start thinking about immigration reform in the United States. President George W. Bush was unable to do it with his proposed three-year guest worker program and Senator John McCain's support for reform. It is unlikely that President Barak Obama will win much by dealing with what has become the third rail of politics.

For its part, the Mexican Government must do something to encourage economic growth. There also remains the issue of how to best tackle drug cartel violence. Since December 2006 when President Felipe Calderón assumed power, the Mexican drug war has become more militarized and less a matter of law enforcement with investigation, prosecu-

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tion, and the rule of law. The U.S.-Mexico border has now become a battle zone in the War on Drugs that the United States has been waging for decades. First launched by President Richard Nixon and heightened during the Reagan Administration, this “war” has continued since the 1970s. It has seen millions of convicted people go through the prison industrial complex, brought endemic corruption throughout nations and their institutions, and has armed military forces throughout Latin America with high technology weapon and intelligence systems. The War on Drugs has survived the *Contra* Affair, diplomatic relations fiascos, and *coups d’etat*. It was fought in Central America in the 1980s and now it is being waged in Mexico. There are some forty thousand troops on the streets there. Luckily, little of the violence from Mexican drug war has flowed into the United States, but with the presence of narcotrafficantes in all major U.S. cities, this too may change.<sup>iii</sup>

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<sup>i</sup> U.S. Trade Representative, U.S.-Mexico Trade Facts, available at <http://www.ustr.gov/countries-regions/americas/mexico> (last visited on June 2, 2010).

<sup>ii</sup> Ken Ellingwood, *Mexico faces soaring childhood obesity rate*, L.A. TIMES, Apr. 25, 2010, at A3.

<sup>iii</sup> Jesus Angel E. Acosta, *Migration and Urbanization in Northwest Mexico’s Border Cities*, J. SOUTHWEST, 445 (2009), available at <http://www.scribd.com/doc/29444257/Revisiting-Borders-Migration-Actors-and-Urbanism> (last visited May 19, 2010).

<sup>iv</sup> Reuters, *US security firms vie for Mexico drug war contracts*, REUTERS, July 16, 2009, available at <http://www.reuters.com/article/idUSN14196362> (last visited on July 14, 2010).

<sup>v</sup> Charles Bowden, *U.S.-Mexico ‘war on drugs’ a failure*, CNN, Apr. 2, 2010, <http://www.cnn.com/2010/OPINION/03/31/bowden.ciudad.juarez.cartels/index.html> (last visited May 9, 2010).

<sup>vi</sup> Dep’t of State, 2009 Int’l Narcotics Control Strategy Report: Vol. I, 414 (Mar. 2009), available at <http://www.state.gov/documents/organization/120054.pdf> (last visited on May 19, 2010) [hereinafter “Dep’t of State, 2009 Int’l Narcotics Report 2009”].

<sup>vii</sup> Bureau for Int’l Narcotics and Law Enforcement Aff. [INL], U.S. Dep’t of State, Int’l Narcotics Control Strategy Report, Vol. 1 at 432-38, (Mar. 2010), available at <http://www.state.gov/documents/organization/137411.pdf> (last visited May 9, 2010) (hereinafter “INL Report”); U.S. Dep’t of Justice, Nat’l Drug Intelligence Ctr., Nat’l Drug Threat Assessment, No. 2010-Q0317-001, (2010), available at <http://www.justice.gov/ndic/pubs38/38661/38661p.pdf>.

<sup>viii</sup> AGNES GEREKEN SCHAEFER, BENJAMIN BAHNEY, K. JACK RILEY, SECURITY IN MEXICO, IMPLICATIONS FOR U.S. POLICY OPTIONS (2009), [hereinafter “RAND CORPORATION”], available at [http://www.rand.org/pubs/monographs/2009/RAND\\_MG876.pdf](http://www.rand.org/pubs/monographs/2009/RAND_MG876.pdf) (last visited on June 27, 2010).

<sup>ix</sup> INL Report, *supra* note 7; U.S. Dep’t of Justice, Nat’l Drug Intelligence Ctr., Nat’l Drug Threat Assessment, No. 2010-Q0317-001, (2010), available at <http://www.justice.gov/ndic/pubs38/38661/38661p.pdf>. See also [http://assets.opencrs.com/rpts/R40582\\_20090515.pdf](http://assets.opencrs.com/rpts/R40582_20090515.pdf).

<sup>x</sup> Colleen W. Cook, U.S. Cong. Research Serv., *Mexico’s Drug Cartels*, RL34215, CRS Rep. for Cong., (Oct. 16, 2007), available at <http://ftp.fas.org/sfp/crs/row/RL34215.pdf> (last visited May 9, 2010).

<sup>xi</sup> See RAND CORPORATION, SECURITY IN MEXICO: IMPLICATIONS FOR U.S. POLICY *supra* note 8, at 31.

<sup>xii</sup> HUMAN RIGHTS WATCH, UNIFORM IMPUNITY: MEXICO’S MISUSE OF MILITARY JUSTICE TO PROSECUTE ABUSES IN COUNTERNARCOTICS AND PUBLIC SECURITY OPERATIONS 2 (2009) [hereinafter “HUMAN RIGHTS WATCH, UNIFORM IMPUNITY”].

<sup>xiii</sup> INL, *supra* note 7, at 434.

<sup>xiv</sup> See generally Oscar Hidalgo, *Mexican Drug Trafficking*, N.Y. TIMES, Mar. 24, 2010, available at

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<sup>xv</sup> See National Human Rights Commission (CNDH), Annual Reports, available at [www.cndh.org.mx](http://www.cndh.org.mx).

<sup>xvi</sup> *Mexico Under Siege*, L.A. TIMES, May 30, 2010, available at <http://projects.latimes.com/mexico-drug-war/#/its-a-war> (last visited on May 30, 2010). See also Ben Conery & Jerry Seper, *Border Violence Threatens the Americans*, WASH. TIMES, Apr. 1, 2010, available at <http://www.washingtontimes.com/news/2010/apr/01/violent-mexican-drug-gangs-pose-rising-risk-to-ame/> (last visited, May 10, 2010); Arthur Brice, *Mexican president visits troubled Ciudad*, CNN, Mar. 16, 2010 <http://www.cnn.com/2010/WORLD/americas/03/16/mexico.calderon.juarez/index.html> (last visited, May 10, 2010). Attorney General Arturo Chavez Chavez stated that 24,800 have been killed at the time of this writing. Tracy Wilkinson, *Cartel car bomb kills four*, L.A. TIMES, July 17, 2010, at A7.

<sup>xvii</sup> U.S. Dep't of State, Background Notes: Mexico, (May 2010), available at <http://www.state.gov/r/pa/ei/bgn/35749.htm> (last visited May 19, 2010).

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<sup>xxi</sup> Nick Valencia, *Mexican Drug Violence Claims 24 lives in 24 hours*, CNN, May 2, 2010, available at <http://www.cnn.com/2010/WORLD/americas/05/02/mexico.drug.violence/index.html> (last visited May 11, 2010).

<sup>xxii</sup> Tracy Wilkinson, *Cartel car bomb kills four*, L.A. TIMES, July 17, 2010, at A7.

<sup>xxiii</sup> Ken Ellingwood, *Gunmen kill PRI candidate*, L.A. TIMES, June 29, 2010, at A3.

<sup>xxiv</sup> Ken Ellingwood, *Monterrey hotel raised by gunmen*, L.A. TIMES, Apr. 22, 2010, at A3.

<sup>xxv</sup> Tracy Wilkinson, *4 killed in ambush of state official*, L.A. TIMES, Apr. 25, 2010, at A4.

<sup>xxvi</sup> Ken Ellingwood, *Morelos state caught in a cartel succession battle*, L.A. TIMES, Apr. 21, 2010, at A3.

<sup>xxvii</sup> Richard A. Serrano, *Cartels rattled but not bowed by U.S.*, L.A. TIMES, Apr. 26, 2010, at A1.

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<sup>xxix</sup> Joel Kurtzman, *Mexico's Instability a Real Problem*, WALL ST. J., Jan. 16, 2009, available at <http://online.wsj.com/article/SB123206674721488169.html> (last visited June 29, 2010).

<sup>xxx</sup> Dep't of State, 2009 Int'l Narcotics Report 2009, *supra* note 6.

<sup>xxxi</sup> Congressional Research Service, *Mexico's Drug-Related Violence* 15 (2009), available at [http://assets.opencrs.com/rpts/R40582\\_20090515.pdf](http://assets.opencrs.com/rpts/R40582_20090515.pdf) (last visited May 15, 2010).

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<sup>xxxiii</sup> Brookings Institution, *Beyond the Crisis? Thinking Strategically About Mexico's Economic Future*, June 25, 2010, available at [http://www.brookings.edu/events/2010/0625\\_mexico\\_economy.aspx?rssid=mexico](http://www.brookings.edu/events/2010/0625_mexico_economy.aspx?rssid=mexico) (last visited July 14, 2010).

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<sup>xxxviii</sup> Josh Meyer, *Drug cartels raise the stakes on human smuggling*, L.A. TIMES, Mar. 2, 2009, <http://articles.latimes.com/2009/mar/23/nation/na-human-smuggling23> (last visited May 10, 2010).

<sup>xxxix</sup> Richard Marosi, *Mexico arrests shed light on migrant-kidnapping outfits*, L.A. TIMES, July 18, 2010, at A33.

<sup>xl</sup> According to the U.S. State Department, "A significant number of Mexican women, girls, and boys are trafficked within the country for commercial sexual exploitation, lured by false job offers from poor rural regions to urban, border and tourist areas. According to the government, more than 20,000 Mexican children are victims of sex trafficking every year, especially in the tourist and border areas." U.S. Dep't of State, Trafficking in Persons Report, 206 (June 2009) available at <http://www.state.gov/documents/organization/123357.pdf>.

<sup>xli</sup> Amnesty International, *Widespread Abuse of Migrants in Mexico is 'Human Rights Crisis'*, Apr. 28, 2010, available at <http://www.amnesty.org/en/news-and-updates/report/widespread-abuse-migrants-mexico-human-rights-crisis-2010-04-27> (last visited May 11, 2010).

<sup>xlii</sup> Halliburton Press Releases, *KBR awarded U.S. Department of Homeland Security Contingency Support Project for Emergency Support Services*, Jan. 24, 2006, available at [http://www.halliburton.com/default/main/halliburton/eng/news/source\\_files/pressrelease\\_2006.jsp](http://www.halliburton.com/default/main/halliburton/eng/news/source_files/pressrelease_2006.jsp) (last visited on July 20, 2010).

<sup>xliii</sup> Jonathan Weisman, *Obama Gets an Earful From Calderón*, L.A. TIMES, May 20, 2010, at A4.

<sup>xliv</sup> Anna Gorman, *Ariz. Law is Just One of Many*, L.A. TIMES, July 17, 2010, at A1.

<sup>xlv</sup> Papademetriou & Terrazas, *supra* note 37.

<sup>xlvi</sup> Randal C. Archibald, *Obama to Send Up to 1,200 Troops to Border*, N.Y. TIMES, May 26, 2010, at A1.

<sup>xlvii</sup> Peter Nicholas & Nicole Santa Cruz, *Obama Seeks Border Funds*, L.A. TIMES, June 23, 2010, at AA1.

<sup>xlviii</sup> Michael Gardner, *Governor sending 224 Nat'l Guard troops to border*, Sign on San Diego, July 15, 2010, available at <http://www.signonsandiego.com/news/2010/jul/15/governor-sending-224-natl-guard-troops-border/> (last visited on July 15, 2010).

<sup>xlix</sup> U.S. Embassy, Mérida Initiative at a Glance, available at [http://www.usembassy-mexico.gov/eng/merida/emerida\\_factsheet\\_meridapillars.html](http://www.usembassy-mexico.gov/eng/merida/emerida_factsheet_meridapillars.html) (last visited May 11, 2010).

<sup>i</sup> June S. Beittel, *Mexico's Drug-Related Violence*, *supra* note 18.

<sup>ii</sup> Frank Bajak, Associated Press, *DEA: Seized Submarine Quantum Leap for Narcos*, ABC NEWS INTERNATIONAL, July 4, 2010, available at <http://abcnews.go.com/International/wireStory?id=11087367> (last visited on July 20, 2010).

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