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THESIS

**THE IMMIGRATION CHALLENGE:
THE USE OF U.S. MILITARY FORCE TO CONTROL
ILLEGAL IMMIGRATION FROM MEXICO**

by

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March, 1997

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Controlling illegal immigration into the United States has become a major issue in U.S. politics. A February 1997 report released by the INS estimates that there are currently 5 million illegal aliens in the United States. In 1986, when the estimated number of illegal aliens was also 5 million nationally, the U.S. Congress passed an immigration reform that allowed for many of the undocumented workers in the United States to become legal residents. Approximately, 3 million illegal immigrants have become legal residents since the passage of the 1986 legislation. The latest estimate confirms the claims of some U.S. lawmakers and immigration activists that U.S. immigration policy is largely ineffective.

In 1995 two bills were introduced into the U.S. House of Representatives that called for the use of U.S. military forces to assist the INS in controlling the flow of illegal immigration. Both bills were killed in committee. With the most recent INS estimate, it is possible that similar legislation will again be introduced. This thesis examines the *military option* for border control. The findings are that the use of the military to control illegal immigration would result in lowered military readiness, and that the *militarization* of the border will produce tensions in U.S.-Mexico and U.S.-Latin American relations. Therefore, it is recommended that the military not be used to supplement the Border Patrol.

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THE IMMIGRATION CHALLENGE: THE USE OF U.S. MILITARY FORCE TO CONTROL ILLEGAL IMMIGRATION FROM MEXICO

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ABSTRACT

Controlling illegal immigration into the United States has become a major issue in U.S. politics. A February 1997 report released by the INS estimates that there are currently 5 million illegal aliens in the United States. In 1986, when the estimated number of illegal aliens was also 5 million nationally, the U.S. Congress passed an immigration reform that allowed for many of the undocumented workers in the United States to become legal residents. Approximately, 3 million illegal immigrants have become legal residents since the passage of the 1986 legislation. The latest estimate confirms the claims of some U.S. lawmakers and immigration activists that U.S. immigration policy is largely ineffective.

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TABLE OF CONTENTS

I. INTRODUCTION 1
A. DEFINING THE PROBLEM 2
B. POLICY PROPOSAL 3
C. SIGNIFICANCE OF STUDY 4
D. METHODOLOGY 5

II. HISTORY OF U.S. IMMIGRATION 7
A. IMMIGRANT AMERICA 7
1. The Latin American Case 10
2. The Economic Migration 11
B. PRIOR LEGISLATION 13
C. ILLEGAL IMMIGRATION 20
D. THE CURRENT SITUATION 22

III. ANALYZING THE PROPOSED POLICY 25
A. LEGAL ISSUES 25
B. APPROPRIATENESS OF THE MISSION 27
1. Which Service 29
2. Human Rights 32
3. Impact on Military Readiness 33
C. IMPACT ON UNITED STATES-MEXICO RELATIONS 35
D. IMPACT ON U.S. RELATIONS WITH LATIN AMERICA 39
E. COST-BENEFIT ANALYSIS 40

IV. CONCLUSION 45
A. SUMMARY OF FINDINGS 45
B. RECOMMENDATIONS 47

LIST OF REFERENCES 49

BIBLIOGRAPHY 53

INITIAL DISTRIBUTION LIST 55

EXECUTIVE SUMMARY

Since the mid-1980's, the issue of immigration has become a major focus of policy-makers in the United States. In February 1997, the Immigration and Naturalization Service (INS) reported an official estimate of 5 million illegal immigrants in the U.S. This number is equivalent to the estimated number of illegal immigrants in the U.S. prior to the 1986 Immigration Reform and Control Act (IRCA). Under IRCA approximately 3 million undocumented immigrants have become legal residents. However, the latest INS estimate confirms the beliefs of many U.S. policy makers and immigration activists that the U.S. immigration policy is ineffective.

A number of proposals have been put forth for immigration reform. Some deal with the issues of legal immigration and some deal with illegal immigration. The purpose of this thesis is to examine one policy option in order to provide a comparison for other policy option research. This thesis assesses the policy option of using U.S. military force to control illegal immigration along the U.S.-Mexican border.

Republicans and Democrats alike have proposed the idea of using military force to control illegal immigration. In 1993, Senator Boxer (D-CA) proposed using National Guard members to supplement the Border Patrol. In 1995, Rep Traficant (D-OH) and Rep Deal (R-GA) introduced bills in the 104th Congress that would allow the military to be used to control the border. This thesis examines the policy pros and cons in using U.S. military forces to control illegal immigration from Mexico. The thesis analyzes the

effectiveness of the military option, but focuses mainly on the normative question - "Should they do it?"

The study is significant because it raises a number of issues related to military operations:

1. The legal ramifications of using military forces for domestic purposes (i.e. the extent of Posse Comitatus Act of 1879);
2. The appropriate use of military forces; and
3. How a military build-up along a border affects bilateral relations and U.S. relations with the rest of the region.

An option for further research would be to compare the "military option" for border control with other U.S. policy options for controlling illegal immigration. The methodology employed in this thesis is a single case study of U.S.-Mexico border control. Primary and secondary sources in the English language were used for the analysis.

The policy option of using military forces to control the border has been introduced in the past, and with the most recent INS estimate of 5 million illegal immigrants nationally, may be introduced again in the future. This thesis examines three issues related to militarizing the U.S.-Mexican border. The first issue that must be solved is the legal restrictions on the use of military forces for civilian law enforcement purposes. Currently the military can provide general passive support, but they cannot make arrests or be involved in the search and seizure of property. The legal restrictions strictly limit how the military can be utilized, but the legislation as proposed by Representatives Traficant and Deal would remove many of those restrictions.

The second issue is the appropriateness of the mission. This research found that if military forces were to be used, the Army and National Guard should provide the majority

of these forces. Previous studies have concluded that of the people that enter the country illegally, the majority come by land, as opposed to air and sea. The Army and National Guard are equipped for land operations that may be utilized along the U.S.-Mexico border. However, if the military is used, there is the possibility of increased human rights violations and the military readiness for the primary roles of the Army would probably be decreased. There is not any evidence that would argue for the use of the military as opposed to increasing the size of the Border Patrol that is already in place.

The third issue is U.S. relations with Mexico and Latin America. The border region has been exposed to military forces in the past. During the period of "Manifest Destiny," the United States expanded across North American and took approximately half of Mexico's territory. Since that time the United States has been the dominant power in the region. The use of military force along the border would rekindle the Mexican fears of "American Imperialism" and be a hindrance to future negotiations. This is especially true in the context of the North American Free Trade Agreement. The United States and Mexico should seek solutions to the immigration problem that are mutually acceptable for both countries. The military option could strain the relationship between these two neighbors.

The militarization of the border would also strain U.S. relations with Latin America. Although Mexico is the major source of immigration to the United States, other Latin American countries are also sources of such immigration. The fear of American imperialism that is present in Mexico is also present in many of the other countries in the western hemisphere.

The use of the U.S. military to provide border enforcement does not appear to be the best policy option for the United States. The problem of illegal immigration is not simply limited to the border. It is a problem of people overstaying their visas as well. The immigration problem probably cannot be solved simply by increasing border guards. The use of the military would stop some flow in high traffic areas such as San Diego and El Paso, but the flow of illegal immigrants would probably extend to other regions. The "military option" will not stop illegal immigration, and will further strain U.S.-Mexico relations.

I. INTRODUCTION

The purpose of this thesis is to assess the policy option of using U.S. military forces to control illegal immigration along the U.S.-Mexico border. International migration has taken place throughout history. Mass migrations have been the result of population growth, economic conditions and governmental policies. There have been numerous instances of peaceful movements of people, as well as migration that has had an aspect of violence. The United States is a country that was basically formed from the migration of people. As President John F. Kennedy wrote, the United States is "A Nation of Immigrants." The migration to the United States has been, to a large extent, the result of economics. This is especially true of the immigrants during the late 19th and early 20th century. However, other examples of migration have been marked by people seeking political refuge from human rights abuses and repressive governments. For example, the during the 1980's and 1990's, there have been numerous cases of immigrants from Haiti, Cambodia, El Salvador, and China seeking asylum in the United States.

Since the mid-1980's, the issue of immigration has become a major focus of policy-makers in the United States. Although the United States has had various immigration policies since the early 1800's, the debates in the U.S. Congress have intensified during the last decade. This intense debate is the result of an increase in *legal* immigrants in the United States from less than 5 million in 1982 to over 9 million in 1992. Additionally, in February 1997, the Immigration and Naturalization Service (INS) reported an official estimate of *illegal* immigrants of 5 million. This represents the total number of

undocumented immigrants, and the INS estimates that number is increasing by 275,000 each year. As part of this estimate, the INS says that more than half of the undocumented population is of Mexican origin.[1]

A. DEFINING THE PROBLEM

Numerous studies have been conducted by various groups to show the economic and/or cultural impact of immigration. Organizations such as the Federation for American Immigration Reform (FAIR) have published articles and reports that highlight many economic and cultural problems in high immigration areas.[2] Other institutions, such as the Cato Institute and the National Immigration Forum have published books which show that immigration has a positive impact in the United States.[3] The increase in the publication of various reports has increased the awareness of immigration issues. This increased awareness has led to the call for immigration reform. The immigration challenge for U.S. policy-makers is to implement policy that is effective in controlling immigration problems while at the same time preserving the opportunities that have allowed the United States to become a global leader and a beacon for those seeking a better life.

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[1]Mittelstadt, Michelle, "INS Says Problem Not Getting Worse", *Arizona Republic*, February 8, 1997.

[2]See, for example, Leon Bouvier and Scipio Garling, A Tale of Ten Cities: Immigration's Effect on the Family Environment in American Cities (Washington, D.C.: Federation for American Immigration Reform, 1995) and Dan Stein, Immigration 2000: The Century of the New American Sweatshop (Washington, D.C.: Federation for American Immigration Reform, 1992).

[3]See, for example, Julian L. Simon, Immigration: The Demographic and Economic Facts (Washington, D.C.: Cato Institute and the National Immigration Forum, 1992).

There are many options for U.S. policy makers. Some deal with the issues of legal immigration and some deal with illegal immigration. The purpose of this thesis is to examine one policy option in order to provide a comparison for other policy options.

B. POLICY PROPOSAL

Republicans (for example, U.S. Representative Nathan Deal [R-Georgia]) and Democrats (U.S. Senator Barbara Boxer [D-California] and U.S. Representative James Traficant, Jr. [D-Ohio]) alike have proposed the idea of using military force to control illegal immigration. In 1993, Senator Boxer proposed using National Guard members to supplement the Border Patrol. Two bills were introduced in the 104th Congress in 1995. The first bill, H.R. 387, introduced by Representative Traficant would authorize the Secretary of Defense to make up to 10,000 Department of Defense personnel available to assist the INS in preventing entry into the United States of terrorists, drug traffickers, and illegal aliens. The second bill, H.R. 1224, introduced by Representative Deal would amend federal law to authorize the use of members of the armed forces in border protection activities. Senator Boxer's bill was included in the 1994 Defense Appropriations Bill, and in California, the National Guard has been utilized for tasks such as transportation of illegal immigrants. The bills introduced by Representatives Traficant and Deal were both sent to committees and no floor action was taken.

These proposals have been the center of many debates. Many people have expressed the idea that the country is being "invaded" by immigrants and the military would be an appropriate tool to fight illegal immigration. However, immigrant rights activists have claimed that the proposal is xenophobic and racist, and that the use of the

military is inappropriate and could lead to human rights violations. In The Militarization of the U.S.-Mexico Border 1978-1992 (1996), Timothy Dunn explored the "militarization" of the U.S.-Mexico border, including the increasing use of military equipment and low-intensity conflict doctrine. In his findings, Dunn points out that while the military buildup may have been unintentional, the increased use of military tactics and equipment led to a number of human and civil rights abuses. Furthermore, Dunn points out that this increased militarization of the border region may have a significant impact with regards to the North American Free Trade Agreement (NAFTA), and any future border enforcement efforts need to be considered in that context.[4]

This thesis examines the policy pros and cons in using U.S. military forces to control illegal immigration from Mexico. The thesis analyzes the effectiveness of the military option, but will focus mainly on the normative question - "Should they do it?"

C. SIGNIFICANCE OF STUDY

The study is significant because it raises a number of issues related to military operations:

1. The legal ramifications of using military forces for domestic purposes (i.e. the extent of Posse Comitatus Act of 1879);
2. The appropriate use of military forces; and
3. How a military buildup along a border affects bilateral relations and U.S. relations with the rest of the region.

An option for further research would be to compare the "military option" for border control with other U.S. policy options for controlling illegal immigration.

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[4]Dunn, Timothy, The Militarization of the U.S.-Mexico Border 1978-1992: Low-Intensity Conflict Doctrine Comes Home (Austin: CMAS Books, 1996) p. 167.

D. METHODOLOGY

This thesis uses a single case study of U.S.-Mexico border control. Primary and secondary sources in the English language will be used for the analysis. The case is significant because of the length of the U.S.-Mexico border and the high number of immigrants and apprehensions along this border. It is also significant because of the growing integration of the U.S. and Mexican economies through the NAFTA, which went into effect on January 1, 1994. This thesis may have applications in other regional trading blocs such as the European Union and the Southern Common Market (MERCOSUR). For example, on September 15, 1996, the Washington Post reported that Argentina is facing many of the same immigration issues with Bolivia that the United States faces with Mexico. As Bolivia seeks to enter MERCOSUR, this thesis may be useful in evaluating options to control illegal immigration along the Argentina-Bolivia border. The question of controlling borders within a regional trading bloc warrants future research.

Chapter II provides an overview of historical trends in American immigration, as well as providing an overview of U.S. immigration policy. Additionally, it assesses the current situation with respect to illegal immigration along the U.S.-Mexico border. Chapter III assesses the policy proposal with respect to legal issues, appropriateness of the mission and the effects of militarization of the U.S. border on U.S.-Mexico relations and U.S.-Latin American relations. Chapter IV contains a summary and recommendations.

II. HISTORY OF U.S. IMMIGRATION

A. IMMIGRANT AMERICA

There is no question that the United States of America is a nation of immigrants. In studying the immigration question, we must first look at the immigration trends. In early American tradition, immigrants based their settlements largely along ethnic lines and geographic propinquity. For example, early European immigrants were concentrated on the mid and north Atlantic seaboard, while Asians often settled in California and other Pacific States. Similarly the Latin American immigrants made their settlements in the Southwest.[5] The reasons for this concentration of various migrant groups was twofold. First it reduced the cost of the journey, and second it would reduce the cost of the return journey, which many migrants intended to undertake at some point. From these reasons it is easy to see why "Little Italies" (New York, Boston, and Philadelphia) and "Chinatowns" (San Francisco) have emerged.

But migration was not just about moving to a different part of the world. The immigrants of the 19th century came to America for opportunities. The growth of a nation spread the immigrants into all parts of the United States. Irish and Italian workers would move inland as canals were constructed. Union Pacific and Central Pacific railroads drew many Mexican workers as the railroads were built to various cities.

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[5]Portes, Alejandro and Ruben G. Rumbrant, Immigrant America: A Portrait (Berkeley, Los Angeles and London: The University of California Press, 1990).

Additionally, manufacturing jobs led migrant workers to many Midwestern cities, first for steel work and later in the auto industry.

The immigration trends of the 1800s was clearly dominated by European settlers (See Table 1). The settlers of this time period consisted mostly of wage earners, but there were a large number, particularly prior to the Civil War, that were able to take advantage of cheap land prices in the West. German settlers were on the leading edge of this push inland, and dotted the Midwest with rural farm enclaves. This allowed them to maintain areas dominated by their own language and culture.[6]

Scandinavian and Czech immigrants followed a similar pattern. The North Central United States, particularly Minnesota, attracted many of these descendants. During the mid-1800s, Czech migrants built up large farms in Wisconsin, and then toward Nebraska, Oklahoma, and Texas. Today, Czech ancestry still accounts for about 25 percent of the rural population in these states.[7]

In the West, Japanese immigrants followed a similar pattern. During the early 1900s, they engaged in farming and land buying. However, they faced much opposition from domestic farmers:

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[6] Ibid.

[7] Allen, James P. and Eugene J. Turner, We the People: an atlas of America's ethnic diversity (New York: Macmillan Press, 1988).

The Historical Trend in Immigrant Arrivals--1821 to 1995: By Decade and Geographic Region

Period	Total	Europe	Asia	Americas	Africa	Oceania*
1821-30	143,439	98,797	30	11,564	16	33,032
1831-40	599,125	495,681	53	33,424	54	69,911
1841-50	1,713,251	1,597,442	141	62,469	55	53,144
1851-60	2,598,214	2,452,577	41,538	74,720	210	29,169
1861-70	2,314,824	2,065,141	64,759	166,607	312	18,005
1871-80	2,812,191	2,271,925	124,160	404,044	358	11,704
1881-90	5,246,613	4,735,484	69,942	426,967	857	13,363
1891-00	3,687,564	3,555,352	74,862	38,972	350	18,028
1901-10	8,795,386	8,056,040	323,543	361,888	7,368	46,547
1911-20	5,735,811	4,321,887	247,236	1,143,671	8,443	14,574
1921-30	4,107,209	2,463,194	112,059	1,516,716	6,286	8,954
1931-40	528,431	347,566	16,595	160,037	1,750	2,483
1941-50	1,035,039	621,147	37,028	354,804	7,367	14,693
1951-60	2,515,479	1,325,727	153,249	996,944	14,092	25,467
1961-70	3,321,677	1,123,492	427,642	1,716,374	28,954	25,215
1971-80	4,493,314	800,368	1,588,178	1,982,735	80,779	41,254
1981-90	7,338,062	761,550	2,738,157	3,615,225	176,893	46,237
1991-95	5,230,313	760,106	1,582,764	2,706,615	151,101	29,727
175 yrs.	62,215,942	37,853,476	7,601,938	15,773,776	485,245	501,507*

* includes others unidentified by nationality, as often happened before 1911

Source: Statistical Yearbook of the Immigration and Naturalization Service for 1994 and updated for 1995 data

Table 1: Immigration Trends

> As laborers they were accepted, but as land owners and self employers they were resisted. So long as the Japanese remain willing to perform agricultural labor at low wages, they remained popular with California ranchers. But...many Japanese began to lease and buy agricultural land for farming on their own account. This enterprise had the two-fold result of creating Japanese competition in the produce field and decreasing the number of Japanese farmhands available.[8]

The acquisition of land would later lead California to pass laws restricting the purchase of land by immigrants.

1. The Latin American Case

The history of Latin American migration to the United States is similar to other cases, but the proximity of the these countries, particularly Mexico, allows for a larger number of immigrants. As shown in Table 1, the number of immigrants from the Western Hemisphere took a giant leap in the early 1900s. Although immigration was low during the inter-war period, there has been a steadily increasing flow of immigrants, particularly in the 1980s and 1990s.

The early 1900s was a period of prosperous economic growth in the United States. News of this growth and the demand for labor was the initial drawing point for migrant workers from Mexico. These workers became a significant part of the economic and social life in America: "They picked crops, tended cattle, felled trees, mined ores, laid rails, and entered unskilled ranks of American industrial labor, contributing vitally to the incredible economic growth of the United States from 1890 to 1920, particularly in the

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[8] Light, Ivan H. Ethnic Enterprise in America; business and welfare among Chinese, Japanese, and Blacks (Berkeley, Los Angeles and London: University of California Press, 1972).

Southwest, today's burgeoning economic heartland."[9] America has continued its economic growth throughout this century, and the immigrant worker has continued to be a vital part of the work force.

As the Latin American migration increased, the European numbers started to dwindle. From a high of 8 million immigrants between 1900 and 1910, today's figure is less than 100,000 per year. In stark contrast, the Latin American numbers are nearly three times what they were in the early 1900s. Following the initial surge of the 20th century labor demand, Latin American migration dropped during the inter-war years. However, as quickly as it dropped, it rebounded. A large majority of this rebound can be attributed to the economic and social changes since the 1940s.

2. The Economic Migration

Just as the immigrant worker allowed capitalists with Anglo-Saxon names like Morgan and Rockefeller to grow rich, in the years following World War II America underwent another period of a booming economy. During this growth, Latin American workers played a significant role in the economic growth. The pattern of migration in this half century has been marked by a stair step process. Each decade has seen an increase of nearly 100,000 immigrants per year from the Americas (see Table 1). In the decade following WWII, about 50,000 Latin Americans per year immigrated to the United States. By the decade 1981-1990, about 360,000 immigrants per year came from Latin America (and this doesn't include the illegal immigrants). More and more Latin American

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[9] Cockcroft, James D., Outlaws in the Promised Land, (New York: Grove Press Inc., 1986).

countries are seeing an increase in migration to the North, and ultimately to the United States.

The Panama canal provided one of the first reasons for large scale migration. Following that project, several countries saw this increased migration to the North. Colombia exported migrants to Panama and the United States. In Central America, Salvadorans moved, first as settlers and laborers, then as exiles from political and military strife. Many Southern Cone countries were involved in this intense migration. Argentina, Chile, Bolivia, Paraguay and Uruguay all had workers move in and out of their borders.[10] However, as time passed, more of these migrants were focused on the United States because of the lack of economic growth in many Latin American countries.

The stair step pattern of migration was in four stages or groups. First and most prevalent are the unskilled and semiskilled workers. These workers tend to circulate temporarily across the border of contiguous countries. Most of these workers are young and work in low paying jobs such as agriculture. However, there has been, in recent years a push toward major cities to work in the service sector.

The other three groups are smaller. There are refugees who come from the privileged class. Their migration is usually the result of a the privileged families losing its status or wealth during a regime change. The third group of migrants are those from rural families in countries such as Guatemala and El Salvador. These are usually women and

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[10] Bach, Robert L., "Hemispheric Migration in the 1990s", in Jonathan Hartlyn, Lars Schoultz, and Augusto Varas, eds., The United States and Latin America in the 1990s: Beyond the Cold War (Chapel Hill and London: The University of North Carolina Press, 1992).

children that have been dislocated as a result of military attacks on rebel groups. The final group are the highly skilled technicians and professionals who climb regional stair steps to career advancement and relocation to the United States.[11]

The immigration patterns to the United States can be a volume in itself. This brief overview was intended to summarize the increase in Latin American immigrants that are entering the country today. Prior to examining the illegal immigration situation, it would be useful to review the history of immigration legislation. A review of this legislation will provide a basis for evaluating current policy proposals in the context of "what has been tried" before.

B. PRIOR LEGISLATION

During the 1800s there was not much thought about immigration laws. As a growing nation, nearly everyone had close ancestors that were foreign born. Consequently the first "real" immigration laws didn't come about until 1864. Although Congress passed legislation in 1819 pertaining to immigration reporting, it wasn't until 1864 that they established centralized control over immigration under the Secretary of State with a Commissioner. The importation of contract laborers was legalized in this legislation. In 1870, the Congress legislated for the first time in an area previously regulated by the individual states or colonies. The 1870 act established a uniform rule for naturalization by setting the residence requirement at two years.[12]

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[11]Ibid.

[12]Heer, David, Immigration in America's Future: Social Science Findings and the Policy Debate (New York: Westview Press, 1996), p. 37-38.

Between 1875 and 1920 there were a number of statutes pertaining to who would be allowed to immigrate into the United States. In 1875 federal regulation outlawed the entry of prostitutes and convicts. In 1882 the Chinese exclusion law curbed Chinese immigration. Additionally, this law excluded immigrants that had been convicted of political offenses, lunatics, idiots, and persons likely to become public charges. This law also placed a head tax on each immigrant. In 1885, the admission of contract laborers was banned, and in 1888 provisions were adopted to provide for the expulsion of aliens.

The growth of the United States, and the confusion of immigration statutes led to the establishment of the Bureau of Immigration in 1891. This bureau fell under the Treasury Department and was established to administer all immigration laws. Some of their first actions included consolidation of the different laws, and in 1903 they added polygamists and political radicals to the exclusion list. The years 1906 and 1907 saw an increase in the head tax, along with the addition of people with physical or mental defects or tuberculosis to the exclusion list. As the population in America grew, so did the exclusion list. In 1917, the list was expanded to include illiterates, persons of psychopathic inferiority, men as well as women entering for immoral purposes, alcoholics, stowaways, and vagrants.[13]

In 1921 the first quantitative immigration law based on quotas was adopted. It set temporary annual quotas according to nationality. The Border Patrol was established in 1924, and in 1929 permanent quotas were set. These quotas, along with the war and the depression were a large factor in the decreased migration during the interwar periods. The

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[13]Ibid. p. 41.

1940s saw a number of provisions in immigration law. Particularly in 1946, when procedures were adopted to facilitate immigration of foreign-born wives, fiances(e)s, husbands, and children of U.S. armed forces personnel. In 1948, the United States adopted policies for administering persons fleeing persecution. It permitted 205,000 refugees to enter the United States over two years and later increased that number to 415,000. Many of these laws were a direct result of World War II.

The first comprehensive immigration law came in 1952. It (1) reaffirmed the national origins quota system, (2) limited immigration from the Eastern Hemisphere while leaving the Western Hemisphere unrestricted, (3) established preferences for skilled workers and relatives of U.S. citizens and permanent resident aliens, and (4) tightened security and screening standards and procedures. This major legislation had a significant impact on the immigration patterns outlined above. People in Latin American countries who sought an improvement in their economic conditions were eager to use this law as a catapult for their migration.[14]

A second major contributor to Latin American migration came in 1965. This policy change in the U.S. abolished the national origins quota system. But still maintained was the principle of numerical restriction by establishing 170,000 Hemispheric and 20,000 per country ceilings and a seven category preference system (favoring close relatives of U.S. citizens and permanent resident aliens, those with needed occupational skills, and refugees) for the Eastern Hemisphere and a separate 120,000 ceiling for the Western Hemisphere. This legislation seemed to stem out of a growing concern over the

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[14]Ibid. p. 53.

migration of Mexican workers.[15] It would also be a major factor in the increase in illegal immigration.

At the time of this legislation there was the a type of satisfaction with the knowledge that immigration could be controlled. Senator Edward Kennedy was the primary sponsor and the floor manager of the 1965 changes in the immigration laws. He did not expect the immigration in the unlimited categories of relatives to ever reach and certainly never exceed 100,000. However, by 1985, the numbers were double that amount.[16]

The number of people emigrating to the United States steadily grew following the 1965 Immigration Act. During the late 1970s and early 1980s, the number of refugees coupled with the increasing trend of undocumented workers began to draw public attention. By 1986, congress was ready to pass another major immigration reform bill.

The Immigration Reform and Control Act (IRCA) of 1986 was a comprehensive reform effort. It (1) legalized aliens who had resided in the United States in an unlawful status since January 1, 1982; (2) established sanctions prohibiting employers from hiring, recruiting, or referring for a fee aliens known to be unauthorized to work in the United States; (3) created a new classification of temporary agricultural worker and provided for the legalization of certain such workers; and (4) established a visa waiver pilot program

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[15]For a discussion on issues addressed in the Congressional debates in 1965 see Heer, p. 54-55.

[16] Lamm, Richard D. and Gary Imhoff, The Immigration Time Bomb: The Fragmenting of America (New York: Truman Talley Books, 1985).

allowing the admission of certain nonimmigrants without visas. Separate legislation stipulated that the status of immigrants whose entry was based on a marriage be conditional for two years, and that they must apply for permanent status within 90 days after their second year anniversary.

As written, the 1986 bill had the potential to solve many of the immigration problems for the United States. However, that optimism was short lived. There were two major problems with the bill. First, the number of persons that the INS estimated were eligible for legalization under the bill was approximately 400,000 nationwide. However, in California alone, the number of applications received for legalization was almost 700,000. Nationwide, approximately 80% of the applications for legalization were approved.[17] This created a unexpectedly large number of immigrants that became legal residents. The large increase over INS estimates was used by anti-immigration activists as a signal that the U.S. was being "overrun" by immigrants.

The second problem with the 1986 bill was that employers were not required to maintain any documentation for hiring workers. Their only requirement was to examine documents during the hiring process. There were many reports that employers were shown fraudulent documents, but because there was not a requirement for the employer to maintain documentation, sanctions against these employers were difficult to prove.[18]

It became quickly apparent that the IRCA actually did not solve the immigration problems. This led to the latest comprehensive immigration legislation, the Immigration

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[17]Heer (1996) p. 61.

[18]Ibid.

Act of 1990 (IMMACT). IMMACT provided for (1) increased total immigration under an overall flexible cap of 675,000 immigrants beginning in fiscal year 1995, preceded by a 700,000 level during fiscal years 1992 through 1994; (2) created separate admission categories for family-sponsored, employment-based, and diversity immigrants; (3) revised all grounds for exclusion and deportation, significantly rewriting the political and ideological grounds and repealing some grounds for exclusion; (4) authorized the Attorney General to grant temporary protected status to undocumented alien nationals of designated countries subject to armed conflict or natural disasters, and designated such status for Salvadorans; (5) revised and established new nonimmigrant admission categories; (6) revised and extended through fiscal year 1994 the Visa Waiver Program; (7) revised naturalization authority and requirements; and (8) revised enforcement activities.

As shown in Table 2, the Immigration Act of 1990 once again focused on "who we want to be immigrants." By categorization and preferences, there appears to be a significant movement toward reducing the number of unskilled Latin American immigrants. The question that must be asked is "What is the best route for America?" IMMACT has not significantly changed the characteristics of migrants entering the United States, which is not surprising given the relatively short period that it has been in effect. The new categories, or those that have been revised account for only about 30 percent of the total number of immigrants that were admitted in 1992. Family reunification remains

Categories and Allocations of Preference Immigrants

Preference	Provision	Allocation
Family-Sponsored Immigrants (minimum or 226,000)		
First	Unmarried sons and daughters of U.S. citizens	23, 400
Second	Spouses and unmarried sons and daughters of permanent resident aliens	114,200
Third	Married sons and daughters of U.S. citizens	23,400
Fourth	Brothers and sisters of U.S. citizens (at least 21 years of age	65,000
Employment-based preferences (minimum or 140,000)		
First	Priority Workers	28.6% of total or 40,040
Second	Professionals with advanced degrees or aliens of exceptional ability	28.6% of total or 40,040
Third	Skilled workers, professionals, needed unskilled workers (limited to 10,000)	28.6% of total or 40,040
Fourth	Special Immigrants	7.1% of total or 9,940
Fifth	Employment creation ("investors")	7.1% of total or 9,940

Source: U.S. Commission on Immigration Reform, US Immigration Policy: Restoring Credibility (Washington, D.C.: U.S. Government Printing Office, 1994) p. 194.

Table 2: Categories and Allocation of Preference Immigrants

as the number one reason that foreigners apply of admission to the United States, and this is not likely to change.[19]

The immigration laws outlined above have all been designed to control the flow of immigrants into the United States. However, the aspect of immigration that receives substantial coverage today is illegal immigration.

C. ILLEGAL IMMIGRATION

The immigration laws of 1965, 1986, and 1990 all stemmed from a growing concern over illegal immigration. During the 1940's, the United States implemented the Bracero Program which was based on a bilateral treaty with Mexico designed to replace American farm workers that had gone to fight in World War II. Under this program approximately 400,000 workers per year were admitted to the United States from Mexico.[20] In the years following WWII, as troops returned home, the United States realized that the Bracero program was no longer needed, and in 1964, the program was ended. However, by that time, the demand for Mexican labor had become institutionalized as a source of low cost workers.[21] Although the Bracero program had ended, many Mexicans could earn more in the United States than in Mexico, and the agricultural industries benefitted because they could pay undocumented workers less than American workers that were returning home

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[19] U.S. Commission on Immigration Reform, US Immigration Policy: Restoring Credibility (Washington D.C.: U.S. Government Printing Office, 1994) p. 214.

[20] Heer (1996) p. 56.

[21] Taymayo, Jesus, "Mexican Modernization's Consequences for Mexican Undocumented Labor Migration" in Donald E. Shulz and Edward J. Williams, eds., Mexico Faces the 21st Century (Westport, CT and London: Praeger Publishers, 1995) p. 154.

from the war. In the environment of strong economic growth in the United States following World War II, the Mexican undocumented worker became a valuable resource for agricultural industries in the Southwestern United States. While Mexico was not the only source of undocumented immigrants, the length of the U.S.-Mexico border allowed a large number of workers to cross the border on a regular basis.

The end of the Bracero program, along with the implementation of the Immigration Act of 1965, led to an increase in illegal immigration. As stated above, the 1965 Act limited legal immigration from the Western Hemisphere to 120,000 people per year. The Bracero program that had been in place for 20 years had allowed 400,000 people per year to enter the United States. These 400,000 people had become institutionalized into the Southwestern agricultural industry. The change in the number of legal immigrants admitted after 1965 had little effect on the number of workers desired by the agricultural sectors of the southwest or on the number of Mexican farm workers seeking work in the United States.

An additional influence on the increase in illegal immigration was the Immigration Act of 1976. While not considered a major piece of legislation, the act placed a limit of 20,000 immigrants per country in the Western Hemisphere, in addition to keeping the 120,000 total limit for the hemisphere. This legislation served to reduce the number of Mexican immigrants allowed into the United States. Without the individual country limit, Mexico had been the major source of non-refugee immigrants. The new policy limiting legal immigration resulted in an increase of illegal immigration.

In the years following the 1976 legislation, the number of illegal immigrants in the United States grew, and by the early 1980s the U.S. Congress was focusing on immigration reform that would alleviate the growing problem of illegal immigration. The Immigration Reform and Control Act of 1986 (IRCA) allowed for an amnesty of undocumented workers that could prove that they had been consistently working in the United States and placed sanctions on employers who knowingly hired undocumented workers.

At the time IRCA was implemented, the INS estimated that approximately 5 million undocumented workers resided in the United States. By 1992 approximately 2.71 million of these people had been granted amnesty under the provisions of IRCA.[22] However, as shown in the current INS estimate the number of illegal immigrants has again reached approximately 5 million.

D. THE CURRENT SITUATION

As shown from the overview above, the United States has been called a nation of immigrants. The fact that America is the melting pot for so many different cultures, races, and religions makes it unique in the world. It is also what has helped mold "the national character." For more than 300 years, various ethnic, cultural, and social groups have migrated to American shores to reunite with their loved ones, to seek economic opportunity, and to find a haven from religious and political persecution. They have brought their hopes, their dreams, and, in turn, contribute, enrich and energize America.

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[22]Heer (1996) p. 61.

However, today there is a growing backlash against immigration. The United States Congress recently passed legislation that significantly reduces aid to many legal immigrants. Additionally, newcomers are often portrayed in the media as scam artists seeking any path to economic gain. Often the confusion is a result of politicians and reporters not making a distinction between legal and illegal immigrants.

The confusion often stems from a lack of reliable data on illegal immigration. On the legal side of immigration, State Department figures show that approximately 700,000 people a year enter as legal immigrants along with another 100 to 150,000 legal refugees. Both immigration proponents such as the American Immigration Lawyers Association and immigration opponents such as the Federation for American Immigration Reform (FAIR) generally agree on these figures. Of these figures, about 8 of 11 immigrants come to join family members. Family-sponsored immigrants enter as either immediate relatives--spouses, unmarried minor children, or parents--of U.S. citizens, or through the family preference system, for relatives or siblings of permanent residents of the U.S. While there are unlimited number of visas issued for immediate relatives of U.S. citizens, INS data shows that only around 235,000 visas have been issued annually in this category in recent years[23]. The family preference system is far more restrictive and limits the number of visas issued in its four categories to a total of 226,000 per year. In addition, the waiting period for a visa can be very long. For example, a sibling of a U.S. citizen who applies today to immigrate to the U.S. could get a visa 30 years from now.

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[23]U.S. Commission on Immigration Reform, p. 191.

It is easy to see that family reunification is the cornerstone of American legal immigration policy. It is truly one of the most visible areas in government policy in which Americans support and strengthen family values. Even the most ardent supporters of immigration limitations acknowledge that family unification translates into strong families who build strong communities.

As shown in Table 2, the second priority of the legal admission system allows employers to bring in a relatively small number of skilled workers from other countries when there are no qualified Americans available to fill the job.

The data for legal immigration is generally agreed upon and while there is some debate over the "appropriate" levels of legal immigration, the real debate focuses on what should be done about illegal immigration. With the recent INS estimate, it is conceivable that there will be a renewed call for the "militarization" of the U.S.-Mexico border. Legislation such as introduced by Senator Boxer in 1993 or by Representatives Deal and Traficant in 1995 may once again be introduced in the U.S. Congress. From this assumption, it is beneficial to examine the pros and cons of using military force to control illegal immigration at the U.S.-Mexico border.

III. ANALYZING THE PROPOSED POLICY

The proposal to utilize military forces to control illegal immigration along the U.S.-Mexico border raises a number of issues. The proposal must be analyzed with respect to (a) legal issues; (b) the appropriateness of the mission for military forces; © and the impact that "militarization" of the border would have on U.S.-Mexico and U.S.-Latin American relations. The exploration of these three aspects of the proposal will allow for a meaningful cost-benefit analysis.

A. LEGAL ISSUES

The most important legal aspect of the proposal to utilize military forces to control illegal immigration along the U.S.-Mexico border is centered around the Posse Comitatus Act of 1879. Posse Comitatus (literally, "the power of the country") is a group of people, acting under the authority of the police or sheriff, searching for a criminal or making an arrest. The act was originally established following the U.S. Civil war in order to prevent the military from being used in law enforcement. Under Title 18 of the U.S. Code, the Posse Comitatus Act states that:

> Whosoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than $10,000 or imprisoned not more than two years, or both[24]

This provision in the U.S. Code ensured that the military would not be utilized to perform law enforcement activities. The act was passed by a U.S. Congress that had deep

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[24]U.S. Code, Title 18 @ 1385.

concerns about the possibility of the United States falling under military rule. In passing the law, they ensured that law enforcement would remain a civilian activity.

The Posse Comitatus act has remained a part of the U.S. Code for over 100 years. However, in the early 1980's, with the passage of the Defense Authorization Act of 1982, the U.S. Congress allowed for a relaxation of the Posse Comitatus Act. While the Defense Authorization Act did not change Posse Comitatus per se, it did add language to Title 10 of the U.S. Code. Title 10 covers the Armed Forces of the United States, and the Defense Authorization Act of 1982 added a section (Chapter 18) that would allow military forces to support civilian law enforcement agencies.

The intent of this legislation was to allow the military to be used to fight the "War on Drugs."[25] However, the language included in Chapter 18 of Title 10 does not limit the use of military personnel and equipment to support only counterdrug operations. As currently written, the U.S. Code allows for the military to support *any* federal law enforcement agency that has jurisdiction to enforce drug, immigration, or customs laws.[26]

The limitation currently imposed on the support activities provided by the Armed Forces is that members of the military may not directly participate in a search, seizure, arrest, or other similar activity.[27] The legislation as introduced by Rep Nathan Deal

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[25]Bagley, Bruce M., "Myths of Militarization: Enlisting Armed Forces in the War on Drugs", in Peter H. Smith, editor, Drug Policy in the Americas, (Westview Press, Boulder, CO., 1992) p. 130.

[26]U.S. Code Title 10 @ 374.

[27]U.S. Code Title 10 @ 375.

(R-Ohio), would eliminate this distinction for military members engaged in border protection.[28]

The legal limitations on military participation in law enforcement activities can be reversed by Congressional legislation. The Posse Comitatus Act is not linked in any manner to the U.S. Constitution. The Congress can easily eliminate the restrictions that prevent a full use of the military in border enforcement, but that does not necessarily mean that the mission will be an appropriate use of the Armed Forces.

B. APPROPRIATENESS OF THE MISSION

In the Post-Cold War era, the United States Armed Forces have been frequently called upon to conduct non-traditional missions. For example, following the Gulf War, the military was involved in humanitarian assistance to Kurdish people in Northern Iraq. Similarly, the military has been involved in non-combatant evacuation operations (NEO) in Somalia, and in peacekeeping missions in Bosnia. However, military involvement in non-traditional roles has not been limited to missions outside the United States. For example, in August 1992, part of the Second US Army formed a Joint Task Force to provide humanitarian assistance in south Florida following Hurricane Andrew. In this case, the military worked closely with civilian Federal, state and local authorities to provide support for U.S. citizens affected by the storm.

With the possible exception of Somalia, the recent non-traditional missions in which the military has provided support and assistance have been highly successful. This success has led to an increase in the roles and missions that the military may participate in the

[28]House Resolution 1224, introduced 3/14/95.

future. For example, the current U.S. National Security Strategy and National Military Strategy both recognize that non-traditional roles will continue to be a part of the military's repertoire. In the National Security Strategy (1996), the Clinton Administration states that the military will be called upon to assist in counter terrorism, fighting drug trafficking, and other missions, such as NEO's and humanitarian assistance.[29] The National Military Strategy (1996) also outlines these functions as components of military strategy. The planning for these "operations other than war" have recently been included in the U.S. military joint doctrine.

In Joint Publication 3-0, Doctrine For Joint Operations, the Chairman of the Joint Chiefs of Staff for the U.S. Armed Forces outlines how military joint operations will conducted in the future. In this publication, chapter four is dedicated to operations other than war, and in this chapter, the Chairman provides general guidelines for U.S. military forces when participating in non-combat operations. The doctrine for operations other than war recognizes that many government agencies will be involved in most missions and that they will not always take place outside of the United States.

The most recognized mission that takes place within or very close to the United States is the counterdrug operations. As part of the National Drug Control Strategy, the military is called upon to "act as the single lead agency in detecting and monitoring aerial

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[29]The White House, A National Security Strategy of Engagement and Enlargement (Washington, D.C.: U.S. Government Printing Office, 1996) p. 15-17.

and maritime transit of illegal drugs into the United States."[30] As part of this mission, the military works closely with civilian law enforcement agencies to inspect shipments and vehicles that are entering the United States. While the issue of drug shipments and illegal immigration are somewhat different, it seems reasonable that any extension of the military's role to include the apprehension of illegal aliens would stem directly from forces that are already involved in the monitoring of the U.S. border The question for U.S. policy makers is should this mission of drug enforcement be extended to include the apprehension of illegal immigrants.

1. Which Service

Before answering the question of whether or not the mission of border enforcement is appropriate for the military, it is reasonable to ask which branch of the military would be included in this mission. The legislation introduced in 1995 by Representatives Traficant and Deal do not specify which branch of the services would be involved, only that the Secretary of Defense would detail members of the Armed Forces to civilian agencies for assistance in border patrol functions.

Assuming that the control of illegal immigration will stem from the counterdrug operations that take place along the U.S. border regions, it is necessary to briefly examine counterdrug operations in order to assess which services are best suited for that mission. In terms of personnel, all U.S. services provide support as part of the National Drug Control Strategy. For example, in 1995, the Army and Air Force contributed over 4100

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[30]Chairman, Joint Chiefs of Staff, Joint Pub 3-0: Doctrine for Joint Operations (Washington, D.C.: U.S. Government Printing Office, 1995) p. V-8.

personnel on any given day.[31] This includes active duty personnel, National Guard, and reserve personnel. These personnel provide support in operations, reconnaissance, maintenance, intelligence, planning, and training. On the Naval side, approximately 21,000 flight hours and 2,800 ship days were expended in 1995 for counterdrug operations, and the Marine Corps participated in 109 missions that supported operations along the Southwest border.[32]

In terms of dollars, there has been a significant increase in spending on counterdrug operations to support the operating tempo. Between 1981 and 1989, the U.S. government spent approximately $21 billion dollars on counterdrug efforts. But, the totals for the next two fiscal years, 1990 and 1991, exceeded $20 billion dollars.[33] However, a report by the General Accounting Office (GAO) found that there was "no direct correlation between resources spent to interdict and the long-term availability of imported drugs in the domestic market."[34] Furthermore, a 1993 GAO report that was exploring potential reductions in the DOD budget recommended that Air Force and Navy operating tempos for counterdrug operations be reduced back to 1990 levels, because they were not providing a reasonable return on investment. The GAO found that the counterdrug

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[31]U.S. Congress. House. Committee on Appropriations, Department of Defense Appropriations for 1996 104th Cong., 1st Sess., (Washington D.C.: U.S. Government Printing Office, 1996) p. 201.

[32]Ibid., p. 338.

[33]Dunn (1996) p.104.

[34]U.S. General Accounting Office, Drug Control: Issues Surrounding Increased Use of the Military in Drug Interdiction, (Washington D.C.: U.S. GAO, 1988) p. 29-30.

missions did not provide equivalent training for Air Force and Navy primary defense missions. The flying hours and steaming days that were expended for counterdrug operations often had to be duplicated to meet training requirements.[35]

An additional factor that supports the GAO's recommendations for reducing the Air Force and Navy roles in the War on Drugs was highlighted in a 1993 study funded by the Office of National Drug Control Policy (ONDCP) and conducted by Sandia National Laboratories. The study found that the primary smuggling route across the southwest border was by land.[36] This suggests that investing more resources in land based organizations, such as Joint Task Force 6 based in El Paso, Texas, will provide a better return on the investment.

The Sandia study also found that the patterns for illegal immigration were similar to the drug smuggling. In their report, Sandia estimated that illegal immigrants in the United States ranged from 1.3 to 3.9 million nationally with the majority, 1.2 million to 3.2 million, being Mexicans that had crossed the southwestern border.[37] As stated in the introduction, the 1997 INS estimate of illegal immigration places the total number of immigrants in the United States at 5 million, and estimates that half of those are of Mexican origin.

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[35]U.S. General Accounting Office, 1994 DOD Budget: Potential Reductions to the Operational and Maintenance Programs (Washington, D.C.: U.S. GAO, 1993) p. 55-56.

[36]U.S. General Accounting Office, Border Control: Revised Strategy is Showing Some Positive Results (Washington, D.C.: US GAO, 1994) p. 4.

[37]Ibid., p. 8.

The use of Joint Task Force 6 in El Paso, Texas and National Guard troops in San Diego, California has been a part of the INS overall strategy. The military forces have assisted in building physical barriers to entry as well as taking part in operations such as "Hold the Line" in El Paso. According to Sandia National Laboratories, efforts to prevent illegal immigrants from crossing the border are more effective than attempting to apprehend aliens once they have entered the United States.[38]

From studies such as the Sandia study and other GAO reports, it appears that a combination of Army and National Guard troops would best be suited for border control activities. They are equipped to occupy territory, and can erect base camps along the southwestern border. However, there are other issues that must be considered to determine if the mission is appropriate.

2. Human Rights

One critical argument that is used by opponents of the "military option" for border control is that the use of military forces will lead to human rights abuses along the border region. During the late 1980s and early 1990s a number of human rights abuses have been reported by various human rights and immigrant rights activists.[39] Although only about 6% of the illegal aliens apprehended reported abuses by the border patrol, the reporting of these cases raises the question of the proper approach to border patrol.[40] As argued by

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[38]Ibid., p. 12.

[39]For a discussion on specific incidents see, for example, Dunn (1996), p. 83-90 and Heer (1996), p. 174-177

[40]Dunn (1996), p. 85.

Timothy Dunn, "the War on Drugs appears to have exacerbated the potential for human and civil rights abuses."[41] The increased militarization of the border coupled with the increase in drug smuggling has placed border patrol agents on edge. The use of military forces in the enforcement of the borders may add to the already increasing tensions between the INS and illegal immigrants. The civilian INS agents, as well as local law enforcement personnel, receive training in human rights abuses and how to avoid them. The military traditionally trains in a different manner. This is because the military's goal is to guard against threats to United States' interests.[42] By elevating illegal immigration to a "threat to the United States" and placing military personnel in the position to stop the immigration, additional human rights abuses may occur. The military members may view themselves as the "last chance" to stop immigrants and use excessive force to prevent the entry of illegal immigrants into the country. This would be especially true in the early stages of using the military, until they became fully trained on human rights abuses.

3. Impact on Military Readiness

A third area that needs to be evaluated in determining the appropriateness of the mission is the impact on military readiness. The current law requires that any support provided to civilian law enforcement agencies by the Department of Defense must not adversely affect military preparedness.[43] There are two possible scenarios for military

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[41]Dunn (1996), p 86.

[42]Chairman, Joint Chiefs of Staff, National Military Strategy of the United States of America (Washington, D.C.: U.S. Government Printing Office, 1995) p. I.

[43]U.S. Code, Title 10 @ 376.

readiness in the context of border enforcement. On one hand, the requirements for interagency cooperation may enhance military readiness in some respects. By working closely with civilian agencies, the military may obtain useful experience that can be applied in other operations. Additionally, the military units that conduct detection and monitoring operations along the border may be able to utilize the operations as training scenarios.

However, there may also be negative impacts on readiness. The first reduction in readiness would take place in the area of training. The use of military forces for border surveillance is not generally considered the primary purpose of the army. Border surveillance does not really contribute to combat effectiveness. The time required to train the troops for border surveillance would reduce the time available for training in other areas of combat. The troops would then become an extension of the border patrol and be of little use in combat situations.

A second area of readiness that might be affected is morale. The soldiers of today are the most educated of any soldiers in history. The opportunities in today's armed forces consist of a wide variety of vocations. The military must establish itself as a legitimate organization in order to maintain the commitment of its personnel. It would be difficult to "justify" the use of military force to control borders in an age when integration and diversity are a cornerstone of the education system. If the military embarks on a mission that contradicts the beliefs of the troops, the legitimacy of the organization could be questioned. This questioning by the troops (whether right or wrong) could lead to a decrease in morale, and low morale results in lowered readiness. Also, if the efforts of the

military to control illegal immigration were unsuccessful, the "failure" would lower morale.

Since the end of the Gulf War, the United States Armed Forces have enjoyed a high level of popularity, both among the American people and the United States Congress. This popularity has the potential to extend the roles and missions of the Armed Forces into areas that have never been a military function. The extension of military roles to include border enforcement does not seem appropriate. Only a small portion of the military is likely to be effective in this mission, and even then there is the potential for human rights abuses. Although the military is a highly professional organization that could adapt to this new mission, the option to use military force for border enforcement is not a unilateral decision that can made simply to satisfy some isolationists. The next section examines the impact of "militarizing" the border on U.S.-Mexican relations.

C. IMPACT ON UNITED STATES-MEXICO RELATIONS

The use of military force along the U.S.-Mexico border is not a new issue. The border region has been a somewhat volatile area since the current boundaries were established following the Texas Revolution of 1836 and the Mexican War of 1846-48. Under the Treaty of Guadalupe Hidalgo and the Gadsen Purchase, Mexico surrendered approximately half of its territory to the United States including present day Texas, New Mexico, Arizona and California. For the Mexican people, as well as other Latin Americans, the Mexican War confirmed their suspicions that the Monroe Doctrine, a policy that warned against European intervention into the western hemisphere, was a front

"behind which the powerful nation to the North could keep other countries out of Latin America until the time was ripe for its own imperialistic expansion."[44]

The latter half of the nineteenth century and the first part of the twentieth century has been marked by a number of low-level conflicts over the border.[45] For example, the Cortina War (1859-60) was a violent dispute that lasted several months. The dispute revolved around a rancher in the Lower Rio Grande Valley, Juan Cortina, who emphasized three grievances: *mexicanos'* loss of land by legal means as well as intimidation, the impunity with which the *mexicanos* were being killed by the Anglo population, and the arrogance of Anglo racism.[46] The violence was ended by U.S. Army troops and Texas Rangers that defeated Cortina and his supporters.

A second example of border violence that involved U.S. military forces occurred in the years 1916 and 1917. In this well known case, General John Pershing and 10,000 U.S. troops entered Mexico in pursuit of Pancho Villa. Pancho Villa had conducted raids along the border, and in Columbus, New Mexico, he killed seventeen U.S. citizens. The raids caused enormous public outcry in the United States, and U.S. President Woodrow Wilson wanted to show that the United States had the right to chase those who committed crimes

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[44]Crow, John A., The Epic of Latin America (fourth Edition) (Berkeley, Los Angeles and London: University of California Press, 1992) p. 658.

[45]For a discussion of various conflicts see Oscar J. Martinez Troublesome Border (Tucson: University of Arizona Press, 1988) and Robert J. Rosenbaum, Mexican Resistance in the Southwest: The Sacred Right of Self-Preservation (Austin: University of Texas Press, 1981).

[46]Dunn (1996) p. 7.

in the United States. This situation was eventually settled by negotiations, after U.S. troops had failed to capture Pancho Villa.[47]

The use of military force during and immediately following World War I and the Mexican Revolution was an attempt to pacify the region. As stated earlier, the U.S. Border Patrol was established in 1924. The border patrol served as a guardian for the "revolving door" that was the U.S.-Mexico border. As a civilian agency, the border patrol carried out comparatively less severe forms of border militarization during the ensuing decades.[48]

Although there have been periods of low level violence along the border, the relationship between the United States and Mexico should not be characterized as hostile. During the 1930's Franklin Delano Roosevelt implemented the "Good Neighbor Policy" to produce a spirit of cooperation rather than intimidation in the western hemisphere. This policy set the stage for improved relations between the United States and Mexico.

Since the 1930s, the U.S. Border Patrol has gone through periods of heavy and lower enforcement of illegal immigration. During the Great Depression, the focus was to close, or at least limit, the "revolving door." However, during World War II and the Bracero Program, the "revolving door" was not as strictly enforced. Since the mid 1980's, the Border Patrol has once again focused on keeping the border secure. As Timothy Dunn argues in his book, the enforcement strategy in the last two decades has increasingly

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[47]Kryzanek, Michael, J., U.S. Latin American Relations (second edition (New York: Praeger Press, 1990) p. 49.

[48]Dunn (1996) p. 11.

become more militarized. However, this enforcement strategy has the potential to hinder future relations with Mexico.[49]

One potential effect of the "military option" for border control is that Mexican immigrants would be less likely to be assimilated into U.S. society. The military tactics employed by the border patrol, as well as actions such as California's Proposition 187, have caused some immigration activists to claim that the United States is reverting to a Manifest Destiny mentality, which views the southwestern United States as destined to be "Anglo."[50] The southwestern United States contains the majority of the Mexican immigrants, which form a somewhat continuous Mexican society from Yucatan to Colorado. Samuel P. Huntington has argued that Mexican migrants are less likely to be assimilated into American society, and the "results of American military expansion in the nineteenth century could be threatened and possibly reversed by Mexican demographic expansion in the twenty-first century."[51] If one accepts Huntington's argument, militarization of the border could be a catalyst for increased tensions between Mexicans and Americans in the Southwest. The tensions could result in: (1) Americans not wanting Mexican immigrants to be assimilated, and (2) Mexican immigrants not wanting to be assimilated.

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[49]Dunn, p. 167.

[50]Hinojosa, Raul and Peter Schey, "The Faulty Logic of the Anti-Immigration Rhetoric," *NACIA Report on the Americas*, (Nov/Dec 1995).

[51]Huntington, Samuel P., The Clash of the Civilizations and the Remaking of the World Order (New York: Simon & Shuster, 1996) p. 206.

Less assimilated societies may show an increase in poverty and crime.[52] The "blame" for these conditions could become a critical issue in U.S.-Mexican relations.

In *Limits to Friendship: The United States and Mexico*, Robert Pastor and Jorge Castañeda argue that the future will bring more interaction between Mexico and the United States. As NAFTA unfolds, and the economies of the two nations become more integrated, the use of military force along the border region could generate negative political and cultural consequences. Pastor and Castañeda also argue that Washington should take into account Mexico's view when considering immigration reform. Using military force sends the negative message that the United States is "being invaded." The message that Mexico receives may be one that says the United States does not want to cooperate on the issue of immigration. With the history of border violence, a return to using the military to control the border would hinder U.S.-Mexico relations.

D. IMPACT ON U.S. RELATIONS WITH LATIN AMERICA

The use of the military for border control could have similar consequences on U.S. relations with Latin America as a whole. The United States has used military force in many instances in Latin America.[53] In many countries, the use of military force by the United States has brought condemnation from the public and policy makers. One example can be seen in the War on Drugs. In 1990, Peruvian President Alan García threatened to

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[52]Federation for American Immigration Reform, A Tale of Ten Cities: Immigration's Effect on the Family Environment in American Cities (Washington, D.C.: FAIR, 1995) p. xvi-xix.

[53]See, for example, G. Pope Atkins, Latin America in the International Political System (Boulder, San Francisco and Oxford: Westview Press, 1995) p. 298-330.

boycott the Andean Summit at Cartangena, Colombia, in protest of the U.S. "occupation" of Panama.[54] U.S. President Bush utilized the Andean Summit to emphasize that the U.S. wanted cooperation and not conflict with Latin America in the drug war.[55]

Cooperation is also needed in the immigration debate. Abraham F. Lowenthal points out that the Latino population is rapidly expanding in the United States, and that the border is becoming blurred through increased regional integration. "The line between 'domestic' policy and 'Latin American' policy is thus becoming harder to define as the regions of the hemisphere become ever more interconnected."[56] If the military is used to control immigration, the United States might isolate not only Mexico, but all of Latin America.

E. COST-BENEFIT ANALYSIS

Controlling illegal immigration at the U.S.-Mexico border is a challenge that will require policy makers to allocate many resources. In return for this investment, the policy makers, and the American people, will expect a return on the investment. However, it is not clear that the use of military forces will provide an adequate return on the investment. The proposal to use military forces for border enforcement does not necessarily need to be analyzed as a function of dollars. If the United States is serious about stopping illegal

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[54]Associated Press, "Latin Allies Prefer U.S. Money to Military in Drug-Fight Role," *Miami Herald*, (January, 17, 1990, 10A).

[55]Bagley (1992), p. 139.

[56]Lowenthal, Abraham F., "Latin America and the United States in a New World: Prospects for Partnership," in Abraham F. Lowenthal and Gregory F. Treverton eds., Latin America in a New World (Boulder, San Francisco and Oxford: Westview Press, 1994) p. 245.

immigration, then the dollar cost will be similar whether the military or civilian border patrol is used. As shown in Table 3, the estimated cost of either 10,000 Border Patrol agents or 10,000 military troops is one billion dollars. The costs and benefits of using military forces must be viewed as a function of the effect on military readiness and U.S.-Mexico relations.

The effect of using the military to control immigration will likely decrease readiness in some areas. As reported by the GAO, the use of Air Force and Navy units in the War on Drugs has not translated into adequate training for their primary missions. It seems that the same could be said about using these forces to control immigration. Indeed, the Navy would not provide a significant amount of enforcement capability considering that the majority of the immigration takes place over land.

The Army's role in immigration control would also require a trade-off. If the U.S. Congress passes legislation that allows military forces to directly participate in law enforcement, then there would be a substantial training requirement. The forces that are attached to Joint Task Force 6 would need to be trained in human rights, civil rights, and proper search and seizure techniques. This training would most likely replace traditional combat training. The military forces that become involved in the mission of border enforcement would essentially become an extension of the Border Patrol. They may be useful in some operations other than war, but it is unlikely that they could maintain efficiency in both civilian law enforcement and military readiness.

Cost-Benefit Summary for Border Patrol and Military Force

	Cost	Benefit(+) or liability (-)
Border Patrol	$60M for 600 agents* or $1B for 10000 agents (the number of military personnel proposed by Rep. Traficant)	+Maintains civilian authority in law enforcement +no new training programs required
Military Force	$70M for 644 troops* or $1.08B for 10000	-reduced readiness and morale -negative impact for U.S.-Mexico and U.S.-Latin American Relations -requires additional training for law enforcement techniques.

Source: U.S. Congress. House. Committee on Government Operations, Controlling the Flow of Illegal Immigration at U.S. Land Borders, 103rd Congress, 1st Session (Washington D.C.: U.S. Government Printing Office, 1993)
*In 1993 testimony before the House Committee on Government Operations, Ms. Chris Sale, acting Deputy Commissioner of the INS, estimated that $60M appropriated by the House would place up to 600 new agents along the southwest border.
**Mr. Sam Banks, acting Deputy Commissioner of the U.S. Customs Service testified that 644 National Guard troops had assisted the Customs service in 1993. The DoD appropriations for National Guard counterdrug operations (not including equipment procurement) was $70 million.

Table 3: Cost-Benefit Summary

The impact of militarizing the border on U.S. relations with Mexico and Latin America would also be negative. Because of the history of the U.S.-Mexico border region, the use of military forces in the area could conjure up images of American imperialism. Bruce Bagley argued in the 1980's that there was a perception that "the principal threat to Mexico was not Soviet-Cuban subversion but rather the United States itself."[57] The relationship between the United States and Mexico is based on what Bagley defines as asymmetrical interdependence. The United States is clearly the dominant actor in the relationship, but Mexico could use its weaker position as a negotiating tool. For example, Mexico may use the threat of illegal immigration to negotiate agreements for economic aid or other matters. This type of relationship would not only strain the policy makers, but it could also complicate the ways in which the military would be used. The United States would face a situation similar to the War on Drugs in which the military would be subject to sensationalist media coverage and leftist propaganda. The governments in Latin America could use these reports, whether accurate or not, as a leverage during other negotiations.

A final point that must be considered before utilizing the military as a border patrol is to what extent they would be effective. That is, how much illegal immigration would they be able to eliminate. Of the estimated 5 million current illegal aliens in the United States, the INS estimates that approximately half of those are immigrants that entered the

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[57]Bagley, Bruce M., "The Politics of Asymmetrical Interdependence: U.S.-Mexican Relations in the 1980s," in H. Michael Erisman, editor, The Caribbean Challenge: U.S. Policy in a Volatile Region (Boulder: Westview Press, 1984) p. 144-5.

country legally, and overstayed their visas. This means that any efforts to seal the borders would only reduce one-half of the immigration problem.

Furthermore, the U.S.-Mexico border is 2000 miles long. Previous attempts to seal parts of the border, such as Operation Hold-the-Line in El Paso and Operation Gatekeeper in San Diego, have been effective in the immediate vicinity, but have produced an increase of immigration in other areas such as Nogales, Arizona.[58] This means that the proposal of supplementing the border patrol with 10,000 troops, as proposed by Representative Traficant, would probably not solve the problem along the entire border. The major entry points like El Paso and San Diego may experience a significant decline, but immigration would probably be rerouted to other areas of the border.

On the cost side, the use of military force for border control could potentially have a number of negative impacts on both the readiness of the U.S. military and U.S. relations with Mexico and Latin America. On the benefits side, some illegal immigration would be deterred, but the number would not be substantial. U.S. policy makers should carefully consider the implications of the legislation proposed by Representatives Traficant and Deal before approving any action.

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[58]U.S. General Accounting Office (1994) p. 23.

IV. CONCLUSION

A. SUMMARY OF FINDINGS

The issue of immigration and the range of policy actions that the United States can implement presents a challenge. As this thesis has shown, the history of immigration to the United States has many facets. The legal immigration has been a significant contribution to the U.S. economy and culture, but illegal immigration has been the subject of many policy debates. Prior legislation that set limits on legal immigration and attempted to control illegal immigration were largely ineffective. This is especially true of the period since 1965. Part of the reason for the Immigration Act of 1965 was to control undocumented immigration from Latin America, particularly Mexico. However, over the next 20 years it became apparent that the measures implemented in 1965 were generally ineffective.

The Immigration Reform and Control Act of 1986 also attempted to solve the problem of illegal immigration, but again, by 1990 it became apparent that the legislation did not provide the necessary resources to stop illegal immigration. In 1990, Congress once again passed major immigration reform that sought to solve the issue of illegal immigration. But again, these measures failed. There is currently a backlash against immigrants, particularly in California. The passage of Proposition 187, an initiative that sought to rescind public assistance for illegal immigrants, is an indication that voters are looking for a solution that will solve the immigration issue.

The policy option of using military forces to control the border has been introduced in the past, and with the most recent INS estimate of 5 million illegal immigrants nationally, may be introduced again in the future. This thesis examined three issues related to militarizing the U.S.-Mexican border. The first issue that must be solved is the legal restrictions on the use of military forces for civilian law enforcement purposes. Currently the military can provide general passive support, but they cannot make arrests or be involved in the search and seizure of property. The legal restrictions strictly limit how the military can be utilized, but the legislation as proposed by Representatives Traficant and Deal would remove many of those restrictions.

The second issue was the appropriateness of the mission. This research found that if military forces were to be used, the Army and National Guard should provide the majority of these forces. Previous studies have concluded that of the people that enter the country illegally, the majority come by land, as opposed to boat. The Army and National Guard are equipped for land operations that may be utilized along the U.S.-Mexico border. However, if the military is used, there is the possibility of increased human rights violations and the military readiness for the primary roles of the Army would probably be decreased. There is not any evidence that would argue for the use of the military as opposed to increasing the size of the Border Patrol that is already in place.

The third issue was U.S. relations with Mexico and Latin America. The border region has been exposed to military forces in the past. During the period of "Manifest Destiny," the United States expanded across North America and took approximately half of Mexico's territory. Since that time the United States has been the dominant power in

the region. The use of military force along the border could rekindle the Mexican fears of "American Imperialism" and be a hindrance to future negotiations. This is especially true in the context of NAFTA. The United States and Mexico should seek solutions to the immigration problem that are mutually acceptable for both countries. The military option could strain the relationship between these two neighbors.

Although the rest of Latin America is not the same as Mexico, there are some similarities. Mexico is the major source of immigration to the United States, but other Latin American countries are also sources of such immigration. The fear of American imperialism that is present in Mexico is also present in many of the other countries in the western hemisphere. The use of U.S. military force to control immigration would have a negative impact on U.S. relations with the region.

B. RECOMMENDATIONS

The use of the U.S. military to provide border enforcement does not appear to be the best policy option for the United States. The problem of illegal immigration is not simply limited to the border. It is a problem of people overstaying their visas as well. The immigration problem facing the United States is one that will require an investment in the INS of more than just border guards. In 1994 the U.S. Commission on Immigration Reform recognized that the problem of illegal immigration was more than just border enforcement. It will require improved intelligence and data gathering systems in addition to inspectors and border patrol agents. The scope of the illegal immigration problem is outside of the military's primary expertise.

In addition to the problem being more than just enforcement, the use of military forces could lead the public to believe that civilian law enforcement is ineffective. For over 100 years the United States has operated under the assumption that the military should not be involved in civilian law enforcement. The Posse Comitatus Act of 1879 has provided the means by which the military does not become involved in civilian law enforcement. In a 1992 article in *Parameters*, Lt. Col. Charles Dunlap Jr., USAF, warns of the dangers of expanding the military's role into the civilian realm. The U.S. military is today considered a highly professional organization. But when "faced with intractable national problems on one hand, and an energetic and capable military on the other, it can be all too seductive to start viewing the military as a cost-effective solution. We make a terrible mistake when we allow the armed forces to be diverted from their original purpose."[59] To control illegal immigration the United States must seek options other than using military forces to enforce the border.

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[59]Dunlap, Charles J., Jr., "The Origins of the American Military Coup of 2012," *Parameters*, (Winter 1992).

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