

From an Invisible Line to a Wall

Changing U.S. Border Enforcement Policies Toward the U.S.-Mexico Border

Miriam Gislefoss Smedsland



A thesis presented to:

The Department of Literature, Area Studies, and European Languages
North American Area Studies
Faculty of Humanities
Supervisor: Terje Mikael Hasle Joranger

In partial fulfillment of the requirements for the MA Degree

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IV

Summary

This thesis explores the different perspectives that the Clinton, Bush, and Obama administrations have had towards illegal immigration and border enforcement on the U.S.-Mexico border. Subsequently, it also explores what policies and laws that have been enacted. Historically, the U.S. has been quite open to immigration from Mexico. Especially since the end of the Bracero program, illegal immigration from Mexico has been a recurrent problem that at times has resulted in strict policies imposed by the U.S. government. During the last twenty years, this problem has become more profound and a visible escalation of border enforcement has occurred. The three administrations have in many ways employed three different strategies to deal with the issue. The Clinton administration was faced with the challenge of strengthening the border at the same time that it wanted to keep it open to trade. However, the Clinton administration started the build-up that escalated out of proportions after the attacks on September 11. As a response to this, the Bush administration resorted to a legislative approach that subsequently has resulted in a more militarized border in the name of national security. During the Obama administration, the U.S. has experienced a standstill in illegal immigration from Mexico. However, the administration has concentrated their efforts on interior enforcement and is now pushing for immigration reform. Despite these differences, one can also see a continuation of policies that can be traced from the onset of Operation Gatekeeper until today.

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1 Introduction

The United States (U.S.) has always been a nation of immigrants. The country has been very open to immigrants, but at the same time executing strong scrutiny when it comes to who they will allow to cross the border legally. The U.S. has passed immigration laws that have made it more and more difficult for people to come and live in the U.S. legally, and therefore many people try to enter illegally. In a way it is a nation of design, since many of the immigration laws have quotas in order to restrict the number of immigrants coming from certain places in the world. These quotas have changed over time. From the beginning, the U.S. immigration laws have attested to the xenophobia present among Americans, but nowadays the immigration laws are more so a way to restrict the sheer number of immigrants wanting to come to the U.S. and live the *American Dream*.

Not only have there been laws restricting immigration, but the U.S. government has practiced what has been deemed a "revolving door" policy. As described by Joseph Nevins, this term was used as it fittingly describes the U.S. government's policy to open and shut the door to immigrants as it sees fit. During times when the U.S. needs foreign labor for example, the door will effectively allow for an easier entry, but as soon as the country does not have a need for the resources immigrants provide, the door will effectively be closed.¹ At the moment, the door is closed. The door has remained closed during the Clinton, Bush, and Obama administrations, although there were some examples of rather unsuccessful attempts to open up this door during these periods as well.

As the door has remained closed, it has resulted in the current situation on the U.S.-Mexico border where fences are built and cities, towns, and communities on the border are separated in order to strengthen border control. People still enter the country legally in great numbers, but some of those who do not have the opportunity to enter legally choose to enter the U.S. illegally through the back door in order to pursue their dream and the quest for a better life.

In recent years, illegal immigration on the U.S.-Mexico border has been a huge problem for the U.S. Currently, according to statistics from 2011, Pew Hispanic Center

¹ Joseph Nevins, *Operation Gatekeeper: The Rise of the "Illegal Alien" and the Making of the U.S.-Mexico Boundary*, (New York: Routledge, 2002), 35.

estimate that as many as 11.1 million immigrants reside in the U.S. illegally.² Approximately 6.5 million of those, or 58 percent, are believed to be Mexicans. These 6.5 million were based on an earlier study with numbers from 2010 when the total population of unauthorized immigrants numbered 11.2 million. This does not make a difference due to the margin of error according to Jeffrey Passel and DøVera Cohn at Pew Hispanic Center who conducted the study.³

With such a high number, it is evident that illegal immigration constitutes a great problem in the U.S., and specifically illegal immigration from Mexico. The focus will therefore be on the U.S.-Mexico border. It is necessary to investigate how the U.S. government has handled the problem of illegal immigration. Different events have shaped the different policies, but the majority of policies toward the border has been restrictive during the last three administrations. The attitudes of the three different administrations have had toward border policy have differed and evolved since 1993 and until today.

I have chosen to limit my paper to the Clinton (1993-2001), Bush (2001-2009) and Obama (2009-) administrations.⁴ I chose to start with the Clinton administration as *Operation Gatekeeper*, which was launched in 1994, was the start of an unprecedented level of border enforcement.⁵ Border enforcement escalated even more after 9/11, and among other factors, it is perceived that illegal immigration threatens national security.⁶ As a result of this, one could see a continuation of increased border enforcement as President Bush and President Obama carried on policies towards immigration and border enforcement that were started during the Clinton administration. It therefore makes sense to start with Clinton's presidency, and continue with the Bush and Obama presidencies. It will not be possible to foresee what will happen during Obama's second term in office, and the main focus will therefore be on what he has achieved during his first term. However, as he has said that he wants to push for

² Jeffrey Passel and DøVera Cohn, "Unauthorized Immigrants: 11.1 Million in 2011," *Pew Research Hispanic Center*, pewhispanic.org, December 6, 2012, <http://www.pewhispanic.org/2012/12/06/unauthorized-immigrants-11-1-million-in-2011/> (accessed January 16, 2013).

³ Jeffrey Passel and DøVera Cohn, "Unauthorized Immigrant Population: National and State Trends, 2010," *Pew Research Hispanic Center*, pewhispanic.org, February 1, 2011, www.pewhispanic.org/2011/02/01/unauthorized-immigrant-population-national-and-state-trends-2010/ (accessed April 22, 2013).

⁴ White House, the, "William J. Clinton," *whitehouse.gov*, www.whitehouse.gov/about/presidents/williamjclinton (accessed May 3, 2013); White House, the, "George W. Bush," *whitehouse.gov*, www.whitehouse.gov/about/presidents/georgewbush (accessed May 3, 2013); White House, the, "Barack Obama," *whitehouse.gov*, www.whitehouse.gov/about/presidents/barackobama (accessed May 3, 2013).

⁵ Nevins, *Operation Gatekeeper and Beyond: The War on "Illegals" and the Remaking of the U.S.-Mexico Boundary*, (New York: Routledge, 2010), 114.

⁶ Tony Payan, *The Three U.S.-Mexico Border Wars: Drugs, Immigration, and Homeland Security*, (Westport: Praeger Security International, 2006), 13-14, 100-101 .

immigration reform during his second term, I will include the events until the end of April 2013.

As I want to explore these issues further, setting the timeline from 1993 to April 2013 enables me to do that. Therefore, my thesis question is: **How and why has border control been strengthened on the U.S.-Mexico border during the Clinton, Bush, and Obama administrations (1993-April 2013)?**

1.1 Border enforcement and immigration restriction before 1942

After the U.S. got its independence and even after the U.S.-Mexico border was drawn up over half a century later, there were barely no restrictions and people were generally allowed to move freely across the Southern border where and when they wanted to. The first immigration restrictions on the U.S.-Mexico border did not impact Mexicans as the restrictions were created in order to prevent the Chinese from entering the U.S. illegally. In order to exclude the Chinese, the U.S. Congress passed the Chinese Exclusion Act of 1882. There was supposed to be a time limit of only ten years on the exclusion, but this limit was continually extended. The act was not repealed until 1943, at which time China was given a quota of 105 annually and Chinese immigrants could finally become naturalized citizens of the U.S.⁷ Similarly, the Japanese were prevented from entering the U.S. after the U.S. and Japan signed the Gentlemen's Agreement in 1907. In effect, the agreement excluded Koreans as well as Korea was a Japanese colony at that time.⁸ This was another restriction based on ethnicity alone, and the passage of it did not affect Mexicans. Even as the Chinese, Japanese, and Koreans were prohibited from entering the U.S., Mexicans were still free to cross the U.S.-Mexico border.

Initially, Mexicans were not seen as a threat or a problem. The Dillingham Commission of 1907-1911, which was summoned to study immigration to the U.S. and the problems that came with it, did not perceive Mexicans as a threat. People of other nationalities, such as for example Southern and Eastern Europeans and Asians were considered a much greater threat in the U.S. at the time. Associate professor at Georgetown

⁷ Nevins, *Operation Gatekeeper and Beyond*, 32-33, 61 ; David M. Reimers, *Unwelcome Strangers: American Identity and the Turn Against Immigration*, (New York: Columbia University Press, 1998), 11-13, 25.

⁸ Leonard Dinnerstein, Roger L. Nichols, and David M. Reimers, *Natives and Strangers: A Multicultural History of Americans*, 4th ed., (New York: Oxford University Press, 2003), 165, 168.

University, Katherine Benton-Cohen, asserts that the Dillingham Commission barely mentioned Mexicans in their reports. She points out that one reason for this might have been that the Mexicans always have been present in the Southwest where the majority of Mexicans who came would reside and they were also fairly few in comparison to other immigrant groups. Therefore their presence was not something new that invoked fear and they were not perceived as a problem. Another reason why the entry of Mexicans was not considered a problem is that many Mexicans were temporary workers who only came to work for a certain period and then went back to their home country. The proximity between the countries enabled Mexicans to enter by land, something that distinguished them from other immigrants who normally came by ships.⁹

As the years passed, the U.S. would impose more and more restrictions on Mexicans in order to prevent those not seen fit from entering. Legislation such as the *1917 Immigration Law* applied to all nationalities, Mexicans included, and it was passed in order to restrict entry for certain people. The law compelled migrants to pay a head tax when they crossed the border into the U.S., and this effectively excluded those who could not afford to pay the head tax. In addition, migrants were obliged to pass a literacy test in order to gain entry into the U.S. However, although this law passed, Mexicans were exempt from the law until 1921 because the U.S. needed them as work force as it entered World War I. Although Mexicans initially were exempt from the restrictions, they would apply equally to Mexicans from 1921 onwards.¹⁰ The restrictions that came as a result of the law were imposed in order to further restrict entry, but the law had no ramifications for Mexican nationals until 1921. The willingness by the U.S. government to exempt Mexicans attest to the fact that Mexicans were not seen as an imminent threat or a problem.

Not just Mexicans were subject to immigration laws. The U.S. imposed strict immigration laws in order to exclude those people that were unwanted for various reasons, such as for example ethnicity or religion. The U.S. enacted its first quota law in 1921. This law, the *Immigration Act of 1921*, was based on the 1910 census which meant that each European country got a percentage the number of immigrants from that country that had been present during the 1910 census. As that percentage was 3 percent, it rendered the total limit of

⁹ Katherine Benton-Cohen, "Other Immigrants: Mexicans and the Dillingham Commission of 1907-1911," in *Journal of American Ethnic History*, ed. John J. Bukowczyk, Volume 30, Number 2, (2011): 33-52; Georgetown University, "Katherine A. Benton-Cohen," <http://explore.georgetown.edu/people/kab237/?action=viewpublications&PageTemplateID=125> (accessed April 28, 2013).

¹⁰ Benton-Cohen, 37.

immigrants to 387,803 annually. In 1924, by the enactment of the *Johnson-Reed Immigration Act of 1924*, the percentage was lowered even further and it was based on the 1890 census. As the percentage was 2 percent, a significantly lower number of immigrants would be admitted into the U.S. Now only 186,437 immigrants would be able to enter the U.S. annually. The 1924 law was extended to include all nations except the Western Hemisphere. These laws did not have ramifications for Mexicans, so Mexicans were still free to migrate to the U.S. and find work.¹¹ These immigration laws represented an attempt to change the composition of the U.S. population, and as Mae M. Ngai, a Professor of History at Columbia University and author of *Impossible Subjects: Illegal Aliens and the Making of Modern America*, asserts: "If Congress did not go as far as to sponsor race breeding, it did seek to transform immigration law into an instrument of mass racial engineering."¹² The fact that Mexicans were exempt from these quota laws shows that Mexicans still did not represent a group that was undesirable per se.

As other ethnic groups experienced these restrictions, Mexicans could still come to the U.S. in the 1920s. From the onset of the Depression in 1929, the need for Mexican workers declined. Many Mexicans already living in the U.S. were deported back to Mexico because the U.S. government feared that they would become a public charge. Others on the other hand, chose to return voluntarily as they met hardships and could not find a job.¹³ This was the first major initiative to limit the number of Mexicans living in the U.S.

In addition to laws restricting immigration, there would also be physical barriers along the border in some places. Following the Third Battle of Nogales in 1918, a fence was put up on the U.S.-Mexico border there. Primarily, fences were erected in order to prevent animals from crossing the border or as markers, but this fence was specifically erected in order to restrict the movement of people across the border.¹⁴ Despite this, fences were not commonly erected on the U.S.-Mexico border with the intent of restricting people from crossing at that time.

Not only were there no restrictions when the Southern border was drawn up, one could not even see where the U.S. ended and Mexico started. In most places, the border was just an

¹¹ Rachel St. John, *Line in the Sand: A History of the Western U.S.-Mexico Border*, (Princeton: Princeton University Press, 2011), p. 181- 183; Reimers, 21-24.

¹² Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America*, (Princeton: Princeton University Press, 2004), 27; Columbia University, "Mae Ngai," *columbia.edu*, <http://history.columbia.edu/faculty/Ngai.html> (accessed May 4, 2013).

¹³ St. John, 187-197; Dinnerstein, Nichols, and Reimers, 165-167, 189, 250.

¹⁴ St. John, 119-147, 203-204.

invisible line.¹⁵ This stands in sharp contrast to today as the border has become a very visible part of the environment. Fences and walls have been built and new technology such as movement sensors and lights have been employed along the border to detect border crossers. In the most populous areas and near the busiest border crossings, this change is more profound. In less populated areas and in the desert, the border is less visible. In those areas, the nature itself is an obstacle. As enforcement was not as widespread as today, nature was essentially the only obstacle to Mexicans who wanted to cross the border from the mid-18th century and until the early 20th century with the creation of the Border Patrol in 1924.¹⁶

1.2 Definitions

In this paper, whenever I mention illegal immigration and illegal immigrants, migrants, and border crossers, I talk about people crossing the U.S.-Mexico border into the United States illegally. Many people also enter the country legally and then choose to overstay their visas, but I will not account for visa overstayers in my presentation. Whenever I mention legal immigrants, I will specify that I include people who have entered the U.S. legally. These are not to be confused with those who have entered illegally.

Also, I may use both the terms wall and fences interchangeably of the fences and walls that have been erected along the U.S.-Mexico border. Those terms are used in this manner in the literature, and both walls and fences have been erected in various stretches of the border depending on one's location. It may also encompass both virtual and physical fences.

1.3 The enactment of laws

In order to understand how legislation is passed and how legislation can be vetoed, it is necessary to explain very briefly how the House of Representatives and the Senate is put together and how legislation is passed. This is important for several reasons. I will examine several acts that have been passed in recent years and also look at legislation that the politicians have tried to pass, but that in the end they failed to pass. In addition, I will look at the composition of Congress throughout the three administrations to see how that has affected legislative action.

¹⁵ Benton-Cohen, 38.

¹⁶ Dinnerstein, Nichols, and Reimers, 166; Reimers, 22-23.

The House of Representatives consists of 435 representatives, while the Senate consists of 100 representatives. House members are elected every other year for two-year terms. Senators are also elected every two years, but they are elected for terms of six years. Subsequently only one-third of senators are replaced every other year. In essence, the U.S. has a two-party system comprised of the Democrats and the Republicans.¹⁷ However, the ruling party does not necessarily have to hold the majority of seats in either the House or the Senate.¹⁸

The fact that a law is passed in Congress is the decisive factor in the majority of cases that are presented in this thesis, and therefore the focus is on that particular way of passing laws. In order to pass a bill, it first has to be introduced in the House or the Senate. Once it has been introduced it goes to committee before it reaches the floor. The essential point here is that both the House and the Senate need to agree on a final version of a bill and vote in favor of it before the president receives it and can sign it.¹⁹

There are several ways a bill can be vetoed or otherwise prevented from being signed into law. As Cummings and Wise state, it is estimated that as little as five percent of bills and joint resolutions that are introduced pass through the eye of the needle and actually become law. One way a bill can be vetoed in the Senate is by using a filibuster and simply killing the bill. It can also be vetoed in both the House and the Senate if does not get the required amount of votes. Even if the bill is passed in Congress, the President may still veto it. However, both a filibuster and a Presidential veto can be overridden.²⁰ Although there are other ways to pass legislation, and a lot of work behind a law proposal, the fact that a bill passes through Congress is the final step.

In essence, this is just a brief summary of how the legislative system is built up and legislation is passed in the U.S. However, it is not necessary to go in depth on the issue here.²¹ The information presented here provides the foundation that it is necessary to procure in order to understand how the various laws are enacted, and the composition of Congress and its ability to pass laws also constitute an essential part of the analysis (see chapter 6.2.).

¹⁷ Milton C. Cummings, Jr. and David Wise, *Democracy Under Pressure: An Introduction to the American Political System*, Alternate 10th ed., (Belmont: Thomson Wadsworth, 2005), 263, 389-390.

¹⁸ Barbara Sinclair, "Doing Big Things: Obama and the 111th Congress," in *The Obama Presidency: Appraisals and Prospects*, eds. Bert A. Rockman, Andrew Rudalevige, and Colin Campbell, 198-222 (Washington, DC: CQ Press, 2012), 200-201.

¹⁹ Cummings and Wise, 389-406.

²⁰ *Ibid.*, 393-406.

²¹ For further information if it is of particular interest, see for example Cummings and Wise.

1.4 Theory

In order to explain why Mexicans want to leave Mexico and what makes the U.S. such a desirable destination for them despite the hazardous road to get there, one can use push and pull factors. The theory was first presented in 1965 by Everett S. Lee at the Annual Meeting of the Mississippi Valley Historical Association, and then published in the article "A Theory of Migration" a year later. In "A Theory of Migration," Lee asserted that there are four contributing factors to a migrant's decision to migrate. A person will usually consider both factors in the area of origin and factors in the destination before deciding whether or not to migrate. However, Lee states that it is not just as simple as that. Usually, a third factor, what he calls intervening obstacles is present. Examples of obstacles may be distance or immigration laws, but how great these obstacles are can vary from person to person. Last, personal factors may also be decisive when a person is trying to decide if he should migrate.²² Castles and Miller further notes that push factors can include low living standards or lack of economic opportunities in the country of origin, in this case Mexico. Pull factors, on the other hand, can include demand for labor or good economic opportunities where the migrants are headed, in this case the U.S.²³ Border Patrol lists three factors in its *Border Patrol Strategic Plan 1994 and Beyond* that are present and that also contribute to the increasing number of illegal immigrants from Mexico who cross the border into the U.S. First, the lower socio-economic groups have experienced a population growth in recent years. That may also contribute to the second factor, the great disparity in living standard in Mexico. For many Mexicans it is difficult to improve their status if they stay. For many, the opportunity for upward mobility are greater in the U.S. than in Mexico, something that prompts people to leave. Third, the unemployment rate in Mexico is high and there are also a significant number of people who are underemployed.²⁴ Put together, these reasons convince many that their only option is to migrate if they want a better life.

When looking at who crosses the border illegally, one can see that these factors are decisive. The typical Mexican migrant who are apprehended by the Border Patrol is

²² Everett S. Lee, "A Theory of Migration," *Demography*, Vol. 3, No. 1 (1966): 47-57. Published by Springer on behalf of the Population Association of America, <http://www.jstor.org/stable/2060063> (accessed March 31, 2013).

²³ Stephen Castles and Mark J. Miller, *The Age of Migration: International Population Movements in the Modern World*, 4th ed., (New York: Palgrave Macmillan, 2009), 22.

²⁴ U.S. Border Patrol, "Border Patrol Strategic Plan 1994 and Beyond: National Strategy," July 1994, <http://cw.routledge.com/textbooks/9780415996945/resources.asp> (accessed March 23, 2011), 3.

predominately a young male under the age of 25 in search of work.²⁵ When Mexicans who migrate to the U.S. are compared to other immigrants, this is further ascertained. According to a Pew Hispanic Center report, Mexicans residing illegally in the U.S. have on average both lower incomes than all other groups of illegal immigrants residing in the U.S. They also have less education than other immigrants.²⁶ This profile of a typical Mexican immigrant is in accordance with the reasons that are decisive for Mexicans who migrate.

Contrary to common belief, not just Mexicans cross the U.S.-Mexico border illegally. People of other nationalities too, especially people from Central America, use Mexico as a gateway to get to the U.S.²⁷ The lack of opportunities in the countries of origin and a need for cheap, foreign labor in the U.S. may drive them to leave their country and head North with the hope of reaching the U.S.

What the illegal migrants all have in common, is that they will weigh the pros and cons of crossing the border. For those who attempt to cross and also those who successfully cross, the pros outweigh the cons, and so they decide to risk the danger and try to cross the border. Even with the escalated border enforcement in recent years and the increased danger of crossing the border, migrants still perceives crossing the border the lesser of two evils.

The re-known historian John Higham developed the theory of nativism. As Higham defines nativism, he says that it is an "intense opposition to an internal minority on the ground of its foreign (i.e. "un-American") connections."²⁸ (Parenthesis by author). In *Strangers in the Land: Patterns of American Nativism, 1860-1925*, Higham traces nativism in the form of anti-radical, anti-Catholic, and anti-racial sentiments present in the U.S. society in that time period.²⁹ One can see traces of nativism present throughout American immigration history even after that and it can still be found today.

Another theory that applies is realism. Robert Jackson and Georg Sørensen has described the essence of realism in *Introduction to International Relations: Theories and Approaches* as follows:

²⁵ Ibid., 2-3.

²⁶ Jeffrey Passel and DøVera Cohn, "A Portrait of Unauthorized Immigrants in the United States," *Pew Research Hispanic Center*, [pewhispanic.org](http://www.pewhispanic.org), released April 14, 2009, updated May 3, 2012, <http://www.pewhispanic.org/2009/04/14/v-origins-of-unauthorized-immigrants-a-focus-on-mexico/> (accessed May 8, 2013).

²⁷ "Border Patrol Strategic Plan 1994 and Beyond," 2-3.

²⁸ John Higham, *Strangers in the Land: Patterns of American Nativism, 1860-1925*, 4th ed., (New Brunswick: Rutgers University Press, 1998), 4.

²⁹ Higham, 3-11.

øThe normative core of realism is national security and state survival: these are the values that drive realist doctrine and realist foreign policy. The state is considered to be essential for the good life of its citizens: without a state to guarantee the means and conditions of security and to promote welfare, human life is bound to be, in the famous phrase of Thomas Hobbes, "solitary, poor, nasty, brutish and short."øThe state is thus seen as a protector of its territory, of the population, and of their distinctive and valued way of life.ö³⁰

This theory relates to the United States and its immigration policy as national security now has become the main prerogative. Throughout history, laws restricting immigration have been central, and the main reason for controlling the border has been to restrict illegal immigration. In recent years, a shift has occurred. Especially after 9/11, it has been in the nation's interest to preserve national security, and the result has been enforced border enforcement in order to protect the U.S. from terrorism, prevent illegal immigration and smuggling. This does not only apply to the U.S.-Mexico border, but it is on the U.S. border with Mexico that it is most visible.

The theory of isolationism versus internationalism, accurately presented in *Political Geography of the United States*, can also explain how the U.S.'s policies have varied between being isolationist or internationalist towards other nations. According to the theory, cycles of introvert and extrovert phases have alternated every 20-30 years. The differences between the proponents of isolationism and internationalism has been explained as follows:

øProponents of isolationism have argued that the primary goal of U.S. foreign policy should be to protect the borders of the United States and that the United States should not take an active role in foreign affairs. Proponents of internationalism, on the other hand, have argued that the United States should take a more active and assertive role in international affairs.ö³¹

It is debated whether or not the U.S. have entered another extrovert phase after having been in an introvert phase since 1970. The signing of NAFTA has been a contributing factor to a new debate of whether or not the U.S. was still in an introvert cycle or if it had entered an extrovert cycle.³² I argue that it has despite the fact that the U.S. now is guarding its borders more than ever before. NAFTA was just the first of several signs that the U.S. has entered another extrovert phase. After 9/11, the U.S. initiated a global war on terror and if there was any doubt whether or not the U.S. had entered another extrovert cycle, that was removed with the onset of war.

³⁰ Robert Jackson and Georg Sørensen, *Introduction to International Relations: Theories and Approaches*, 3rd ed., (New York: Oxford University Press, 2007), 60-61.

³¹ Fred M. Shelley et. al., *Political Geography of the United States*, (New York: The Guilford Press, 1996), 202-212.

³² Ibid.

1.5 Method

American studies is an interdisciplinary program in the humanities where one acquires knowledge on various aspects of the U.S. and Canada combined with language skills. The program also encompasses Canada, but I chose to focus on the U.S. The goal is to acquire a solid understanding of all parts of U.S. society. This may range from, but is not limited to, history, politics, and religion to literature and film. Central to the study of American history, politics, and culture is also immigration history.

The arrival of migrants from Mexico to the U.S. has been a constant issue facing the U.S., so it has historical relevance for North American studies. As time has passed, the Mexican migrants got status as illegals and border enforcement was increased on the U.S.-Mexican border. In addition to being a historical issue, it is a current issue as President Obama now wants to push for an immigration reform that ultimately can render the approximately 11 million illegal immigrants currently in the U.S. with U.S. citizenship.³³ One has seen change over the years, and possibly, greater transformations will occur in the near future.

In order to assess the changes that have occurred over the years, I will employ both primary and secondary sources and analyze those. This form of analysis is applicable in this context as many of the sources I will be using are laws, reports, speeches and so on. I will go more in depth on the different sources I have used later. Pål Repstad stresses that when one employs a document analysis, one may assign various documents the same status as one would other primary sources, for example interviews.³⁴ I will be looking at several documents and combine the analysis of those with a comparative analysis between the different presidential administrations.

As a methodical approach, I also believe that a comparative analysis is applicable as I will compare some aspects of what has been accomplished on border enforcement and illegal immigration issues during the Clinton, Bush, and Obama administrations. When looking at why one employs a comparative approach, Harald Grimen asserts that there are four different reasons for why one wants to do a comparison. First, one seeks to determine connections between different phenomena. The second and third reasons are to find similarities and

³³ Mark Landler, "Obama Urges Speed on Immigration Plan, but Exposes Conflicts," *NY Times*, nytimes.com, January 29, 2013, <http://www.nytimes.com/2013/01/30/us/politics/obama-issues-call-for-immigration-overhaul.html> (accessed May 4, 2013).

³⁴ Pål Repstad, *Mellom nærhet og distanse: Kvalitative metoder i samfunnsfag*, 4th revised ed., (Oslo: Universitetsforlaget, 2007), 103-104.

differences between phenomena. Finally, one may seek to understand how a phenomenon has developed during a set time period.³⁵ That is exactly what I want to accomplish by asking the research question I do and by analyzing documents and employing a comparative approach in order to answer it.

For example, it is worth examining the composition of Congress during each of the three presidential periods and how border enforcement has increased over those twenty years as a result of legislative action. In addition, one can compare how the U.S.-Mexican relation has evolved as a result of increased border enforcement over the twenty year period that Bill Clinton, George W. Bush, and now Barack Obama, have been presidents and what perspectives the three presidents have had towards illegal immigration and border enforcement.

1.6 Literature

In order to provide a solid basis for my arguments throughout the paper, I have read and analyzed primary sources. I have especially put an emphasis on legislation that has been passed during the three different administrations. The laws that I have looked at primarily concern immigration issues and border enforcement, or at least have important provisions that deal with these issues. These laws give an idea as to what legal action has been taken towards achieving a more secure border since 1993 and until today. The majority of laws are readily available on the Library of Congress website.

The three strategic plans released by the Border Patrol have proved to be very valuable sources. The plans were published in 1994, 2004 and 2012, respectively. A new plan has been released during each of the three administrations. The Border Patrol faces the problems along the border on a day to day basis and the plans shed light on the challenges that the agents are met with. In that sense, the Border Patrol might be the best source in considering what actions need to be taken in order to secure the Southern border, and the plans also give an insight into what the Border Patrol intends to do about these challenges.

In addition to the strategic plans by the Border Patrol, I have used reports and summaries of reports by Pew Hispanic Center and The Organisation for Economic Co-operation and Development (OECD). Pew Hispanic Center is a project managed by Pew Research Center, a non-partisan fact tank that seeks to inform people about current aspects

³⁵ Harald Grimen, *Samfunnsvitenskapelige tenkemåter*, 3rd ed., (Oslo: Universitetsforlaget, 2005), 262.

and trends in the U.S. society at large and in the rest of the world. Pew Hispanic Center is a non-partisan organization devoted to study the Hispanic population living in the U.S. and its impacts.³⁶ The OECD was established in 1961 and its mission is 'to promote policies that will improve the economic and social well-being of people around the world.'³⁷ These two organizations conduct and publish a considerable amount of research every year. Both Pew Hispanic Center and the OECD are very thorough when they conduct research and publish reliable and accurate reports. The various reports will be discussed in greater detail as they are introduced throughout the thesis. In general, Pew Hispanic Center has published reports on illegal immigration from Mexico to the U.S. that are up to date and analytical, and those reports have been very useful in establishing an understanding of why the current situation is like it is. The OECD has also published reports that entail useful statistics on the U.S. and Mexico, but those reports employed here focus more on facts and are not as analytical.

As for websites, I have attempted to screen them and only use reliable sources such as government websites. By government websites I mean the official websites of the White House, the U.S. Customs and Border Protection, the U.S. Department of Homeland Security and the like. They have all been very informative and provided good background information and statistics that are up to date. In order to compile the number of members in the House of Representatives and the Senate belonging to each party during each administration, the official webpages of The United States Senate and The United States House of Representatives contained invaluable information. On the official White House webpages, I have also found speeches, remarks, fact sheets and the like by the different Presidents.

I have also used online newspapers articles from several different newspapers. These newspapers have provided articles that shed light on the current situation. The newspapers also have archives so that it is possible to find articles that have been published previously, and I have used some of those too. The newspaper articles have especially been valuable in order to follow the current debate regarding comprehensive immigration reform that became a very pressing issue after Obama resumed his second term in office. In addition to various other forms of primary sources, secondary sources have the historical and theoretical framework.

Countless historians and scholars have done extensive research on the U.S.-Mexico border. I have chosen to only present a few of them here that provided exceptionally insight

³⁶ Pew Research Hispanic Center, 'About the Center,' *pewhispanic.org*, 2013, www.pewhispanic.org/about-the-center/ (accessed April 22, 2013).

³⁷ OECD, 'About the OECD,' *OECD.org*, www.oecd.org/about/ (accessed April 22, 2013).

into the area of study, and the rest of my sources will be presented throughout the thesis. Joseph Nevins is an Associate Professor of Geography at Vassar College and has written several books, among these is *Operation Gatekeeper: The Rise of the "Illegal Alien" and the Making of the U.S.-Mexico Boundary*, published in 2002. This book focus on the historical context and the events that led to the emergence of *Operation Gatekeeper* and the increased build-up on the U.S.-Mexico border as a result. In 2010, he published a revised edition, *Operation Gatekeeper and Beyond: The War on "Illegals" and the Remaking of the U.S.-Mexico Boundary*, that in addition to looking at the events that led to *Operation Gatekeeper*, also to a greater extent looks at the aftermath of *Operation Gatekeeper* and explores and expands on the ideology behind the increased build-up at the border. He has two main arguments, these are the same in both books. His first argument is that *Operation Gatekeeper* emerged because of developments in the 1990s. However, long-term trends such as the building of the nation state and the perception of illegal immigrant increasingly perceived as a threat were also crucial to its emergence. His second argument is that fences and other physical barriers increasingly have become normalized.³⁸ These books as given me a thorough understanding of why *Operation Gatekeeper* emerged at the time that it did, and also the increase in border enforcement that came in the aftermath of it.

Tony Payan, an Assistant Professor of international relations and foreign policy at the University of Texas at El Paso and author of *The Three U.S.-Mexico Border Wars: Drugs, Immigration, and Homeland Security*, takes a different approach and has put the focus on what he calls the "three border wars," namely the war on immigration, the war on drugs, and the war on terror. Payan studies these "border wars" as three different entities, and not as one collective problem. He argues that the solution is North American integration.³⁹ This book has provided a solid background on these three problems that all are present at the U.S.-Mexico border today.

Peter Andreas is another author whose work are widely cited. Andreas is an Associate Professor of Political Science and International Studies at Brown University and author of *Border Games: Policing the U.S.-Mexico Divide*. He explores border enforcement in the context of NAFTA. His main argument in the book is that although the deterrence of drugs and illegal immigrants is an important reason to enforce the border, that is not the U.S. government's main reason. According to Andreas, it is more about image building. If one can

³⁸ Nevins, *Operation Gatekeeper*, 1-13; Nevins, *Operation Gatekeeper and Beyond*, 1-16.

³⁹ Payan, preface.

create an image of the border, that can very visually show that a state has authority.⁴⁰ This book has given me a better understanding of why the U.S. wants to build physical barriers on the U.S.-Mexico border in the context of a more globalized world.

I have used books by other authors as well, but those will be introduced throughout the thesis. Put together, the bulk of primary and secondary sources provide the framework and gives a sufficient background on illegal immigration, border enforcement, and what has led to the current state of events that it was necessary to acquire in order to answer the research question.

1.7 Structure

The thesis consists of seven chapters. In chapter 1, I introduce the theme, some background information, and the research question. The chapter also lays out which methods and theories I will employ in order to attempt to answer the research question. The literature and sources that have been the most central in my research are also introduced. In addition, as immigration and border enforcement laws are central to the enforcement measures along the U.S.-Mexico border, one needs to understand how the American legislative system is built up and how laws are passed. This has been summarized in this chapter as legislation constitutes such an essential part of the following chapters.

Chapter 2 will set out the historical context of the U.S.-Mexico border so it is possible to see what has changed along the border up until recent years. It is necessary to understand the changing situation along the border in order to understand why *Operation Gatekeeper* and other legislation have come about in recent years as a way to strengthen the border. Also, it is necessary to understand how open and utterly out of control the border has been and what the conditions along the have been in order to subsequently understand why it has been necessary to strengthen the border to the extent that the U.S. has done. In order to exert control over the border, the U.S. has erected walls and fences in designated places along the border and employ an extensive use of new technology in order to capture illegal immigrants crossing the border. The most important of the means used to secure the border will be mentioned here.

Chapter 3 will look at what the Clinton administration (1993-2001) accomplished with regard to strengthening the U.S.-Mexico border, with *Operation Gatekeeper* being the most significant accomplishment and also the first major initiative to curb illegal immigration and

⁴⁰ Peter Andreas, *Border Games: Policing the U.S.-Mexico Divide*, 2nd ed., (Ithaca: Cornell University Press, 2009), xi-xv.

get control of the border. The Clinton administration was able to strengthen the U.S.-Mexico border in order to prevent clandestine activity at the same time that the border became more open to trade. The practice that was started during the Clinton administration was later continued by the Bush and the Obama administrations

Chapter 4 will encompass the accomplishments of the Bush administration (2001-2009) that are related to border enforcement. George W. Bush continued along the same line as Bill Clinton did and strictly enforced the border. Although one of George W. Bush's goals was to create a worker program, he had to give this up after 9/11. The attacks of September 11 prompted increased border enforcement, especially on the U.S.-Mexico border. George W. Bush continued to escalate and strengthen border enforcement throughout his presidency, primarily by legislative action.

Chapter 5 deals with the Obama administration (2009-). President Obama has had a lot of other pressing issues beyond border control to concentrate on during his first term in office. Barack Obama started to work for a reform of the immigration system during his first term. His focus is on the interior of the country rather than on the border itself, although he of course recognizes that the border also is important. President Obama has faced challenges when it comes to passing legislation, which prevents him from making severe changes to the status quo. For the most part, he has only continued the policies started by the Clinton and Bush administrations. He may be able to present more results on immigration and border control issues during his second term in office, an assumption that is based on his recent announcement that he is pushing for a comprehensive immigration control bill now at the beginning of his second term.

Chapter 6 is the analysis, and in this chapter I will debate why the actions that have been taken toward strengthening the border has led to the status quo. I will also look at the composition of Congress in order to assess the president's possibilities to enact legislation. I will also compare the achievements of the three different administrations as their premises for achieving something has differed tremendously as times have changed. Different events have also occurred during their presidencies that have affected their possibilities to achieve something on the issue of immigration and border enforcement. As the U.S. has increased its efforts to control the border, its relation with Mexico has been changed.

The final chapter, chapter 7, is the conclusion. In this chapter I will sum up the main findings of what the George W. Bush, Bill Clinton, and Barack Obama administrations have

achieved and what has been done to strengthen the U.S.-Mexico border during their presidential terms in order to attempt to answer the research question.

2 The historical context of the U.S.-Mexico border

The United States and Mexico have had an interchangeable relationship throughout the years and the border has not always been where it is today. After the Mexican War ended and the *Treaty of Guadalupe Hidalgo* was signed on February 2, 1848, the U.S.-Mexico border was drawn up.⁴¹ According to an estimate, the United States acquired 40 percent of Mexico's territory after the war where as many as 100,000 Mexicans and 200,000 Native Americans lived. It was a vast amount of land which constituted all or part of the land in 10 U.S. states as the state lines are drawn today. As he lists them, the states are: "Texas, Arizona, New Mexico, Oklahoma, Wyoming, Colorado, Kansas, Utah, Nevada, and California."⁴² The treaty rendered the U.S. in possession of land that previously belonged to Mexico, and the Southern part of the U.S. shares a common history with Mexico as a result.

Payan argues that following the signing of the *Treaty of Guadalupe Hidalgo*, it was still the idea of the border as a frontier that reigned in the Southwest. He sums up how that idea prevailed through open spaces and the feeling of being free. He maintains that "the boundary line that separated the United States from Mexico defined citizenship and civic duty, but it did not constrain mobility or access."⁴³ This merely reflects how open the border was after the U.S.'s acquisition of Mexican land.

That openness is no longer a reality, and in order to understand why and also get a solid understanding on what has led to the current situation, one needs to look at the reasons that the U.S. has to strengthen its Southern border. The *Bracero program* which started on August 4, 1942, was the last major program that allowed Mexicans to come to the U.S. in great numbers and work legally. Since the program ended on December 31, 1964, the U.S. has continuously tried to strengthen the border and a whole range of measures have been taken in order to make it more difficult for Mexicans to enter the U.S. legally and illegally.⁴⁴ It is also necessary to look at what actors are involved in border enforcement and how the border is physically strengthened. It has proven to be in the U.S.'s interest to try to control its Southern border.

⁴¹ George Brown Tindall and David E. Shi, *America: A Narrative History*, brief 6th ed, (New York: Norton, 2004), 439-441; Payan, 5.

⁴² Nevins, *Operation Gatekeeper and Beyond*, 23.

⁴³ Payan, 5-6.

⁴⁴ Sidney Weintraub, *Unequal Partners: The United States and Mexico*, (Pittsburgh: University of Pittsburgh Press, 2010), 110.

2.1 Why does the U.S. want to strengthen the U.S.-Mexico border?

The U.S. shares a border with Mexico to the South and Canada to the North. In recent years there has been a movement to strengthen the U.S. borders, especially the border that it shares with Mexico. There are three reasons for this, illegal immigration, drug smuggling, and national security, but in recent years the latter has had greater importance than the other two.⁴⁵

The first reason to control the U.S.-Mexico border, is to control immigration and restrict illegal immigration. Illegal immigration from Mexico was limited before 1964. After that, the U.S. government started to perceive illegal immigration from Mexico as a problem according to Payan. The United States have responded to the increased illegal immigration across the U.S.-Mexico border by strengthening border control. By making the border more secure, the U.S. tries to maintain control of who is in the country legally. With all the measures that have been taken to strengthen the U.S.-Mexico border in recent years, it has also become more difficult to enter the country illegally. In order to strengthen the border, the U.S. has increased the number of Border Patrol agents considerably in recent years, started to use technology to a greater extent, developed new technological devices to be used in border enforcement, and built border fences and other physical barriers that have been erected along long stretches of the border.⁴⁶

Drug control is the second reason that the U.S. wants to control its Southern border, and Nevins states that the U.S. government has considered drug smuggling a problem since approximately 1910. At that time, the smuggling of drugs was related to illegal immigration from China.⁴⁷ As indicated by Border Patrol's statistics over seizures, drug smuggling is a major problem along the Southwest border. Compared to the Northern border and the Coastal border, the number of seizures and the number of pounds seized of for example marijuana is much greater on the Southern border. The most recent statistics provided by the Border Patrol are from fiscal year (FY) 2012, and according to the Border Patrol, 2,297,662 pounds of marijuana were seized on the Southern border that year. The nationwide total is 2,299,864 pounds, leaving 661 pounds to be seized on the Coastal border sectors and 1,542 pounds on the Northern border. The pounds seized are divided on 14,025 seizures on the Southwest border, 331 on the Northern, and 40 on the Coastal borders. The statistics indicate that other

⁴⁵ Payan, xiii-xiv.

⁴⁶ Ibid., 53-86.

⁴⁷ Nevins, *Operation Gatekeeper*, 57.

types of drugs are being smuggled as well, but the number of marijuana seizures and pounds of marijuana seized are the most striking.⁴⁸ Drug cartels on the Mexican side of the border are getting more and more powerful, and the current situation is often referred to as a *drug war*. By keeping the border closed, the U.S. can execute greater control of what crosses the border and try to prevent drug smuggling. However, as the technology gets better and controls stricter, the smugglers are inclined to outsmart the Border Patrol officers. Also, it is impossible for the Border Patrol to inspect all vehicles that cross the border. With the *North American Free Trade Agreement (NAFTA)*, which is a trade agreement between the U.S., Mexico, and Canada, there was also a need to speed up the border controls.⁴⁹

The third reason, and currently the most important one, is national security. This has been especially vital since the attacks on 9/11. Measures such as *Operation Gatekeeper*, which was implemented in the San Diego sector in 1994 in order to control illegal immigration within a limited area there, have contributed to the strengthening of the border. Despite this and similar measures that also have been initiated along the border to strengthen it, in a sense the U.S. border was relatively open until the events of 9/11 occurred. Tony Payan argues that after the attacks on 9/11, the U.S. shifted its policy almost overnight and decided that it was necessary to be more careful with regard to who was granted entry into the country. Before 9/11, the main reasons for strengthening the border had been to control immigration and prevent drug smuggling. After 9/11 this policy shifted, and since then, the main reason to strengthen the border has been for national security reasons.⁵⁰

2.2 The border from 1942 until 1993

The *Bracero program* was created as a way to get temporary workers from Mexico to come to the U.S. as the U.S. experienced labor shortages during World War II.⁵¹ During the program, approximately 5 million Mexicans came to the U.S. in search for work. It was primarily young men aged 17-25 that decided to leave their home country and seek work in the U.S. The majority of the *braceros*, as they were called, were employed on farms as that was where their labor was needed the most. *Braceros* were also directed to work in the fields and some

⁴⁸ United States Border Patrol, "Apprehensions/Seizure Statistics ó Fiscal Year 2012," *cbp.gov*, February 4, 2013, http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/usbp_fy12_stats/appr_seiz_stats.ctt/appr_seiz_stats.pdf (accessed April 21, 2013).

⁴⁹ Payan, 23-52.

⁵⁰ *Ibid.*, 13-14, 87-111; Nevins, *Operation Gatekeeper and Beyond*, 114.

⁵¹ Weintraub, 110.

were employed in other enterprises.⁵² After the *Bracero program* ended, a new worker program between the U.S. and Mexico was never created.

It was also during the *Bracero program* that the U.S. government started to become aware of the growing problem of illegal immigrants from Mexico. Many came with the hope of becoming *braceros*, but not everyone was given that opportunity. Those who were excluded from working as *braceros* often decided to go to the U.S. anyway and work illegally, more often than not driven by the poverty and lack of opportunities at home.⁵³ Nevins notes that illegal immigration was an unintended cause of the *Bracero program*.⁵⁴ After the program ended in 1964, the U.S. has taken numerous measures to strengthen the border in order to prevent Mexicans from entering the country illegally. The U.S. government has also imposed restrictions that makes it more difficult for Mexican nationals to enter the U.S. legally.

In the midst of the *Bracero program*, in 1954, the U.S. government initiated *Operation Wetback*. As the *Bracero program* had led to increased illegal immigration from Mexico, the government sought to get control over the border and deport some of the illegal immigrants working on farms in the Southwest. During this operation, hundreds of thousands were deported back to Mexico.⁵⁵

After the *Bracero program* ended, the *Immigration Act of 1965* was enacted. This act made sure that the quota limits that came with the *Immigration Act of 1921* and the *Johnson-Reed Immigration Act of 1924* was removed. Instead of annual quotas given to each country, there were a total limit of 170,000 for Eastern Hemisphere annually. This law is significant because it made it more difficult for Mexicans to come to the U.S. legally. Mexico is part of the Western Hemisphere which previously had been exempt from a quota. However, with the enactment of the *Immigration Act of 1965*, the Western Hemisphere countries got an annual quota of 120,000. Illegal immigration from Mexico increased as a result because many were now prevented from getting a visa and enter the country legally.⁵⁶

Continuing efforts to deal with the growing problem of illegal immigration led the U.S. government to enact the *1986 Immigration Reform and Control Act (IRCA)* in October that year. As the U.S. government sought a way to reduce the number of illegal immigrants, it passed the IRCA. Notably the most important provision of the IRCA is that it gave amnesty to

⁵² Dinnerstein, Nichols, and Reimers, 250-252.

⁵³ *Ibid.*, 251-252.

⁵⁴ Nevins, *Operation Gatekeeper and Beyond*, 43.

⁵⁵ Dinnerstein, Nichols, and Reimers, 276; Andreas, 33-34.

⁵⁶ St. John, 181-183, 203; Nevins, 128; Reimers, 21-24.

three million people living in the U.S. illegally. Of those, the majority were believed to be Mexicans. Nevins states that the act was considered a failure in the long term because illegal immigration did not decline. The opposite happened and only three years after Congress passed the act, apprehensions on the U.S. Mexico border increased again.⁵⁷ One can draw a comparison between the IRCA and the *Bracero program* as the U.S. experienced an unintended increase of illegal immigration from Mexico in the wake of both these efforts to control immigration.

The U.S.-Mexico border had been perceived as out of control since late in the 1960s according to Nevins. However, he states that there was a change in the 1970s from a liberal sentiment to a neo-restrictionist sentiment towards immigration. Eventually, the border was perceived as so out of control that the problem could not be ignored anymore. One had to find ways to enforce the border even more, and that was one of the reasons why *Operation Gatekeeper* was launched on October 1, 1994.⁵⁸

2.3 Actors

There have been two main actors involved in controlling the border, both before and after *Operation Gatekeeper* was launched. The Border Patrol, is the most important actor, but its role and foci areas has changed over time. In addition, the Minutemen, which is a vigilante group, has been present at the border. The difference between them is that the Border Patrol has legal authority to carry out its duties of enforcing the border while the Minutemen's presence at the border is voluntarily. In addition, other actors such as the National Guard and other military personnel either have assisted or are currently assisting the Border Patrol in border enforcement efforts.

The Border Patrol was established in 1924 and their task was to guard the U.S.'s borders, but there were several events that led up to the creation of the Border Patrol. Before the creation of the Border Patrol, Mounted Guards had been in place at the Southern Border since 1904. Their chief task was to prevent Chinese immigrants from entering the country illegally. It became more pressing to patrol the border during prohibition in order to prevent smuggling of alcohol across the border.⁵⁹ The 18th Amendment, which prohibited the

⁵⁷ Reimers, 26-27; Nevins, *Operation Gatekeeper and Beyond*, 83, 104-105.

⁵⁸ Nevins, *Operation Gatekeeper and Beyond*, 77-78, 112-114.

⁵⁹ U.S. Customs and Border Protection, "Border Patrol History," *cbp.gov*, May 1, 2010, http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml (accessed April 22, 2013).

manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes⁶⁰ was ratified in 1919 and went into effect in 1920.⁶⁰ The 18th Amendment was later repealed by the 21st Amendment in 1933.⁶¹ During prohibition, smuggling of alcohol was a great concern. Already then, smuggling of alcohol and humans across land borders went hand in hand. Also, after the passage of the Immigration Acts of 1921 and 1924, border enforcement became an issue that the U.S. government gave even more attention. Both immigration acts contained quotas, and the U.S. government was aware that a numerical restriction on immigrants allowed to enter the country would increase the possibility that people would try to enter the country illegally. In order to try to prevent that, Congress passed the *Labor Appropriation Act of 1924* on May 28, 1924, which established the U.S. Border Patrol.⁶²

One great change that can be seen over the years is the shifting number of agents assigned to different locations. One curious fact is that the Border Patrol asserts that in 1932, only a few years after it was established, the majority of its agents were assigned to the Northern border that the U.S. shares with Canada.⁶³ That has changed over time, and the complete opposite is the case today as the majority of agents are assigned to the Southern border. According to Border Patrol's statistics, 18,516 agents were assigned to the Southern border in FY 2012 compared to 2,206 agents at the Northern border and 224 agents at the Coastal border.⁶⁴ The Border Patrol does not provide numbers of how many agents were assigned to the Northern Border in 1932, but it cannot have been many despite the fact that it constituted the majority of agents. The only number the Border Patrol provides that can give an indication of how many agents it was, is the fact that it employed 450 agents in total shortly after it was established.⁶⁵

After the Border Patrol was established in 1924, its task was to secure the border between inspection points that were set up along the land borders, but it would be extended to include patrolling along the coast as well a year later. Since then, the Border Patrol has gotten

⁶⁰ Jerome Agel and Mort Gerberg, *The U.S. Constitution for Everyone*, (New York: Perigree, 1987), 52-53.

⁶¹ *Ibid.*, 54-57.

⁶² "Border Patrol History."

⁶³ *Ibid.*

⁶⁴ United States Border Patrol, "Border Patrol Agent Staffing By Fiscal Year," *cbp.gov*, February 4, 2013, http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/usbp_fy12_stats/staffing_1993_2012.ctt/staffing_1993_2012.pdf (accessed April 21, 2013).

⁶⁵ "Border Patrol History."

more and more to do and greater tasks to handle and expanded as a result.⁶⁶ Nowadays, the Border Patrol is the most important actor who is responsible for deterring and catching illegal border crossers and drug smugglers.

In the aftermath of 9/11, there was some restructuring. First and foremost, national security became the Border Patrol's priority. One created a new department, the Department of Homeland Security (DHS), which operates like an umbrella organization. The U.S Border Patrol has now become part of the U.S. Customs and Border Protection (CBP) and Border enforcement is now managed under DHS.⁶⁷ The CBP's mission statement now encapsulates the change in mission:

"We are the guardians of our Nation's borders. We are America's frontline. We safeguard the American homeland at and beyond our borders. We protect the American public against terrorists and the instrument of terror. We steadfastly enforce the laws of the United States while fostering our Nation's economic security through lawful international trade and travel. We serve the American public with vigilance, integrity and professionalism."⁶⁸

Illegal immigration and drug smuggling which previously constituted the Border Patrol's first priority now comes second to the preservation of national security.

At times, the Border Patrol has had to call in assistance from the National Guard. Although the National Guard has been present at the border several times as it has assisted the Border Patrol in its duties, it has only followed orders. Its presence at the border has a deterrent effect, and its presence has been significant in that respect.⁶⁹ It is worth mentioning the National Guard in that it has played an important role in assisting the Border Patrol in securing the border at various times, but the National Guard is not counted as one of the two main actors that consistently are present at the border.

As Andreas asserts, military personnel can contribute with their expertise in several fields that are very useful on the border. Military personnel can for example use their skills and assist the Border Patrol with surveillance along the border. Even though they cannot arrest illegal border crossers, they can monitor the border by using sensors and other technological equipment and thereby detect illegals. Military personnel's skills are also useful in the work to build and repair border fences.⁷⁰ Clearly, military personnel can participate and

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ U.S. Customs and Border Protection, "CBP Mission Statement and Core Values," *cbp.gov*, February 17, 2009, <http://www.cbp.gov/xp/cgov/about/mission/guardians.xml> (accessed May 5, 2013).

⁶⁹ Andreas, 91-92.

⁷⁰ Ibid., 91.

maintain an active role in the enforcement of the border even though they cannot arrest people who cross the border illegally.

In addition to the Border Patrol which is an official actor employed by the government, there are also civilian vigilante groups such as the Minutemen. The Minuteman Project was founded on October 1, 2004 by Jim Gilchrist. The reason Gilchrist got the idea and founded the Minuteman Project, was because he was dissatisfied with the government's effort to enforce the U.S.'s immigration laws.⁷¹ The Minutemen commit themselves to prevent illegal immigration and protect the nation's borders, and so they guard the border and look for illegal border crossers. When they spot some, they may apprehend them.⁷² By doing that, they assist the Border Patrol in its work.

Tony Payan argues that the Minutemen are so few that their presence at the border does not make a difference. Despite that fact, what he thinks that the Minutemen have done successfully, is to draw attention to the issue of illegal immigration. Nevertheless, the Minutemen's work is somewhat important as they help to spread the message that immigration control on the U.S.-Mexico border is in serious need of a change as the current system, according to them, does not work. However, according to Payan, the Minutemen has not managed to get immigration reform through Congress.⁷³ The Minutemen, consisting of civilian volunteers, is a small actor when it comes to securing the border, and therefore the Minutemen have limited resources. Subsequently, one has to agree with Payan that their presence does not make a huge difference.

Together, all these actors are responsible for controlling the Southwest border. The Minutemen is a vigilante group and the National Guard can be deployed on the border on demand. As the Border Patrol is the official actor responsible for securing the U.S. borders, it is necessary to look into some of the tools that the Border Patrol has in securing the border and what means that are used to exert control over the U.S.-Mexico border.

⁷¹ Minuteman Project, "About Jim Gilchrist," *minutemanproject.com*, 2013, <http://minutemanproject.com/about-jim-gilchrist> (accessed May 5, 2013).

⁷² "Border Crossing Vigilante Groups," *laws.com*, 2013, <http://immigration.laws.com/illegal-immigration/border-crossing/border-crossing-vigilante-groups> (accessed May 5, 2013).

⁷³ Payan, 81-83.

2.4 How the U.S.-Mexico border is strengthened today

The U.S. has launched several initiatives to strengthen the border it shares with Mexico. First of all, there has been an increase in the number of Border Patrol agents. In 1994 when *Operation Gatekeeper* was initiated, there were 3,798 Border Patrol agents situated on the U.S.-Mexico border according to Border Patrol's statistics. Since then, the number has increased steadily. At present time, there are 18,516 Border Patrol agents.⁷⁴ With a greater number of agents, the Border Patrol are able to patrol greater stretches of the border.

Even with an increased amount of Border Patrol agents, it has proven to be difficult to restrict illegal immigration and smuggling across the border. Therefore it has been necessary to erect fences and walls along certain parts of the border to keep the illegals and the contraband out of the U.S. New technology has also played an important part in securing the border, especially in recent years. Movement sensors and lights have been placed strategically along the border in locations where the Border Patrol know that people attempt to cross. In the report *National Border Patrol Strategy* by The Office of Border Patrol and The Office of Policy and Planning, it is argued that fences along with other types of technology are necessary in order to increase the control of the border.⁷⁵

Clearly opposed to the construction of border fences, Peter Andreas points out that "the most visible and certainly most symbolic sign of escalation has been the construction of more and bigger physical barriers."⁷⁶ Although he says this, his argument is that the border has not become more secure with the upsurge in border control, it is just perceived that way. It is perceived that the border is more secure because illegal border crossers are now forced to cross the border in more dispersed areas. Thus, everyone does not see the illegal border crossers and it is easier to conceal the extent of the problem from the majority of the population and give them and the media the perception that it is not that great a problem.⁷⁷

The historian Paul Spickard, who is a professor at University of California, Santa Barbara, has presented similar opposition to the border fence and compared it with the Berlin

⁷⁴ "Border Patrol Agent Staffing By Fiscal Year."

⁷⁵ Office of Border Patrol and The Office of Policy and Planning, the "National Border Patrol Strategy," (Washington D.C.: U.S. Customs and Border Protection, September 2004), <http://cw.routledge.com/textbooks/9780415996945/resources.asp>, (accessed March 23, 2011), 6.

⁷⁶ Andreas, 4.

⁷⁷ *Ibid.*, 108.

Wall. He notes that the border fence separating the U.S. and Mexico serves the same function that the Berlin Wall did in that it prevents people to move freely from one side of the border to the other. He argues that people rejoiced when the Berlin Wall fell, and thus one should not be so eager to support the border fence on the U.S.-Mexico border.⁷⁸

Once one builds the fences, it is because one acknowledges that they have a very important function. The major goal is that the fences will have a deterrent effect. They do in that the illegal border crossers try to cross in more dispersed areas.⁷⁹ According to the U.S. Customs and Border Protection (CBP), the fences are not only supposed to deter illegal border crossers and smugglers, they are also supposed to prevent terrorists from crossing the border.⁸⁰

Not all the fences consist of a steel wall, which is the image one may get when one hears the word wall or fence. There are several types of physical fences, all designed for their various purposes. Mainly, two types of fences are being built along the Southern border, pedestrian and vehicle fences. The Border Patrol has also set up vehicle barriers in certain areas. Vehicle barriers are usually found in more dispersed areas where it is not necessary to construct fences, but at the same it is highly desirable that vehicles are prevented from driving across the border.⁸¹ Of the two types of fences, it is the pedestrian fences that have been the most contested ones and met the most resistance.

In addition to fences and vehicle barriers, the Border Patrol has also used unmanned aerial vehicles, or drones as they are commonly called, for surveillance over the U.S.-Mexico border area. This type of technology is especially effective in remote areas where it is difficult to employ other forms of border enforcement measures. For example, in areas where it is difficult for the Border Patrol agents to patrol and in areas where the terrain makes it difficult to build fences, drones is a valued contribution to the various other forms of technology. By employing drones in remote areas, one can get an overview over the area and the situation

⁷⁸ Paul Spickard, *Almost All Aliens: Immigration, Race, and Colonialism in American History and Identity*, (New York: Routledge, 2007), 442; Organization of American Historians, the, "Paul R. Spickard," *oah.org*, 2013, <http://lectures.oah.org/lecturers/lecturer.html?id=268> (accessed April 19, 2013).

⁷⁹ Andreas, 92-93.

⁸⁰ U.S. Customs and Border Protection, "History and Purpose," *cbp.gov*, January 15, 2010, http://www.cbp.gov/xp/cgov/border_security/ti/about_t/ti_history.xml (accessed May 8, 2013).

⁸¹ U.S. Customs and Border Protection, "Types of Fence," *cbp.gov*, January 15, 2010, http://www.cbp.gov/xp/cgov/border_security/ti/about_t/fence.xml (accessed May 8, 2013).

there and hold it under surveillance without extensive use of personnel.⁸² In that sense, drones has been an effective way of deterring and detecting illegal border crossers.

As technology has played a vital role in border enforcement in recent years, it has helped to ease the work of the Border Patrol. Technology make it easier for the Border Patrol to observe the border and recognize possible threats at the border. By doing that, it is easier to take action quickly and directly in the area where the threat has been observed. The Border Patrol currently uses several types of technological equipment, including mobile video surveillance system, night vision devices, personal radiation isotope identification devices. New and improved technological devices are constantly being developed and added to the list.⁸³

Robert Lee Maril, a professor in the sociology department at East Carolina University, has conducted extensive research on the U.S.-Mexico border and published books on the issue. Despite the seemingly positive views towards the use of technology along the border, Maril takes a different stand on this and argues in *The Fence: National Security, Public Safety, and Illegal Immigration along the U.S.-Mexico Border* that "American technology in place along the border is, I know from firsthand experience, still a dismal failure despite Border Patrol claims to the contrary."⁸⁴ It being a success or a failure is irrelevant per se as it is necessary to use technology in border enforcement. It would be nearly impossible for the Border Patrol to even attempt to maintain control over the border without the aid of technology today.

Various of these methods to enforce the U.S.-Mexico border have been in place throughout the Clinton, Bush, and Obama administrations. As enforcement has stepped up, one has also invented new technological devices. Some of the most recent technological devices have not been in place throughout. The use of physical barriers, that is fences, have been employed by all three administrations, first and foremost by the Bill Clinton administration.

⁸² U.S. Customs and Border Protection, "2012-2016 Border Patrol Strategic Plan: The Mission: Protect America," cbp.gov, May 7, 2012, www.cbp.gov/xp/cgov/border_security/border_patrol/bp_strat_plan/ (accessed February 7, 2013), 8, 14.

⁸³ Ibid., 15.

⁸⁴ Robert Lee Maril, *The Fence: National Security, Public Safety, and Illegal Immigration along the U.S.-Mexico Border*, (Lubbock: Texas Tech University Press, 2011), 17.

3 The Bill Clinton administration (1993-2001)

Initially, President William J. Clinton (Bill Clinton) did not prioritize increased border enforcement and illegal immigration issues during the campaign and at the beginning of his first term as president elect, but it did not take long before he and his administration changed their opinion in this. What sparked this change was all the attention from the public and the media that purported the opinion that the Southern border was completely out of control due to the influx of illegal immigrants who crossed the border. The border in the San Diego region especially got attention because of the problems there. Governor Pete Wilson strongly advocated a shift in policy and that attention should be given to border issues in the San Diego area. As a result of all the pressure President Clinton was exposed to and all the attention the issue got, it became necessary for him to take action and do something to try to get the situation under control.⁸⁵

After President Clinton took a different stand towards border politics on the Southern border, he set out to strengthen the border and he initiated action to increase enforcement along the border. Both *Operation Hold-the-Line* and *Operation Gatekeeper* itself were major initiatives that were launched at the start of his first term. That shows just how quickly he changed his mind and started to actively work towards securing the U.S.-Mexico border. As the IIRIRA was passed that was also a contributing factor that ensured the continuation of several border enforcement measures.

Both operations were launched at a time when there were forces in place that also advocated a more open border. Earlier the same year that *Operation Gatekeeper* was implemented in order to strengthen the border, NAFTA was also launched. Ergo, the Clinton administration were met with the challenge to balance the work to open the border to trade and close the border to immigration at the same time.⁸⁶ These efforts illustrate that the effort to enforce the U.S.-Mexico border began in earnest during the Clinton administration, and the Border Patrol clearly supported stricter enforcement of the border.

⁸⁵ Nevins, *Operation Gatekeeper and Beyond*, 107-113.

⁸⁶ *Ibid.*, 165-170.

3.1 Operation Hold-the-Line

Operation Hold-the-Line in the El Paso region in Texas was a precursor to *Operation Gatekeeper* in the San Diego sector in California, only in a smaller scale. *Operation Hold-the-Line* first became known as *Operation Blockade*, but one had to rename it as the Mexican government found the name offensive. It was launched by Silvestre Reyes who was chief of Border Patrol in the El Paso sector where the operation was launched. Although *Operation Hold-the-Line* was not initiated by the Clinton administration per se, it influenced further efforts of border enforcement that the Clinton administration initiated, and specifically *Operation Gatekeeper* which was launched a year later. The Clinton administration had announced that it wanted to do find ways to increase border enforcement, but the administration took no part in the planning and the execution of this operation.⁸⁷

As Reyes decided that he wanted to launch *Operation Hold-the-Line* unilaterally, he saw it through by ordering 400 agents to stand along a 20-mile stretch the U.S.-Mexico border. The visibility of the agents was essential to deterring illegal immigrants.⁸⁸ The Border Patrol asserts that the operation was "an immediate success."⁸⁹ Nevins claims that it specifically was a success because it deterred illegal migrants from crossing the border in the El Paso sector. That was the conclusion as the Border Patrol apprehended fewer illegals on that stretch dividing the cities of El Paso on the U.S. side and Ciudad Juárez on the Mexican side immediately after the operation had been launched.⁹⁰ Peter Andreas argues that *Operation Hold-the-Line* has been a contributing factor to the different perception one has gotten of the border. By launching the operation, the Border Patrol sent the message that people crossing the border illegally would no longer be overlooked. *Operation Hold-the-Line* changed people's perceptions because it was perceived that the border was more under control as a result of the operation.⁹¹

In the aftermath of *Operation Hold-the-Line*, Nevins asserts that the Clinton administration had a different perspective on the operation privately despite the fact that it evinced support of it publicly. Privately, the administration was against the operation and believed that Mexico would receive the wrong message. However, it was feared that the operation would affect negotiations on NAFTA and that the U.S.'s relation with Mexico

⁸⁷ Ibid., 110-112.

⁸⁸ Ibid., 111-112.

⁸⁹ "Border Patrol History."

⁹⁰ Nevins, *Operation Gatekeeper and Beyond*, 111-112.

⁹¹ Andreas, 111-112.

would be damaged. Although there were tensions with Mexico as a direct result of *Operation Hold-the-Line* and the U.S. decided to continue work to step border control up another notch, the U.S. and Mexico still signed NAFTA.⁹² The U.S. managed to walk a fine line in its efforts to open and close the border simultaneously.

3.2 The North American Free Trade Agreement (NAFTA)

The North American Free Trade Agreement (NAFTA) was implemented on January 1, 1994. NAFTA was an agreement between the U.S., Mexico, and Canada in order to establish an area for free trade between the three countries.⁹³ As President Clinton was about to sign the agreement on December 8, 1993, he stated that: "NAFTA will tear down trade barriers between our three nations. It will create the world's largest trade zone."⁹⁴ He went on to denounce the negative that came from the period of isolationism after World War I, then applaud the good that was in a period of internationalism after World War II. His point was that internationalism had had a positive outcome for the nation, something he thought NAFTA further could contribute to.⁹⁵ This observation is in line with the theory of isolationism versus internationalism in U.S. foreign policy. The theory can be applied here as NAFTA clearly shows that the U.S. government is willing to look beyond its borders and enter into agreement with other countries. As the U.S. enters into NAFTA, it is a transition towards a new period of internationalism.

Each country, the U.S., Mexico, and Canada, had different reasons for wanting to establish NAFTA. According to Peter Dicken, author of *Global Shift: Mapping the Changing Contours of the World Economy*, the U.S. government had several reasons, among others NAFTA was a way to create a stable economic development in the region. The U.S. government was also eager to get access to raw materials and markets in Mexico. Finally, the U.S. saw a possibility to employ Mexican laborers at low cost. Mexican government saw potential for economic gain, both by gaining access to markets in the other two NAFTA

⁹² Nevins, *Operation Gatekeeper and Beyond*, 111-113.

⁹³ Castles and Miller, 199; Peter Dicken, *Global Shift: Mapping the Changing Contours of the World Economy*, 5th ed., (London: Sage Publications LTD, 2008), 196-201.

⁹⁴ William J. Clinton, "Remarks by the President in NAFTA bill signing ceremony," The White House, Office of the Press Secretary, *nara.gov*, Mellon Auditorium, Washington D.C., December 8, 1993, <http://clinton6.nara.gov/1993/12/1993-12-08-remarks-by-the-president-in-nafta-bill-signing-ceremony.text.html> (accessed April 18, 2013).

⁹⁵ *Ibid.*

countries and to attract investment. Last, the Canadian government wanted to consolidate the Canada-United States Free Trade Agreement (CUSFTA), a bilateral agreement that was implemented in 1989. NAFTA was mainly a trade agreement, and the only provision of NAFTA that related to immigration was that it would become easier for some white-collar workers to cross the border between the member countries.⁹⁶ Due to limitation of space, the various provisions of NAFTA related to trade will not be accounted for in greater detail here. The focus will be on the provision that makes it easier for white-collar workers to enter the U.S. legally and on what the outcome of that has been related to illegal immigration.

One provision under Chapter 16 of NAFTA, which deals with temporary entry for business persons, allows professionals from both Canada and Mexico to obtain a temporary visa and enter the U.S. as professionals in order to work. Professionals are not the only group of business persons that can take advantage of this possibility. Three other groups of business persons, that is business visitors, treaty traders, and investors, can also obtain the visa. A TN visa was created for these four groups under NAFTA. In order to qualify for the TN visa, there are different requirements depending on whether a person's nationality is Mexican or Canadian.⁹⁷

Mexicans who want to obtain the TN visa have to provide proof of Mexican citizenship, document that they meet the specified educational requirements for their profession and are licensed to work in their field in the U.S., and the employer needs to file a labor condition application (LCA) and provide a statement that include a description of what the job entails and what duties the prospective worker will have once employed. Once all the documentation have been provided, the visa may be granted. However, after a period of ten years, on January 1, 2004, a couple of requirements pertaining to bringing in Mexican nationals was lifted. Subsequently, the employer is no longer required to file the LCA, nor petition the DHS for permission to bring the Mexican citizen into the country as a NAFTA professional. There was an upper limit of 5500 TN visas that could be granted to Mexican professionals, but this limit was only in place up until January 1, 2004. That too was lifted, and currently there are no ceiling restricting the number of professionals who can come to the U.S. under NAFTA.⁹⁸

⁹⁶ Dicken, 196-201.

⁹⁷ Jacquelyn Bednarz and Roger G. Kramer (2005), "Labour Migration to the United States: Programmes for the Admission of Permanent and Temporary Workers", in OECD/Federal Office of Immigration, Integration and Emigration, *Migration for Employment: Bilateral Agreements at a Crossroads*, OECD Publishing, <http://dx.doi.org/10.1787/9789264108684-8-en> (accessed January 24, 2013), 105-108.

⁹⁸ Ibid.

For the majority of the professions that are included in Chapter 16 of NAFTA and listed under Appendix 1603.D.1, one has to meet educational requirements equivalent to a Baccalaureate or a Licenciatura Degree in order to qualify for the TN visa. Other credentials might also apply instead of or in addition to the aforementioned degrees.⁹⁹ As a result of these specific rules, the provision effectively exclude most persons who are not educated from obtaining a temporary work visa under NAFTA and migrate to the U.S. legally. Thereby, the problem of illegal immigration persists as the majority of illegal immigrants that come to the U.S. are uneducated or low skilled. That becomes evident as one reads the Pew Hispanic Center's report "A Portrait of Unauthorized Immigrants in the United States" which asserts that illegal immigrants predominantly are occupied in low skilled labor such as farming, maintenance, and construction. Their ability to get high skilled jobs is scarce as nearly half of all illegal immigrants in the U.S. have not graduated from high school.¹⁰⁰ As it is estimated that Mexicans constitute over half of the number of illegal immigrants in the U.S., this of course is the reality for Mexicans too.¹⁰¹

Even though immigration was not an integral part of NAFTA, that is how the agreement was sold to the public and the policy makers. Castles and Miller argue that: "During the run-up to NAFTA, both President Clinton of the U.S. and President Salinas of Mexico hailed the pact as a way to reduce illegal immigration."¹⁰² According to Andreas, then Attorney General Janet Reno argued that it was necessary to pass NAFTA or else the U.S. would lose control over the borders completely. He also says that "President Carlos Salinas promised that the passage of NAFTA would help Mexico export tomatoes rather than tomato pickers."¹⁰³ However, the push and pull factors were still too strong, pulling and pushing Mexicans towards the U.S., and it did not turn out like these officials had projected.

In fact, the complete opposite occurred with the implementation of NAFTA, and illegal immigration across the U.S.-Mexico border increased. Castles and Miller go on to argue that: "Illegal immigration from Mexico to the USA in fact grew significantly in the wake of NAFTA."¹⁰⁴ This is also supported by Bill Ong Hing in *Ethical Borders: NAFTA*,

⁹⁹ NAFTA, "Chapter Sixteen: Temporary Entry for Business Persons," *worldtradelaw.net*, Appendix 1603.D.1: Professionals, www.worldtradelaw.net/nafta/chap-16.pdf, (accessed April 8, 2013), 13-17.

¹⁰⁰ "A Portrait of Unauthorized Immigrants in the United States."

¹⁰¹ Jeffrey Passel, Dora Vera Cohn, and Ana Gonzalez-Barrera, "Net Migration from Mexico Falls to Zero and Perhaps Less," *Pew Research Hispanic Center*, pewhispanic.org, released April 23, 2012, updated May 3, 2012, www.pewhispanic.org/2012/04/23/net-migration-from-mexico-falls-to-zero-and-perhaps-less/ (accessed April 22, 2013).

¹⁰² Castles and Miller, 200.

¹⁰³ Andreas, 104.

¹⁰⁴ Castles and Miller, 200.

Globalization, and Mexican Migration. He argues that NAFTA as a method of reducing undocumented migration failed miserably. Even though the agreement coincided with a new border-enforcement regime, illicit border crossings from Mexico continued to rise.¹⁰⁵ Thus it would seem that NAFTA had the opposite result with regards to immigration than what President Clinton and President Salinas projected before the implementation of NAFTA.

In *Operation Gatekeeper and Beyond: The War on Illegals and the Remaking of the U.S.-Mexico Boundary*, Joseph Nevins make this argument with regards to the porous U.S.-Mexico border:

Thus, the alleged problem of illegal immigration is, to a significant degree, made in the United States. By increasing the porosity of the U.S.-Mexico boundary through trade liberalization, the state must strengthen the boundary in other ways. This seeming paradox is consistent with the observation that globalization does not necessarily lead to a decline in nationalism. In fact, globalization can actually serve to enhance differences between citizens and so-called aliens. In this way, rising boundary-related illegality (such as unauthorized immigration) is an integral part of the NAFTAization of the U.S.-Mexico border region.¹⁰⁶

Nevins was right in his assumption, and it did not take long before the U.S. initiated an increase in border enforcement along the Southern border. As NAFTA did not enable many Mexicans to come and work in the U.S., Mexicans continued to cross the U.S.-Mexico border. *Operation Gatekeeper* was already initiated later the same year that NAFTA was launched.

3.3 Operation Gatekeeper

The build-up to *Operation Gatekeeper* started during the 1992 presidential campaign, and the Clinton administration changed their position on boundary enforcement from an issue that was given low priority to advocate a build-up on the border between the U.S. and Mexico as President Clinton took office in 1993. The media attention and people's perception of illegal immigration on the U.S.-Mexico border portrayed it as a problem that increasingly had to be taken care of. Subsequently, the Clinton administration changed their view towards illegal immigration and gave it a higher priority on their agenda. That is why Joseph Nevins goes on to argue that the Clinton administration wanted to show that it was serious when it came to

¹⁰⁵ Bill Ong Hing, *Ethical Borders: NAFTA, Globalization, and Mexican Migration*, (Philadelphia: Temple University Press, 2010), 9.

¹⁰⁶ Nevins, *Operation Gatekeeper and Beyond*, 169.

the issue of illegal immigration by doing something that would reflect this. That is one of the reasons why *Operation Gatekeeper* came about according to Nevins.¹⁰⁷

Operation Gatekeeper was the first major initiative to control illegal immigration in the San Diego area in California on the U.S.-Mexico border. It was implemented in 1994 and it was supposed to deter migrants from entering the U.S. Joseph Nevins notes that *Operation Gatekeeper* is significant because it represents a change in how one perceives the U.S.-Mexico border and a new practice on how to deal with illegal immigration. Before *Gatekeeper*, the border was more open and that stands in great contrast to the border in that area today with fences and frequent patrolling. The San Diego area, where *Operation Gatekeeper* was implemented, was an area that generally was considered to be out of control. Since *Operation Gatekeeper* was implemented, the process of building fences and strengthening the border has continued in other places along the border as well. According to Joseph Nevins it was ñan evolution of the U.S.-Mexico divide from a border (or a zone of interaction and transition between two separate political entities) to a boundary (or a line of strict demarcation).ö¹⁰⁸ (Parentheses by author). That operation clearly marked a change in border enforcement along the Southern border.

NAFTA was also launched in 1994, the same year that *Operation Gatekeeper* was implemented. With NAFTA, the borders had to open up to trade. This created a controversy as the U.S.-Mexico border had to remain open to trade, but at the same time the U.S. strengthened border controls in order to prevent illegal border crossers from entering the country.¹⁰⁹ How to manage both at the same time was a challenge for the Clinton administration, and still is a challenge for the U.S. government today.

According to Castles and Miller, an unintended cause of NAFTA, at least short-term, has been an increase in illegal immigration from Mexico to the United States.¹¹⁰ The U.S. was aware that as it opened up its border to trade, it had to remain closed to illegal immigration, and they still wanted strict border control.¹¹¹ Despite the launch of NAFTA, the U.S. wanted to control illegal immigration that moved across the border from Mexico, and they knew that that would be a challenge as it would be impossible to inspect every truck crossing the border. Subsequently, *Operation Gatekeeper* was a way to increasingly enforce the border.

¹⁰⁷ Ibid., 104-117.

¹⁰⁸ Ibid., 12-13, 104-114.

¹⁰⁹ Ibid., 165-170.

¹¹⁰ Castles and Miller, 200-201.

¹¹¹ Nevins, *Operation Gatekeeper and Beyond*, 165-170.

Operation Gatekeeper represent one of the first major efforts to enforce the U.S.-Mexico border. After this operation, border enforcement escalated. In essence, *Operation Gatekeeper* set the stage for what was to come in later years. In 1994, when the U.S. Border Patrol released their strategy, one also got an indication of what border enforcement would entail in the upcoming years.

3.4 Border Patrol strategy 1994

In July 1994, the U.S. Border Patrol issued their strategic plan named *Border Patrol Strategic Plan 1994 and Beyond* that set forth the goals that the Border Patrol was going to work towards in the upcoming years. At the time, this was the Border Patrol's mission statement: "The mission of the United States Border Patrol is to secure and protect the external boundaries of the United States, preventing illegal entry and detecting, interdicting and apprehending undocumented entrants, smugglers, contraband, and violators of other laws."¹¹² The Border Patrol acknowledges that it will only be able to bring the border under control. As it further acknowledges in the report, an "absolute sealing of the border is unrealistic."¹¹³

The goals that the Border Patrol set forth was part of a long term plan to gain control over the nation's borders. However, the priority was clearly set on the Southern border that the U.S. shares with Mexico. This is evident as the Border Patrol divided up the border into different areas. These areas were divided up according to the importance that the Border Patrol gave that area when it came to protecting the border. Priority number one for the Border Patrol was to control the border in Southern California, West Texas, and New Mexico. In their strategy, the Border Patrol would concentrate on these areas first before moving on to concentrate on other areas. Their second priority was South and South Central Texas and Arizona, but according to the *Border Patrol Strategic Plan 1994 and Beyond*, the Border Patrol would only prioritize these areas once the other areas that were the Border Patrol's first priority already were under control. So far the Border Patrol has not concentrated their work markedly in areas other than these, but they predict that water boundaries, such as the Gulf Coast and North Central U.S., will be the site of more illegal entries once the areas that the Border Patrol consider their second priority are under control. Therefore, the Border Patrol's third priority is to control these and the entire Southwest border, including those water boundaries. The final step and their fourth priority is to gain control of all the U.S. borders

¹¹² "Border Patrol Strategic Plan 1994 and Beyond," 5.

¹¹³ *Ibid.*, 1.

and also to adjust so that the Border Patrol can be alert and concentrate enforcement efforts in the prioritized areas as they change with time. For example, following the securing of the Southwest border, the Border Patrol projects that more illegal migrants will try to cross the Northern border, that is in the Northeast, the Northwest, and the Great Lakes, and also by sea into South Florida, Puerto Rico, on the Gulf Coast, and on the Southwest Coast. The Border Patrol needs to be prepared for this change and focus on these new areas.¹¹⁴ So far the Border Patrol has concentrated their efforts on controlling the entire Southern border, thus both what has been deemed their first and second priority when it comes to border enforcement according to their strategic plan. The Border Patrol is still working on controlling the areas that are their second priority, and has not yet extended a sufficient amount of resources in comparison to what is used on the Southern border to the third and fourth priority areas. On the basis of this, it is only natural to conclude that since Border Patrol now also works to control the areas that are their second priority, the areas that are their first priority are under control.

Peter Andreas's argument is that the border is not under control, and that it is just perceived as such. He argues that the enforcement that have occurred along the U.S.-Mexico border has been necessary in order for people to perceive the border as more secure. He also says that border enforcement essentially is about "symbolically reaffirming the state's territorial authority."¹¹⁵ This argument counters the assumption that the Border Patrol actually has the border under control in reality. Therefore, the areas that constitute the Border Patrol's first and second priority according to the 1994 strategic plan are more secure than ever, but still not under complete control. The IIRIRA further exemplifies how this practice of executing territorial authority is continued in a very visible way by the U.S. government.

3.5 The IIRIRA

The Clinton administration generally did not take a legislative approach to illegal immigration and border enforcement, but President Clinton signed the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)* into law. David A. Reimers states that the act allowed the construction of fences on the border between the U.S. and Mexico to continue and that it allocated more resources to the INS so that more Border Patrol agents could be

¹¹⁴ Ibid., 7-12.

¹¹⁵ Andreas, xiv, 8-9.

hired. He says that in a time period of four years, 5,000 new agents should be hired so that the number would reach 10,000 agents.¹¹⁶

Title I, Section 101 of the IIRIRA deals with the increase of Border Patrol agents. The act states that:

“The Attorney General in each of fiscal years 1997, 1998, 1999, 2000, and 2001 shall increase by not less than 1,000 the number of positions for full-time, active-duty border patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year.”¹¹⁷

However, once one look at the number of Border Patrol agents actually hired, the numbers were lower than what the act made provisions for. According to the Border Patrol’s statistics, the number of Border Patrol agents increased from 6,895 in FY 1997 to 7,982 in FY 1998. In subsequent years, the increase in number of Border Patrol agents were less than 1,000 agents and thus the number did not double.¹¹⁸

In addition, Title I Section 102 dealt with the fences that were going to be built. According to subsection (b), the fences would be built in the San Diego sector in California and extend 14 miles Eastward from the Pacific Ocean.¹¹⁹ This is a significant provision of the act in that it further reinforces the idea that fences and physical barriers are seen as a solution to the problem of illegal immigration on the U.S.-Mexico border.

The act also dealt with several other issues related to immigration restriction. However, these two provisions are the two that are the most relevant regarding visible boundary enforcement. First and foremost in the number of agents stationed at the border and also in fences erected along the border.

3.6 Conclusion

During the Clinton administration, the first significant achievement on border control were *Operation Hold-the-Line* which was initiated and executed by Silvestre Reyes. Despite the Clinton administration’s opposition to it in the aftermath, the administration became a strong advocate for the creation and launching of a similar operation, *Operation Gatekeeper*.

¹¹⁶ Reimers, 141.

¹¹⁷ “Pub.L. 104-208 ó Illegal Immigration Reform and Immigrant Responsibility Act of 1996,” 104th Congress, Sept. 30, 1996, 110 Stat. 3009, U.S. Citizenship and Immigration Services, *uscis.gov*, <http://www.uscis.gov/ilink/docView/PUBLAW/HTML/PUBLAW/0-0-0-10948.html> (accessed May 8, 2013).

¹¹⁸ “Border Patrol Agent Staffing By Fiscal Year.”

¹¹⁹ “Pub.L. 104-208 ó Illegal Immigration Reform and Immigrant Responsibility Act of 1996.”

Operation Gatekeeper was the Clinton administration's greatest accomplishment on border enforcement. It marked the beginning of an unprecedented build-up on the border despite NAFTA's call for an open border. Clinton's presidency was marked by this attempt to open and close the border simultaneously. The attempt to close the border was further marked as IIRIRA was legislated. In addition, a plan over what ought to be done to get control over the border was finally presented by the Border Patrol.

In their strategic plan, the Border Patrol also defined parts of the U.S.'s Southern border as the area that proposed the greatest challenges pertaining to border enforcement. As these areas were seen as out of control, the Border Patrol asserted that it needed to work towards getting those areas under control. Even with the increased build-up at the Southern border, the Border Patrol did not manage to get it under control during Clinton's presidency.

As George W. Bush succeeded President Clinton, George W. Bush wanted to continue in the direction of creating a more open border, but he too would have to yield and ultimately continued and extended the practice toward a more secure border that was initiated during the Clinton administration. One can see that George W. Bush took a tough legislative approach to border enforcement after September 11.

4 The George W. Bush administration (2001-2009)

In general, President Bush was in favor of keeping the Southern border open according to Edward Alden, the Bernard L. Schwartz Senior Fellow at the Council on Foreign Relations. One of the reasons for this was so that President Bush would not lose the support of Hispanic voters. If there was a crackdown on the border with Mexico, it might negatively impact the number of Hispanics that supported him and voted for him.¹²⁰ One of the measures that he supported was a new worker program between the U.S. and Mexico, allowing Mexicans to come to the U.S. and work legally for a period of time.¹²¹

The attacks on 9/11 marks a shift in the Bush administration's policy on border control toward a more restrictive approach. The wide range of legislation related to border enforcement and immigration that were passed as a direct result of the attacks on 9/11 testifies to the increasing effort by the Bush administration to take legislative action.¹²² The legislation that were passed enabled the build-up at the border and were also related to immigration restriction. In addition, the laws gave the U.S. government unprecedented power to secure the border. The most significant laws pertaining to border control will be accounted for in greater detail.

Although the main focus is on the legislative approach to border control during the Bush administration, the administration also sought to employ other ways to control the border after 9/11. Included among these are a proposal for immigration reform and *Operation Jump Start*. Those efforts will be accounted for, but not in as great a detail as the legislative action that has been taken.

4.1 Collaboration with Mexico on a migration reform

President Bush was in favor of creating a worker program that would make it easier for Mexicans to come and work in the U.S. legally.¹²³ In a way this would resemble the *Bracero program* which ended in 1964. Under the *Bracero program*, Mexicans could come to the U.S.

¹²⁰ Edward Alden, *The Closing of the American Border: Terrorism, Immigration, and Security Since 9/11*, (New York: Harper Perennial, 2009), 258, 272.

¹²¹ Ibid., 261-263.

¹²² Ibid., 258.

¹²³ Ibid., 261-263.

to work as temporary contract workers.¹²⁴ On several occasions, President Bush stated that he supported the creation of a worker program, but it was one of the issues that he never managed to accomplish.

When the Mexican president, Vicente Fox was inaugurated in 2000, there was a change when it came to collaboration with the U.S. on immigration. The two previous Mexican presidents, President Salinas and President Zedillo, believed that Mexico should not intervene with the immigration policies of its Northern neighbor. When Vicente Fox came to power, he changed the policy toward the United States because he had a great vision of a border free North America, as is the case with the European Union (EU), where people could move freely across the borders. He called this vision NAFTA Plus as he wanted it to be an expansion of NAFTA, which already had been in place since 1994.¹²⁵ It appears that Vicente Fox was in favor of a more open border than what President Bush had in mind. George W. Bush only wanted to create a worker program making it easier for Mexicans to cross the border and work legally, while Vicente Fox was in favor of removing the border entirely over time. Even so, the two presidents recognized that they ought to start working together on border issues.

The U.S. president, George W. Bush, and the Mexican president, Vicente Fox, met and discussed among other things migration issues and the possibilities for creating a migration reform between the two respective countries on a couple occasions. During their first meeting in February 2001, they agreed to work together on immigration issues that would affect both the U.S. and Mexico.¹²⁶ President Fox visited Washington D.C. on September 5, 2001, and at that time he was hoping that the U.S. and Mexico could come to an agreement on migration reform before the end of 2001.¹²⁷ The day that the two presidents met, the main principles that were supposed to guide President Bush in the discussions with Mexico was published on the White House web page. The Bush administration had five main principles that it wanted to discuss. One important principle is fairness which means that people who want to come to the U.S. ought to choose to migrate legally. For the people who choose to migrate, their safety is a central part of an ideally humane system. Among the issues is also the wish to discuss and come to an agreement with Mexico in order to create a new

¹²⁴ Dinnerstein, Nichols, and Reimers, 250-252.

¹²⁵ Matt Bakker, "From *The Whole Enchilada* to *Financialization: Shifting Discourses of Migration Management in North America*," in *The Politics of International Migration Management*, eds. Martin Geiger and Antoine Pécoud, 271-294 (Basingstoke: Palgrave Macmillan, 2010), 275-277.

¹²⁶ Weintraub, 113.

¹²⁷ Bakker, 280.

temporary worker program. However, one central point is that American workers should not be rendered at a disadvantage as a result of this, and consequently workers should just be hired when there is a scarcity of American workers. Finally, the Bush administration's goal is that the two countries can collaborate on all these issues.¹²⁸ The plans that the two countries had to cooperate and come to an agreement on immigration would change abruptly due to the events of 9/11.

Immediately after 9/11, national security became the main focus area and it overshadowed the work with migration reform. As a result, the U.S. government soon announced that it would not collaborate with Mexico on a migration reform. Matt Bakker acknowledges that there are several people who disagree with him, but despite that, he still argues that 9/11 is the main reason that an agreement on a migration reform between the U.S. and Mexico failed.¹²⁹ Clearly, there was a change because of the terrorist attacks on 9/11. However, President Bush did not stop his work to create a worker program, and in early 2004 he introduced that he would attempt to create a new worker program again.¹³⁰ The effects of 9/11 was still too strong, and what followed 9/11 was the passage of legislation related to border enforcement and increased national security and he did not win through with the proposal for a worker program.

4.2 Border Patrol strategy 2004

When one compares the Border Patrol's strategies released in 1994 and 2004, it becomes evident that a lot of things have changed in those ten years. The Border Patrol has had to think anew when it comes to border control and the Border Patrol's priorities and mission has changed. One of the reasons for this and a lot of the changes that has been made during those ten years is the attacks on 9/11. To prevent illegal migrants from crossing the border and to prevent smuggling used to be the main tasks that the Border Patrol concentrated their efforts on. After 9/11, preventing terrorists from entering has replaced the former foci areas as the Border Patrol's main priority. Despite this change, the tasks remain interrelated as the

¹²⁸ White House, the, "Fact Sheet on Migration," *Office of the Press Secretary*, September 5, 2001, <http://georgewbush-whitehouse-archives.gov/news/releases/2001/09/20010905-11.html> (accessed March 6, 2012).

¹²⁹ Bakker, 280-282.

¹³⁰ George W. Bush, "President Bush Proposes New Temporary Worker Program," *The White House*, Office of the Press Secretary, georgewbush-whitehouse.archives.gov, January 7, 2004, <http://georgewbush-whitehouse.archives.gov/news/releases/2004/01/20040107-3.html> (accessed May 7, 2013).

porosity and permeability of the border is something that terrorists also can exploit, just like illegal border crossers and smugglers do.¹³¹

In the report *National Border Patrol Strategy* released in 2004 by The Office of Border Patrol and the Office of Policy and Planning, the Border Patrol asserts that control has been successfully established in some areas along the U.S.-Mexico border. At the same time, they admit that not all areas are under control yet.¹³² The Border Patrol strive for operational control of all the nation's borders. What is meant by operational control in this context is defined as follows: "Operational control is defined as the ability to detect, respond, and interdict border penetrations in areas deemed as high priority for threat potential or other national security objectives."¹³³

The Border Patrol acknowledges that the U.S. borders are very different in nature and that the potential threats vary depending on where one is situated. Therefore it has developed different strategies to deal with the various threats that its agents face at the Southern border, the Northern border, and the Coastal border.¹³⁴ Along the Southern border, which is the border one focuses on in this thesis, the Border Patrol's focus is mainly concentrated around these three areas:

- "Achieve proper balance between personnel, equipment, technology, and border infrastructure;
- Gain, maintain, and expand control of borders based on threat and priority; and
- Enhance rapid response capabilities."¹³⁵

These three points contain very general measures, but improvements in these areas are nonetheless essential if enforcement along this border is going to have the maximum desired effect. It is obvious that patrolling and the build-up on the Southern border needs to be strictly enforced and that the border needs to become more secure. When one looks at how the state of things have been along the border, one see that the measures that has already been taken after the Border Patrol issued its *Border Patrol Strategic Plan 1994 and Beyond* has not been enough. The Border Patrol believes that it needs to prioritize the three areas in order to do something to improve border enforcement on the U.S.-Mexico border. It is not just some small measures that needs to be implemented, but big changes and extensive improvements. What has been done so far has improved the situation, but it has not solved the problem

¹³¹ "National Border Patrol Strategy," 2-6.

¹³² *Ibid.*, 5.

¹³³ *Ibid.*, 2-3.

¹³⁴ *Ibid.*, 15-19.

¹³⁵ *Ibid.*, 15.

entirely. The question remains as to how Border Patrol use their resources and restructure themselves, and if they have enough or will get enough resources to meet their goal to establish operational control of the U.S. borders, including the Southern border.

Related to control of the border, one great concern that the Border Patrol has regarding the U.S.-Mexico border is that terrorists will be able to slip through the security net along with the great number of illegal entrants that cross each day and smugglers that frequent the border region. It is also believed that terrorists may take advantage of the smuggling networks that already exist along the border. There are no way to distinguish between a terrorist and a potential innocent border crosser, and therefore it is crucial that the U.S. take caution and are able to maintain better control over the border so that next to none are able to cross the border illegally. The Border Patrol will go about deterring smuggling and illegal immigration by rendering the infrastructure that they use to cross the border impassable by increasing enforcement, both within the ranks of the Border Patrol and by collaborating with other law enforcement agencies, and use physical barriers such as for example fences. In addition, the Border Patrol wants to utilize technology more extensively for surveillance, especially sensors, drones, technology that improves communication and so on. The thought is that these measures combined will have a deterrent effect. By taking these measures, the Border Patrol will subsequently make sure that terrorists' opportunities to cross the Southern border decreases along with the opportunities for smugglers and illegal entrants because it will be more difficult for them to cross without being detected.¹³⁶

With regard to the Southern border, it is also important for the Border Patrol to collaborate with Mexico on a greater scale. According to its strategic plan from 2004, the Border Patrol specifically wants to increase "cooperation with Mexico on policies to improve safety and slow migration."¹³⁷ In 2004, when this Border Patrol strategy was published, the U.S. still experienced an increase in illegal immigration from Mexico. A few years later the trend turned and currently there is a standstill in migration according to a recent report by Pew Hispanic Center. That will be accounted for in greater detail in chapter five. However, it is necessary to mention that the standstill did not come as a result of increased border enforcement or cooperation with Mexico alone, but also as a result of unforeseen events due to the economic situation in the U.S. which made it less attractive to migrate.¹³⁸

¹³⁶ Ibid., 15-16.

¹³⁷ Ibid.

¹³⁸ "Net Migration from Mexico Falls to Zero and Perhaps Less."

Standstill on immigration or not, it is still important for the U.S. Border Patrol to increase border enforcement in order to prevent smuggling and terrorists from entering the country.

4.3 Legislation

During the eight years that George W. Bush was president, a considerable amount of legislation related to border enforcement and border issues was passed. Several of the acts were important in order to increase the Border Patrol's ability to control the border more effectively.¹³⁹ The *REAL ID Act of 2005* was especially significant because of the power the legislators invested in DHS by passing the act.¹⁴⁰ Emphasis is also put on the *Sensenbrenner bill* as it included provisions of fence building that later were included in the *Secure Fence Act of 2006*. In addition, the *Secure Fence Act of 2006* was important in that it assured the creation of fences, something that resulted in a visible separation of the U.S. and Mexico in long stretches of the border.¹⁴¹

These three acts are among the most important pieces of legislation on border issues and are presented here in order to show that the Bush administration had a legislative approach to border control in the aftermath of 9/11. The main reason that the bulk of legislation was introduced and passed at that exact time was because the terrorist attacks spurred a need to preserve national security in the aftermath.¹⁴² To pass legislation was a way to ensure that that was done and make sure that the government was doing everything in its power to prevent such horrible events from ever occurring again.

Legislation is given so much attention in this chapter because the legislative approach to border enforcement was something that was unique to the Bush administration. As is proclaimed in this thesis, neither the Clinton nor the Obama administration comes close to passing an equal amount of legislation as significant as the Bush administration. This only applies to legislation pertaining to border control and illegal immigration.

¹³⁹ The *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001* (USA PATRIOT Act) was the first major act that included provisions related to border enforcement. It was signed into law by President Bush on October 26, 2001. According to OECD, the *USA PATRIOT Act of 2001* "authorised the allocation of substantial additional staff and other resources to border control and inspection activities, technological improvements and the sharing of relevant databases between government agencies." OECD, *Trends in International Migration*, Sopemi 2003 ed., (Paris: OECD Publications, 2003), 293.

¹⁴⁰ Maril, 56.

¹⁴¹ Nevins, *Operation Gatekeeper and Beyond*, 212-213.

¹⁴² Alden, 258; "2012-2016 Border Patrol Strategic Plan," 6.

4.3.1 The REAL ID Act of 2005

One provision of the *REAL ID Act of 2005* waives other laws that restrict the construction of barriers and fences on the border so that the limitations on the construction of fences on the border are lifted. There are for example environmental laws that prevent the construction of fences in certain areas. DHS now hold the power to waive these laws along with all other laws that before prevented them from building fences along the border.¹⁴³ As is stated in the summary of the act:

(Sec. 102) Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) to authorize the Secretary of Homeland Security (the Secretary), in the Secretary's sole discretion, to waive all laws as necessary to ensure expeditious construction of certain barriers and roads at the U.S. border. Prohibits courts, administrative agencies, and other entities from reviewing the Secretary's decision or from ordering relief for damages alleged to have resulted from such decision.¹⁴⁴

As a result of the passing of the *REAL ID Act of 2005*, more fences and physical barriers can be erected along the border without taking other laws that initially prevent such actions into consideration.

The act has rendered the Secretary of Homeland Security very powerful in this respect. Michael Chertoff held the position of Secretary from 2005 and until he was superseded by Janet Napolitano, who currently holds the position, on January 21, 2009.¹⁴⁵ These are the only two Secretaries who have held the position after the *REAL ID Act of 2005* was passed and who subsequently have had the power to waive laws in order to erect border fences.

Since the implementation of the *REAL ID Act of 2005*, several laws and provisions of laws have been waived. According to Dinah Bear who is an Attorney at Law who has published the paper "Border Wall: Broadest Waiver of Law in American History" available on The Center for International Environmental Law (CIEL)'s website, there is broad variation among the laws that have been waived as all laws can be waived. Naturally, the majority of these laws are environmental laws, but they are different types of environmental laws. In order to illustrate the variation, acts such as *The Arizona Desert Wilderness Act*, *The*

¹⁴³ Maril, 56.

¹⁴⁴ [H.R.418 ó Real ID Act of 2005](http://thomas.loc.gov/cgi-bin/bdquery/z?d109:HR00418:@@D&summ2=m&), Bill Summary & Status, 109th Congress (2005-2006), H.R.418, CRS Summary, Library of Congress ó Thomas, <http://thomas.loc.gov/cgi-bin/bdquery/z?d109:HR00418:@@D&summ2=m&> (accessed December 14, 2012).

¹⁴⁵ U.S. Department of Homeland Security, "Janet Napolitano," [dhs.gov](http://www.dhs.gov/janet-napolitano), <http://www.dhs.gov/janet-napolitano> (accessed April 3, 2013); U.S. Department of Homeland Security, "Michael Chertoff, Homeland Security Secretary 2005-2009," [dhs.gov](http://www.dhs.gov/michael-chertoff-homeland-security-secretary-2005-2009), <http://www.dhs.gov/michael-chertoff-homeland-security-secretary-2005-2009> (accessed April 3, 2013).

Endangered Species Act, and *The Safe Drinking Water Act* serves as examples of acts that have been waived as they are included in a list of laws that she provides of laws that have been waived. Also laws which regulate Native Americans' rights, such as *The American Indian Religious Freedom Act* and *The Native American Graves Protection and Repatriation Act*, are included in the list. She also states that many of these laws have been disputed in court.¹⁴⁶ As she is an attorney and has based her paper on extensive research consisting of the use of laws and publications in the Federal Register, that gives the paper credibility. Although the paper was published in February 2009 and only includes findings up until then, there is no reason to believe that the trend of waiving laws in order to construct fences and other barriers along the border has ended after Janet Napolitano succeeded the position as Secretary, quite to the contrary.

Since Napolitano superseded Chertoff as Secretary, one would think that the *REAL ID Act of 2005* had continually been used to waive laws. Evidence of this is hard to find and the contrary seems to be the case. One reason may be that Napolitano repeatedly have voiced her objections against the law publicly and therefore do not want to use it for the purpose of waive laws either. However, what she has opposed are provisions of the law that comprise driver's licenses and birth certificates, and not the ability the law gives to waive laws that prevent border enforcement in certain areas.¹⁴⁷

The *REAL ID Act of 2005* is distinctive in that it gives unprecedented power to the Secretary of DHS, currently Janet Napolitano, to waive other laws. As the U.S. government seeks to erect fences over more and more stretches of the U.S.-Mexico border, this law is essential in enabling that.

4.3.2 The Sensenbrenner bill (2005)

The *Border Protection, Anti-terrorism, and Illegal Immigration Control Act of 2005*, commonly known as the *Sensenbrenner bill*, called for several measures to restrict illegal immigration. The most noteworthy of those are title X, section 1002, of the act which proposed that the act should amend the IIRIRA (see chapter 3.5) in that the Secretary should

¹⁴⁶ Dinah Bear, "Border Wall: Broadest Waiver of Law in American History," *The Center For International Environmental Law (CIEL)*, February 2009, www.ciel.org/Publications/BorderWall_8Feb09.pdf (accessed April 3, 2013), 1-12.

¹⁴⁷ Janice Kephart, "REAL ID Implementation Embraced by 41 States: Driver's Licenses Still at Risk of Terrorist Abuse," *Center for Immigration Studies*, cis.org, April 2011, www.cis.org/real-id-terrorist-abuse (accessed May 7, 2013); CNNPolitics.com, "Homeland Security chief seeks to repeal REAL ID Act," *cnn.com*, April 22, 2009, <http://edition.cnn.com/2009/POLITICS/04/22/real.ID.debate/> (accessed May 7, 2013).

be directed to construct at least two layers of reinforced fencing, additional physical barriers, roads, lighting, cameras and sensors in five specified zones along the U.S.-Mexico border.¹⁴⁸ According to Nevins, the fencing that would be constructed in these zones if the bill passed added up to 700 miles.¹⁴⁹ Alden notes that another provision of the *Sensenbrenner bill* necessitated the criminalization of illegal border crossing, making it a felony punishable by a prison sentence. That was not the only thing that would become a felony. Assisting illegal immigrants that already lived in the U.S. would also become a felony.¹⁵⁰ Clearly, these provisions evince that there were strong advocates in favor of restricting illegal immigration.

The act has been called the *Sensenbrenner bill* because James Sensenbrenner, who was the Republican chairman of the House Judiciary Committee, was one of the bill's creators. In *The Closing of the American Border: Terrorism, Immigration, and Security Since 9/11*, Edward Alden characterizes James Sensenbrenner as "a strong advocate of using immigration laws aggressively to fight the war on terrorism."¹⁵¹ Sensenbrenner was also against illegal immigration in general and wanted to secure the border against illegal immigrants and possible terrorists. In order to do this, he and his fellow republicans in Congress, introduced the *Border Protection, Anti-terrorism, and Illegal Immigration Control Act of 2005* in the House. The bill passed the House of Representatives in December 2005, but did not pass the Senate.¹⁵²

Despite presidential and bipartisan support for the bill, there was also fierce opposition to the bill from both Republicans and Democrats. As Fareed Zakaria, writing for *Time* magazine, puts it: "The right hated it because it provided a legal path for undocumented workers, the left because it reduced family unification. And the unions opposed the temporary-worker provisions."¹⁵³ In the end, the opposition was the victorious part and no bill was passed.

However, even though the *Sensenbrenner bill* did not pass the Senate and was subsequently not written into law, it is an important bill. It is worth mentioning in this respect

¹⁴⁸ [H.R.4437](http://thomas.loc.gov/cgi-bin/bdquery/z?d109:HR04437:@@D&summ2=m&) "Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, Bill Summary & Status, 109th Congress (2005-2006), H.R.4437, CRS Summary, The Library of Congress " Thomas, <http://thomas.loc.gov/cgi-bin/bdquery/z?d109:HR04437:@@D&summ2=m&> (accessed December 14, 2012); Nevins, *Operation Gatekeeper and Beyond*, 212 ; Alden, 271.

¹⁴⁹ Nevins, *Operation Gatekeeper and Beyond*, 212; Alden, 271.

¹⁵⁰ Alden, 271.

¹⁵¹ *Ibid.*, 101, 176, 271; Nevins, *Operation Gatekeeper and Beyond*, 212.

¹⁵² Alden, 269-271.

¹⁵³ Fareed Zakaria, "Broken and Obsolete: An immigration deadlock makes the U.S. a second-rate nation," *Time Magazine*, Vol. 179, No. 24, (June 18, 2012): 20-21.

because similar legislation came with regards to border security and border fences in the years that followed, first and foremost the *Secure Fence Act of 2006*.¹⁵⁴

4.3.3 The Secure Fence Act of 2006

The *Secure Fence Act of 2006 (H.R.6061)* is one of the most significant pieces of legislation on border enforcement that was enacted during the Bush administration. As President George W. Bush signed the *Secure Fence Act of 2006* into law on October 26, 2006, he declared in his signing statement that the act "is an important step in our nation's efforts to secure our border and reform our immigration system."¹⁵⁵ It is one of the most significant acts enacted during Bush's presidency on border enforcement, and probably one of the most important acts on border control since *Operation Gatekeeper* was launched.

Nevins state that among other things the *Secure Fence Act of 2006* allows for the construction of a total of 850 miles of fencing along the U.S.-Mexico border.¹⁵⁶ Both surveillance and physical barriers are important elements of border enforcement in order to achieve operational control of the border. In this context, operational control is defined as "the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband."¹⁵⁷ This definition of operational control is similar to the definition the Border Patrol gave in its *National Border Patrol Strategy* from 2004 (see chapter 4.2). In both definitions, it is made explicit that people who try to cross the border needs to be stopped. By building fences, the U.S. can ensure that it has better control over where the illegal migrants will cross and that they will be prevented from crossing in places where there are fences.

The act allows for increased use of technology and for more barriers along the border. Related to this, when President Bush signs the act, he says: "We're modernizing the southern border of the United States so we can assure the American people we're doing our job of securing the border. By making wise use of physical barriers and deploying 21st century

¹⁵⁴ Nevins, *Operation Gatekeeper and Beyond*, 212-213.

¹⁵⁵ George W. Bush, "President Bush Signs Secure Fence Act," *The White House*, Office of the Press Secretary, georgewbush-whitehouse.archives.gov, The Roosevelt Room, October. 26, 2006, <http://georgewbush-whitehouse.archives.gov/news/releases/2006/10/20061026.html> (accessed December 14, 2012).

¹⁵⁶ Nevins, *Operation Gatekeeper and Beyond*, 212-213.

¹⁵⁷ "H.R.6061 - Secure Fence Act of 2006," Bill Text, 109th Congress (2005-2006), H.R.6061.ENR, The Library of Congress - Thomas, <http://thomas.loc.gov/cgi-bin/query/D?c109:4:./temp/~c109KVJjQD::> (accessed December 14, 2012).

technology we're helping our Border Patrol agents do their job.¹⁵⁸ These are things that are absolutely necessary if the U.S. is going to even have a chance to control its Southern border.

Despite the use of this new technology and more barriers along the border, it is uncertain how much more secure the border has become. People cross in more dispersed areas and that only moves the problem to other stretches of the border. It is less likely that migrants will cross in areas where fences are erected.¹⁵⁹ Especially the fences erected has been a disputed issue and it is not certain that it is the solution to the problem.

After the fences on the U.S.-Mexico border have been erected, many have questioned how useful the fences are. *Et gjerde mot Mexico* is a documentary on the border issue which questions if the fences that have been put up on the border between the U.S. and Mexico after the *Secure Fence Act of 2006* was passed are serving its purpose. The video shows that there are several holes in the fences. These include both holes that are meant to be there so that for example animals can pass through and holes that are cut by illegal immigrants as they cross the border.¹⁶⁰ When these holes are present, they allow for illegal border crossers to enter the U.S. illegally.

The fences are effective, but it does not secure the border completely in those areas where they have been erected. There are two problems that render the border less secure. One is the destruction made to the border fences so that the holes allow for people to cross through it, as could be seen in the video *Et gjerde mot Mexico*.¹⁶¹ The second problem is that the topography in certain areas makes it impossible to erect fences. However, according to the *Secure Fence Act of 2006*, surveillance and other types of barriers can be used in areas where nature is an impediment to the construction of fences.¹⁶² In order for the border to be completely secure, it has to be impossible for people to find ways around it, through it, or under it. That is a great task, and as of today, an impossible task for the Border Patrol.

The *Consolidated Appropriations Act of 2008* gave the Department of Homeland Security a deadline for when it had to complete the construction of the fences along the U.S.-Mexico border. Nevins further notes that the deadline for completion was December 31, 2008, but that was later extended to 2009. As much as 370 miles of fencing had to be completed by then. In addition to that, the completion of 300 miles of additional vehicle barriers also had to

¹⁵⁸ "President Bush Signs Secure Fence Act."

¹⁵⁹ Payan, 68.

¹⁶⁰ NRK nett-TV, *Et gjerde mot Mexico*, <http://www.nrk.no/nett-tv/klipp/831099/> (accessed March 15, 2012).

¹⁶¹ Ibid.

¹⁶² "H.R.6061 - Secure Fence Act of 2006."

be completed.¹⁶³ Division E, title II of the *Consolidated Appropriations Act of 2008* also makes sure that appropriations are made for several areas of border enforcement. This includes: "U.S. Customs and Border Protection (CBP), including for automated systems, border security fencing, infrastructure, and technology" ¹⁶⁴ In addition, U.S. Immigration and Customs Enforcement (ICE) will be given funds so they can carry out "detention and removal operations."¹⁶⁵ As can be seen, the act has several provisions for border enforcement.

Although fences were already present at the Southern border before the *Secure Fence Act of 2006* was enacted, it was not to such a great extent as it became after the act was passed. In this respect, the fences have become a way of securing the border but at the same time the fences physically separate the U.S. and Mexico. The enactment of the *Consolidated Appropriations Act of 2008*, ensured that what actually was included in the *Secure Fence Act of 2006* became a reality, and that only within a few years after it was enacted.

4.4 Immigration reform bill

President Bush wanted to pass a comprehensive immigration bill, and on April 25, 2006, he initiated a discussion in the Senate on how to pass a comprehensive immigration reform bill. At the time, he hoped that they would be able to pass a bill by the end of 2006. President Bush was clearly in favor of a bill that would touch on several aspects of immigration policy. As President Bush said himself:

"I will report to the American people that there is a common desire to have a bill that enforces the border, a bill that has interior enforcement - - in other words, a bill that will hold people to account for hiring somebody who is here illegally - - but a bill that also recognizes we must have a temporary worker program, a bill that does not grant automatic amnesty to people, but a bill that says, somebody who is working here on a legal basis has the right to get in line to become a citizen."¹⁶⁶

Initially, President Bush believed it was possible to pass a bill that encompassed all this.

As part of the bill's provision to enforce immigration laws, several goals relating to border control would have to be fulfilled before the U.S. would issue more temporary worker

¹⁶³ Nevins, *Operation Gatekeeper and Beyond*, 213.

¹⁶⁴ "H.R.2764 Consolidated Appropriations Act, 2008," Bill Summary & Status, 110th Congress (2007-2008), H.R.2764, CRS Summary, The Library of Congress & Thomas, <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:HR02764:@@D&summ2=m&> (accessed December 14, 2012).

¹⁶⁵ Ibid.

¹⁶⁶ George W. Bush, "President Discusses Immigration Reform with Members of the Senate," *The White House*, Office of the Press Secretary, georgewbush-whitehouse.archives.gov, April 25, 2006, <http://georgewbush-whitehouse.archives.gov/news/releases/2006/04/20060425-8.html> (accessed March 6, 2012).

visas and Z visas.¹⁶⁷ The Z visa was a proposed new visa that would be created if the immigration reform passed. Undocumented workers that came to the U.S. before January 1, 2007 would be the ones profiting from this as they could be issued the visa while their case was up for review.¹⁶⁸ The provisions that needed to be fulfilled before these visas would be issued were:

- Increasing border fencing.
- Increasing vehicle barriers at the Southern border.
- Increasing the size of the Border Patrol.
- Installing ground-based radar and camera towers along the Southern border.
- Ensuring resources are available to maintain the effective end of -Catch and Releaseø for every non-Mexican apprehended at the borders.ø¹⁶⁹

Only when the aforementioned goals had been fulfilled would the U.S. be able to issue more temporary worker visas. Seeing that more temporary worker visas was something the U.S. wanted to be able to issue when necessary, they would be inclined to fulfill these goals first.

As the work on the bill continued, it became evident that the provisions that Bush wanted to encompass when work on the bill was initiated, were included in the bill. The first four out of the five provisions covered this. The provisions were:

- Securing the Border.
- Holding Employers Accountable For The Workers They Hire.
- Creating A Temporary Worker Program.
- Resolving The Status Of The Millions Of Illegal Immigrants Already In the Country.
- Finding New Ways To Help Newcomers Assimilate Into Our Society.ø¹⁷⁰

These provisions were included as the bill was introduced in the Senate on May 9th, 2007 as the *Comprehensive Immigration Reform Act of 2007*. Already on June 7th, 2007, they had to vote for cloture on the bill in the Senate. The Republicans clearly could not summon enough votes as the result of the vote was 34-61.¹⁷¹ A cloture is a term used when the Senate votes in

¹⁶⁷ White House, the, øFact Sheet: Securing the Border First,ø *Office of the Press Secretary*, georgewbush-whitehouse.archives.gov, May 29, 2007, <http://georgewbush-whitehouse.archives.gov/news/releases/2007/05/20070529-8.html> (accessed March 6, 2012).

¹⁶⁸ U.S. Immigration Support, øZ Visa,ø *usimmigrationsupport.org*, 2012, <http://www.usimmigrationsupport.org/visa-z.html> (accessed May 4, 2013).

¹⁶⁹ øFact Sheet: Securing the Border First.ø

¹⁷⁰ White House, the, øFact Sheet: Bipartisan Border Security and Immigration Reform Bill,ø *Office of the Press Secretary*, georgewbush-whitehouse.archives.gov, June 27, 2007, <http://georgewbush-whitehouse.archives.gov/news/releases/2007/06/20070627-12.html> (accessed March 6, 2012).

¹⁷¹ S.1348 ø *Comprehensive Immigration Reform Act of 2007*, Bill Summary & Status, 110th Congress (2007-2008), S.1348, All Congressional Actions, The Library of Congress ø Thomas, <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:SN01348:@@X> (accessed January 6, 2013).

order to end a filibuster, thereby preventing the filibuster from talking a bill to death. This is difficult as three-fifths of the Senate, that is 60 Senate members, need to vote in favor of cloture in order to end the filibuster.¹⁷² It is evident that the required vote of three-fifths of the Senate members needed for cloture was not met in this case.

The bill reappeared in the Senate as *A bill to provide for comprehensive immigration reform and for other purposes (S.1639)* on June 18, 2007 which was a similar bill containing many of the same provisions. Despite the support for the bill and the president's relentless work to get the bill passed, the bill was defeated on June 28, 2007 as the Senate was unable to come to an agreement. This time, the result of the vote for cloture was 46-53, which was even further from the three-fifths of votes needed. The president expressed his disappointment as the bill failed. In addition, he acknowledged that the Senate and members his administration had worked really hard in order to pass the bill. He thanked them for their hard work, and said he was looking forward to work with Congress on other issues.¹⁷³ The failure to pass this immigration reform bill did not stop President Bush from working to pass other legislation related to immigration and border enforcement and take other actions deemed necessary to secure the U.S.-Mexican border.

4.5 Operation Jump Start

One operation that the Bush administration initiated in addition to its legislative action on border control was *Operation Jump Start*. It was announced by President Bush in May 2006, and over a period of two years, 6000 National Guard members were assigned to the U.S.-Mexico border in order to assist the Border Patrol. It was necessary to hire more Border Patrol agents, but as this could not be done overnight, the National Guard was assigned to assist the Border Patrol with non-enforcement tasks.¹⁷⁴ These tasks included surveillance, construction, and logistics along the U.S.-Mexico border. The 6000 National Guard members were reduced

¹⁷² Cummings and Wise, 397-398.

¹⁷³ S.1639 ó A bill to provide for comprehensive immigration reform and for other purposes, Bill Summary & Status, 110th Congress (2007-2008), S. 1639, All Congressional Actions, retrieved January 6, 2013 from <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:SN01639:@@X> (accessed January 6, 2013); George W. Bush, "President Bush Disappointed by Congress's Failure to Act on Comprehensive Immigration Reform," *The White House*, Office of the Press Secretary, [georgewbush-whitehouse.archives.gov](http://georgewbush-whitehouse.archives.gov/news/releases/2007/06/20070628-7.html), June 28, 2007, <http://georgewbush-whitehouse.archives.gov/news/releases/2007/06/20070628-7.html> (accessed March 6, 2012).

¹⁷⁴ Weintraub, 114.

to 3000 after a year. By that time, several Border Patrol agents had been retrained to work on the frontline instead of holding administrative positions.¹⁷⁵

In addition to retraining their workforce, the assistance of the National Guard gave the Border Patrol sufficient amount of time to hire new, qualified personnel. From June 2006 to July 2007, 2300 new border patrol agents were hired.¹⁷⁶ As these new Border Patrol agents were hired and trained, the National Guard members that were assigned to the border could retreat from the border area in 2008 when their two year mission was over. This was a temporary solution, but it also testifies to the variety in the Bush administration's approach to border enforcement.

4.6 Conclusion

During George W. Bush's presidency, a lot of important legislation relating to the strengthening of the border was passed despite a focus on foreign affairs such as the war in Iraq and Afghanistan. Foreign affairs and domestic affairs such as border issues were closely connected as both foreign and domestic affairs were focused on fighting terrorism after 9/11 and throughout the remaining of George W. Bush's first and second periods in office. In domestic affairs, there was a sudden focus on border enforcement in order to strengthen national security. Especially the U.S.-Mexico border experienced a rapid build-up with increased enforcement along the entire stretch of the border, but there was also an emphasis on the areas that was most exposed to the threats that faced the nation.

The attacks on 9/11 rendered it impossible for President Bush to create the worker program that he supported despite his relentless work to accomplish it. The cooperation with Mexico on this issue came to an abrupt halt after 9/11. Even though the work to achieve such a worker program were nearly impossible to continue after 9/11, George W. Bush continued to support it. As he signed the *Secure Fence Act of 2006*, which calls for enforced border control, he said that he was in favor of continue working to create a worker program. In his signing statement, he said: "We must reduce pressure on our border by creating a temporary worker plan. Willing workers ought to be matched with willing employers to do jobs

¹⁷⁵ White House, the, "Setting The Record Straight: The Administration Is Meeting Its Commitment To Border Security," georgewbush-whitehouse.archives.gov, August 9, 2007, <http://georgewbush-whitehouse.archives.gov/news/releases/2007/08/20070809-9.html> (accessed March 6, 2012).

¹⁷⁶ Ibid.

Americans are not doing for a temporary -- on a temporary basis.ö¹⁷⁷ Despite his support for the program, it was never created.

Even though the build-up on the border had started in earnest since *Operation Gatekeeper* was launched in 1994, the build-up escalated out of proportions after 9/11. The attacks on September 11, 2001 clearly marked a shift in policy towards immigration and border enforcement. After 9/11, President Bush was forced to prioritize a secure border in the name of national security instead of continuing to work for a more open border and the worker program he had been advocating for. It was after 9/11 that the bulk of legislation allowing for an enforcement of the border with the intent of effectively preventing the entry of illegal immigrants in the name of national security was legislated. The unforeseen events of 9/11 led President Bush to take a different stand on border control, take action, and show the nation and the rest of the world that all measures possible would be taken to control the borders. Although what distinguishes the Bush administration is the legislative approach, he also had different approaches to the border issues. However, the main emphasis in this thesis are on the legislative action as that is what is most significant and distinguishes the Bush administration from the Clinton and Obama administrations.

¹⁷⁷ öPresident Bush Signs Secure Fence Act.ö

5 The Barack Obama administration (2009-April 2013)

When Barack Obama ran for president, he laid out his policy and key goals that he wanted to achieve if he was elected president. Joel D. Aberbach, a contributor to *The Obama Presidency: Appraisals and Prospects* have collected and summed up some of the things that President Obama said he promised in a couple of publications, and among others President Obama promised to provide stronger border and workplace enforcement and also a plan for eventual citizenship for those in the United States illegally.¹⁷⁸ Although Barack Obama made that promise then, it is not until now, during his second term, that he has made real progress in his efforts to pass immigration reform. In order to fix those parts of the immigration system that he believes need improvement and fixing, he is currently advocating a comprehensive immigration reform bill that he strongly believes in.

President Obama's main priority during his first term was always to pass the health care reform, something he managed to do successfully. In addition, the financial crisis and the economic situation presented a challenge for the newly elected president. These issues demanded his immediate attention.¹⁷⁹ Issues such as immigration that was part of a long term plan of his, were put aside for the time being. One can say that issues related to immigration and border control was not of the greatest importance to the President during his first term in office since he did not prioritize this, but simply continued the practice that the former president, George W. Bush, had mapped out.

Even though it seems like immigration and border enforcement issues have a low priority with the president, this is not the case. When reading President Obama's plan on immigration, *Building a 21st Century Immigration System*, it becomes evident that he has strong opinions on illegal immigration and border control, but he is realistic and sees it as a long term goal. His focus is more on the interior, rather than at the frontline of the border. He believes that one needs to solve the problems in the interior so that it will be more difficult for illegal immigrants to be hired, and rather make it easier for high skilled immigrants to come

¹⁷⁸ Joel D. Aberbach, "Change We Can Believe In Meets Reality," in *The Obama Presidency: Appraisals and Prospects*, eds. Bert A. Rockman, Andrew Rudalevige, and Colin Campbell, 11-36 (Washington, DC: CQ Press, 2012), 13.

¹⁷⁹ Sinclair, 203-217.

to the U.S. legally. That combined with efforts to secure the border may prove to have the desired effect.¹⁸⁰

There is a clear distinction between President Obama's first and second terms. During his first term, he prioritized other things than immigration issues. During his presidency, one can also see that there has been a standstill on immigration for the last couple of years.¹⁸¹ The status quo is not satisfactory, and improvements to border security and reforms to the system clearly need to be made. Intending to do something about it during his second term, President Obama announced early on that he wanted to pass a comprehensive immigration reform bill and he has clearly made it a priority. Yet it remains to be seen if the bill will pass or not despite interruptions that overshadowed attention on the bill.

5.1 Issues of importance during Obama's first term

Health care and the financial crisis were important issues during President Obama's first term. He ran for election, determined to pass a health reform bill if he was elected president. In order to establish confidence among the people, to pass the health reform had to be his first priority in order to prove that he could accomplish the things that he set out to do.¹⁸² The problems with the financial crisis were handed down to him by his predecessor, George W. Bush. President Obama's challenge was to improve the financial situation, an issue that could not wait.

However, President Obama chose to focus on these issues during his first term in office, and subsequently he chose to postpone the work on immigration reform. They are all very important issues, and it does not necessarily mean that some issues were more important than others. As he got a second term in office, he has the chance to do something about immigration reform now that both health care and improvements to the financial situation have been dealt with. It is therefore necessary to mention these two issues briefly in order to illustrate why they were important to the President and had to be dealt with before immigration and border enforcement issues.

¹⁸⁰ White House, the, "Building a 21st Century Immigration System," May 2011, Whitehouse.gov. http://www.whitehouse.gov/sites/default/files/rss_viewer/immigration_blueprint.pdf (accessed May 9, 2013), 1-29.

¹⁸¹ "Net Migration Falls to Zero and Perhaps Less."

¹⁸² Sinclair, 206-207.

5.1.1 Health care

President Barack Obama was sworn in and took office on January 20, 2009.¹⁸³ Straight away he was faced with several challenges as the new president of a country facing difficulties as the U.S. was in the middle of the financial crisis and two waging wars. During his first term in office he has had many different and also very tough tasks at hand.

One of President Obama's first challenge was to pass the new health care reform. Even though there were other issues that also demanded his immediate attention, he had to work toward passing the health reform in order to keep the promises he had given the people during the election campaign. It was necessary for him that he passed the health reform soon after he took office in order to show that he could keep his promises, and also so that it would not appear as he had failed. Passing health care reform was not an easy task. It required hard work, but on March 30, 2010, President Obama could claim that he had succeeded by passing health care reform as he signed the bill into law.¹⁸⁴

5.1.2 The financial crisis

President Barack Obama came into office in the middle of the financial crisis. The economy was an issue of great importance and it could not be ignored. It was non-negotiable, he had to prioritize this issue. The President had to try to better the nation's economy as soon as possible after he took office, and he managed to pass the stimulus bill during his first month as president. Barbara Sinclair, who is affiliated with the University of California, Los Angeles, argues that this was an early legislative victory that was necessary for the president.¹⁸⁵

The state of things as a result of the financial crisis may also be one of the reasons for the assumed reduction in the number of illegal aliens trying to cross the border.¹⁸⁶ The U.S. government wants this trend to continue and therefore it will continue the work to strengthen the border. In the report *Building a 21st Century Immigration System*, it is stated that:
"Apprehensions of illegal aliens decreased from nearly 724,000 in FY 08 to approximately 463,000 in FY 10, a 36 percent reduction, indicating fewer people are attempting to illegally

¹⁸³ White House, the, "President Barack Obama," *whitehouse.gov*, <http://www.whitehouse.gov/administration/president-obama> (accessed May 5, 2013).

¹⁸⁴ Sinclair, 206-217.

¹⁸⁵ *Ibid.*, vii, 205-206.

¹⁸⁶ "Net Migration from Mexico Falls to Zero or and Perhaps Less."

cross the border.¹⁸⁷ However, when better times are coming, this trend might turn. If it is caused unrelated to the increased security along the border that is the reason for the decrease, then this might change. The financial crisis might have been the cause for this as it made it harder for illegal immigrants to find work in the U.S. As the possibility of work is one of the pull factors that draws Mexicans to the U.S., their chances of finding work there is limited after the financial crisis.

5.2 SB 1070

The Arizona immigration law, *Senate Bill 1070 (SB 1070)*, was passed in April 2010. After the law was passed, it became a misdemeanor for all aliens to be in Arizona without the proper documentation. In addition, the police in Arizona has been given power to detain people who are suspected of being in the U.S. illegally. Also, the law also makes sure that the punishment for those who are caught sheltering, employing, and transporting illegal aliens are stricter. *SB 1070* has been met with strong opposition, also by President Obama, and the law has been heavily disputed in court.¹⁸⁸ The law has stirred opposition because of the high probability for racial profiling. The police are likely to stop persons of Mexican descent or people who look Mexican or otherwise foreign regardless of their citizenship and immigration status if they suspect that they are in the U.S. illegally. As the law went through the court system, it ended up in the Supreme Court. The most contested provision, the one that allows for racial profiling, was upheld in the Supreme Court.¹⁸⁹ This will subsequently have a negative effect on legal residents of the US who are of Mexican descent. At the same time, illegal immigrants from Mexico will also be affected by this.

SB 1070 is the only significant piece of legislation that has been passed on the issue of immigration during Barack Obama's presidency. However, it does not deal directly on border security and it is a state law that only applies to residents of and other people who are in Arizona. Barack Obama is not even in favor of the law, so it does not represent something that he stands for and has advocated.

¹⁸⁷ "Building a 21st Century Immigration System," 7.

¹⁸⁸ David A. Yalof, "Obama and the Law: Judicial Restrain at the Crossroads," in *The Obama Presidency: Appraisals and Prospects*, eds. Bert A. Rockman, Andrew Rudalevige, and Colin Campbell, 223-243 (Washington, DC: CQ Press, 2012), 239.

¹⁸⁹ Adam Liptak, "Blocking Parts of Arizona Law, Justices Allow Its Centerpiece," *NY Times*, nytimes.com, June 25, 2012, http://www.nytimes.com/2012/06/26/us/supreme-court-rejects-part-of-arizona-immigration-law.html?pagewanted=all&_r=0 (accessed May 7, 2013).

5.3 Obama's perspectives on immigration

In his State of the Union Address in 2011, President Barack Obama briefly mentioned immigration. He said that he wanted to continue work on border control. At the same time he wants to make it easier for young and educated people who want to stay in the country and work, to get that opportunity.¹⁹⁰ As time passes on, it becomes evident that he works towards achieving these goals. Later that year, in May 2011, President Obama laid out his plan, *Building a 21st Century Immigration System*, which embodies those goals.

President Obama's approach on immigration and border control is to address some of the underlying causes to the issue. In the report *Building a 21st Century Immigration System*, he lays out four goals to solve the U.S.'s immigration problems. These goals are:

- Responsibility by the federal government to secure our borders
- Accountability for businesses that break the law by undermining American workers and exploiting undocumented workers
- Strengthening our economic competitiveness by creating a legal immigration system that reflects our values and diverse needs
- Responsibility from people who are living in the United States illegally.¹⁹¹

When those goals have been met, will it be realistic to gain full control of the border as that leaves the illegal border crossers with less incentives to cross the border. Again, one can apply the push and pull theory, first presented by Lee, where the pros and cons of crossing the border are carefully considered by the migrants. Once the border are more secure and the prospect of getting a job in the U.S. vanishes, the migrants may choose to stay in their home country.¹⁹²

There are no easy way for people to immigrate to the U.S. legally, and Obama wants to make this easier for people with higher education and skilled professionals. Entrepreneurs are mentioned especially as they can be a positive contribution to the U.S. economy if they start up successful businesses in the U.S. The Obama administration also wants to make immigration a feasible option for more people in general by making the application process for U.S. citizenship easier and give people easier access to information.¹⁹³ From an economic viewpoint, as many immigrants are entrepreneurs and start businesses in the U.S., they create

¹⁹⁰ Barack Obama, "Remarks by the President in State of Union Address," *The White House*, Office of the Press Secretary, United States Capitol, Washington D.C., January 25, 2011, www.whitehouse.gov/the-press-office/2011/01/25/remarks-president-state-union-address (accessed September 14, 2012).

¹⁹¹ "Building a 21st Century Immigration System," 3.

¹⁹² Castles and Miller, 22; Lee, 47-57.

¹⁹³ "Building a 21st Century Immigration System," 9-10.

jobs for U.S. citizens and pay taxes to the U.S. Therefore, those immigrants are especially welcome because they have a positive impact on the U.S. economy and the society in general. Chances are that they will not become a liability.¹⁹⁴

Obama wants to continue the brain drain and make it easier for people with higher education in certain fields to enter the U.S., but one fails to recognize that the majority of those who cross the border illegally, are low skilled manual workers. The result will be that the road to become a legal resident in the U.S. is only open to a select few. Because of that, the only option available to the poor Mexicans who comprise the majority of today's illegal immigrants will still be to enter the country illegally.

The Obama administration has continued the cooperation with the Mexican government in order to prevent smuggling. According to the Obama administration's estimate in *Building a 21st Century Immigration System*, DHS seized more on the U.S.-Mexican border over a two and a half year period during the Obama administration than it did over the same amount of time during the Bush administration. The administration points to the fact that hard work has led to results.¹⁹⁵

On the U.S. side of the border, border enforcement has been strengthened during the Obama presidency. Surveillance has increased along the U.S.-Mexico border, and this prevents both illegal border crossers and smuggling. In the report *Building a 21st Century Immigration System* it is claimed that:

“For the first time, DHS unmanned aerial capabilities now cover the Southwest border all the way from California to Texas providing critical aerial surveillance assistance to personnel on the ground. DHS has also completed 649 miles of fencing out of nearly 652 miles planned, including 299 miles of vehicle barriers and 350 miles of pedestrian fence, with the remaining 3 miles scheduled to be completed.”¹⁹⁶

It is evident that President Obama has achieved things as he can present results like these. However, it is important to note that the work with the fencing began years before he became president, and therefore he cannot take all the credit for building the fence. He has simply enabled the work on the U.S.-Mexico border fence to continue and increased surveillance along the border because he also thinks that it is important to secure the nation's borders.

In addition to continue the enforcement along the border, the *U.S. Immigration and Customs Enforcement (ICE)* has for the first time also initiated several initiatives in order to increase enforcement in the interior during Barack Obama's presidency. Among those

¹⁹⁴ Ibid., 11-12.

¹⁹⁵ Ibid., 6.

¹⁹⁶ Ibid.

initiatives are measures to deport people who are a threat to national security and public safety. In addition, it tries to make it harder for illegal immigrants to get employment with the new worksite enforcement strategy that was launched by the *U.S. Department of Homeland Security (DHS)* in 2009. This worksite strategy enables the U.S. government to punish employers if they employ illegal immigrants or are involved in other crimes.¹⁹⁷

It was late in his first term as president that Obama proposed these perspectives as changes to some of the current practices toward illegal immigration and border enforcement, and concurrently also a continuation of some of the current practices. Several of the measures in *Building a 21st Century Immigration System* has been incorporated into his vision for a comprehensive immigration reform bill. One thing is clear, President Obama has had a focus on the interior that his two predecessors did not have. His border enforcement measures may have contributed to the current standstill in immigration.

5.4 A standstill in immigration

In a report by Pew Hispanic Center, the researchers note that a combination of reasons have resulted in the current standstill in immigration. The financial crisis as well as an increase in apprehensions, increased border enforcement, and a decline in births by Mexican women are included among those. More and more Mexicans are also believed to return to Mexico instead of staying in the U.S. The financial crisis has resulted in a decrease in jobs available in the U.S. As a result, the unemployment rate has increased, something that again has contributed to a standstill in illegal immigration.¹⁹⁸ This is the effect the financial crisis has on illegal immigration from Mexico. The possibility of employment in the U.S. is one of the main factors that drive Mexicans to migrate to the U.S. illegally. Difficulty of finding a job in the U.S. will persuade some people not to leave their home country as the chances of a better life not necessarily will be attainable.

Combined with causes within the U.S. which makes it a less attractive destination for illegal border crossers, there has been a decrease in apprehensions. The Border Patrol presents statistics from FY 2000 till FY 2012 over the number of Mexicans each year. FY 2000 had a peak with 1,621,115 Mexicans apprehended as they tried to cross the Southern border. The number declined slightly, but there was a new peak in FY 2004 with 1,075,221 apprehensions. After that, the decrease is significant, and in FY 2012 the number had

¹⁹⁷ Ibid., 7-9.

¹⁹⁸ "Net Migration from Mexico Falls to Zero and Perhaps Less."

decreased to 262,341 Mexicans who were apprehended.¹⁹⁹ As this only counted the Migrants from Mexico apprehended on the U.S.-Mexico border, the total number of apprehensions is actually larger. The statistics of the total does not distinguish between the different border sectors, and therefore the apprehensions on the Northern and the Coastal borders are also included. If one looks at the total number of apprehensions, they were 1,676,438 in FY 2000, 1,160,395 in FY 2004, and 364,768 in FY 2012 respectively. FY 2000 was a peak year nationwide as well during this period. Nationwide, the next peak was in 2005, not 2004. Another striking difference is the low number of apprehensions in FY 2011. With 340,252 apprehensions nationwide, that is the lowest number since 1971.²⁰⁰ The fact that the number of apprehensions annually has gone down, has often been used as evidence of a successful deterrence strategy as there has been an increase in enforcement along the U.S.-Mexico border. With fewer apprehensions, one can assume that less people try to cross the border.²⁰¹ This seems to be a correct conclusion as the number of apprehensions have gone down as the enforcement has been stepped up. If less people try to cross because of this, then that may also be a cause that has led to the standstill.

Underlying causes within Mexico may also contribute to the standstill. Researchers from Pew Hispanic Center has found one reason that may affect migration. Their findings suggest that there is a declining fertility rate among Mexican women. The fertility rate has declined significantly over a span of 50 years. Mexican women now give birth to 2.4 children on average, down from 7.3 children during their lifetime.²⁰² As less children are born in Mexico, there are less people who eventually will feel the urge to migrate to the U.S. when they grow up.

This standstill on immigration has led Michael Barone, writing for www.realclearpolitics.com, to conclude that the problem of illegal immigration from Mexico is in decline and that it will eventually disintegrate. In order to come to this conclusion, he bases his opinion on numbers from a fairly recent report by Pew Hispanic Center, but he does

¹⁹⁹ United States Border Patrol, "Illegal Alien Apprehensions From Mexico By Fiscal Year," *cbp.gov*, February 4, 2013, http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/usbp_fy12_stats/appr_from_mexico.ctt/appr_from_mexico.pdf (accessed April 21, 2013).

²⁰⁰ United States Border Patrol, "Nationwide Illegal Alien Apprehensions Fiscal Years 1925-2012," *cbp.gov*, February 4, 2013, http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/usbp_fy12_stats/appr_stats_1925_2012.ctt/appr_stats_1925_2012.pdf (accessed April 21, 2013).

²⁰¹ "Net Migration from Mexico Falls to Zero ó and Perhaps Less."

²⁰² "Net Migration from Mexico Falls to Zero ó and Perhaps Less."

not provide the name of the report.²⁰³ However, some of the numbers he provide are consistent with those presented in the report *Net Migration from Mexico Falls to Zero ó and Perhaps Less* which was published in 2012, so it is fairly recent. One can only assume that he used that report. The report supports Barone's view to the extent that it concludes that there is a standstill as one can clearly see that the numbers are in decline. In the report, the researchers try to analyze why that is so in order to come to their conclusion.²⁰⁴ However, the report does not go as far as Barone in concluding that the problem will completely disintegrate.

Barone may have jumped to conclusions when he says that the problem will disintegrate as it is important to note that this is only a supposition based on the current number of illegal crossers compared to the number of illegals in the previous years. Although the standstill at present is a reality, it is impossible to know what will happen once the financial crisis is over and the number of available jobs in the U.S. increases again. It is possible, and also very likely, that illegal immigration from Mexico will resume if conditions do not improve in Mexico while at the same time more jobs become available in the U.S.

A standstill in immigration might be evidence of a declining problem of illegal immigration to the U.S. However, the U.S. has other worries beyond illegal immigration, and illegal immigration is still a problem despite the standstill. Therefore, a standstill in immigration per se is not enough to argue that the U.S. ought to step down its border enforcement efforts. In addition to deter illegal immigration, the U.S. government, and specifically the U.S. Border Patrol, are faced with the challenge to secure the nation's borders in order to prevent smuggling and to preserve national security. It does not come as a surprise that the Border Patrol plans to step up border enforcement according to their strategic plan for 2012-2016.

5.5 Border Patrol strategic plan 2012-2016

In 2012, the Border Patrol released their strategic plan for 2012-2016. During these four years, the Border Patrol will concentrate its work on two main goals, to secure the nation's borders and to strengthen the Border Patrol. Both these goals have five objectives each that guides the Border Patrol in their work in order to accomplish this. They will use the three key

²⁰³ Michael Barone, "Shrinking Problem: Illegal Immigration From Mexico," *realclearpolitics.com*, April 26, 2012,

http://www.realclearpolitics.com/articles/2012/04/26/shrinking_problem_illegal_immigration_from_mexico_113960.html (accessed August 21, 2012).

²⁰⁴ "Net Migration from Mexico Falls to Zero ó and Perhaps Less."

words “information, integration and rapid response” to guide them towards achieving these two goals. Border Patrol will use all the information that they get from observing the border and from using technology in order to get an overview of the threats they are faced with so that they can plan in cooperation with other agencies and collaborators on all levels how they are going to respond to the various threats as quick as possible.²⁰⁵

The *2012-2016 Border Patrol Strategic Plan* differs from the previous Border Patrol strategic plans. The *Border Patrol Strategic Plan 1994 and Beyond* concentrated mainly on establishing control over the U.S. borders, that included all land borders and sea borders.²⁰⁶ In order to establish control, the Border Patrol would employ the strategy “prevention through deterrence.”²⁰⁷ The strategic plan, *National Border Patrol Strategy*, from 2004 was resource-based and the goal was to increase the resources available to the Border Patrol and organize itself better so that the Border Patrol would be more fit to meet the various challenges it would face in the future. The most recent strategic plan from 2012, is risk-based. Drawing from the plan, one gets an explanation of what CBP means by a risk-based plan: “The Strategic Plan uses a risk-based approach to securing the border; focusing enhanced capabilities against the highest threats and rapidly responding along the border.”²⁰⁸ In that way it differs from the other two plans. This plan also has a clear time frame in which the Border Patrol’s goals have to be reached as the plan has a restricted the time frame to 2012-2016, something neither the strategic plan from 1994 nor the one from 2004 has.

One part of the first goal, to secure the nation’s borders, is to prevent terrorists from entering the U.S. Even though terrorism is mentioned first in the *2012-2016 Border Patrol Strategic Plan*, it is also very important to prevent illegal immigrants from crossing the border and smuggling of both people and goods. In order to secure the border, the Border Patrol has to get an overview over all the threats that are present at the border. It is also evident that in order to prevent possible threats like smuggling and illegal immigrants from crossing the border, the Border Patrol has to be flexible and always be ready to move on to what is considered the greatest threat at the moment. The ultimate goal is still to secure the border entirely between the ports of entry.²⁰⁹ The Border Patrol works toward securing all the nation’s land and sea borders, but these measures applies to the efforts made to secure the

²⁰⁵ “2012-2016 Border Patrol Strategic Plan,” 3-28.

²⁰⁶ “Border Patrol Strategic Plan 1994 and Beyond,” 1-14.

²⁰⁷ “National Border Patrol Strategy,” 3.

²⁰⁸ “2012-2016 Border Patrol Strategic Plan,” 7.

²⁰⁹ *Ibid.*, 8-21, 28.

U.S.-Mexico border as that is the border that is in focus here. This further denotes that national security still is given first priority by the Border Patrol.

The Border Patrol is not singlehandedly responsible for achieving its first goal. Tight collaboration with its partners is crucial. The Border Patrol is dedicated in its effort to collaborate with its Federal, state, local, and tribal law enforcement partners to achieve a holistic approach to border security.²¹⁰ The task at hand and the responsibilities that the Border Patrol has are great and it would be very challenging for the Border Patrol to manage it all by itself without assistance from its partners.

The second goal, to strengthen the Border Patrol, encompasses first and foremost initiatives that the Border Patrol needs to take in order to value its employees, support them, and invest in them so that they will prosper on the job. Work against corruption within the organization, change and improve the organizational practices within the Border Patrol, and to increase efficiency are also important elements of the second goal. The Border Patrol notes that it has to use the resources and personnel available and assign them to the tasks that they do best in order to improve performance. The Border Patrol will continuously train and make sure that its personnel is up to date on the most recent developments and prepared to meet all challenges they might encounter while on duty. In addition, the Border Patrol are also going to hire more highly qualified personnel in order to be better equipped to get the job done satisfactory.²¹¹

The Border Patrol uses an increasingly amount of new technology to a greater extent than before in order to exert control over the border. Technology is key to border enforcement today. As is stated in the plan, the Border Patrol uses several different forms of technology, including video surveillance, unattended ground sensors, thermal hand-held imaging devices, and night vision devices. The list goes on and will continue to expand as new technological devices are developed and used for border enforcement purposes. Drones are also utilized, especially in areas where the risk for clandestine activity is low. By resorting to the use of drones, the Border Patrol can focus on the areas that they know present the greatest threats while still keep other areas under surveillance. These types of technology enable the Border Patrol to place their resources and personnel strategically in locations that are increasingly being exposed to new threats and to detect migrants when and where the surroundings and the terrain can hinder them in doing their job effectively.²¹² The technological devices that the

²¹⁰ Ibid., 7, 18-20.

²¹¹ Ibid., 8, 22-28.

²¹² Ibid., 14-15.

Border Patrol uses enhance the Border Patrol's capabilities and gives it an advantage in detecting threats such as illegal border crossers and smugglers along the border.

The Border Patrol and its ongoing work to secure the nation's borders have been very important during the Obama administration. As President Obama has not signed any significant laws related to border enforcement into law yet as of April 2013, the fact that the Border Patrol continues to do its job is important to note because it shows that border enforcement is a constant factor and that the Border Patrol always has a presence on the border. One can see from the *2012-2016 Strategic Plan* that the Border Patrol continues old practices but also tries to evolve and renew itself. President Obama has wanted to pass a comprehensive immigration reform bill, something that he is working hard to accomplish during his second term.

5.6 President Obama's second term

It was assumed that President Obama would work harder to get an immigration reform through Congress during his second term. In an article Matt Williams wrote for *The Guardian*, he projected that the president would announce concrete plans for an immigration reform early in his second term, something that President Obama now has done. Williams also wrote that some Republicans favor a more piecemeal approach to the desired immigration reform, while President Obama and the Democrats want to push for a comprehensive immigration reform. By doing that, the immigration reform will be assembled into one bill that effectively will encompass all aspects of immigration.²¹³ As people expected an announcement of immigration reform, it came as no surprise when the President announced that he would push for it.

On January 29, 2013, President Obama was in Las Vegas where he held a speech on comprehensive immigration reform. He has a genuine desire to get this bill passed, and he seems optimistic about it. His optimism is partly grounded in the fact that members of both parties seems to have found a middle ground and are willing to cooperate in order to fix the immigration system.²¹⁴

²¹³ Matt Williams, "Obama to push for comprehensive immigration reform early in new term," *The Guardian*, guardian.co.uk, January 13, 2013, <http://www.guardian.co.uk/world/2013/jan/13/obama-immigration-reform-second-term> (accessed January 16, 2013).

²¹⁴ Barack Obama, "President Obama Speaks on Comprehensive Immigration Reform," *The White House*, whitehouse.gov, January 29, 2013, www.whitehouse.gov/photos-and-video/video/2013/01/29/president-obama-speaks-comprehensive-immigration-reform (accessed March 19 2013).

In a fact sheet published on the White House website the very same day, the essence of what the immigration reform President Obama is pushing for will entail is summed up in greater detail. An essential part of the reform is his four principles that it is all based on. Barack Obama believes that those needs to be present if the reform is going to be successful. If not, it will only solve part of the problem. He wants to continue to strengthen border security, crack down on employers who hire undocumented workers, create a passageway for earned citizenship, and streamline legal immigration.²¹⁵ That is essentially the same provisions that President Obama presented in the report *Building a 21st Century Immigration System*. The fact that steps are taken toward comprehensive immigration reform signifies that changes are emanating.

President Obama also announced that he had concrete plans to pass a comprehensive immigration reform bill in his *2013 State of the Union Address*, held on February 12. Briefly, but right to the point, he mentioned what he desired to include in the reform. In his speech, he also said:

“We know what needs to be done. And as we speak, bipartisan groups in both chambers are working diligently to draft a bill, and I applaud their efforts. So let’s get this done. Send me a comprehensive immigration reform bill in the next few months, and I will sign it right away.”²¹⁶

The President’s message is clear. The work on the bill is already started and President Obama wants work on the bill to go rapidly. That way, changes to the status quo may happen quicker.

Naturally people have many questions to such a bill, and people were encouraged to send in questions through social media for a Q&A session with Elianne Ramos from LATISM. One of the many questions that came in were related to a piecemeal approach versus a comprehensive approach to the reform. Cecilia Muñoz, who is the Director of the White House Domestic Policy Council and who took part in the Q&A session, argued that a piecemeal approach would not be sufficient to fix the problems related to immigration. In order to do that, a comprehensive bill has to be passed because the problems are so complex. She also stated that the president is a strong advocate for immigration reform, and that he will introduce a comprehensive reform bill himself if Congress does not act on it. She argued that

²¹⁵ White House, the, “FACT SHEET: Fixing our Broken Immigration System so Everyone Plays by the Rules,” *Office of the Press Secretary*, whitehouse.gov, January 29, 2013, <http://www.whitehouse.gov/the-press-office/2013/01/29/fact-sheet-fixing-our-broken-immigration-system-so-everyone-plays-rules> (accessed February 17, 2013).

²¹⁶ Barack Obama, “The 2013 State of the Union Address,” *The White House*, whitehouse.gov, February 12, 2013, www.whitehouse.gov/state-of-the-union-2013 (accessed March 22, 2013).

the president has a very clear opinion on this aspect and that he is adamant to pass legislation quickly, ideally within the next couple of months.²¹⁷

On RegWatch, The Hill's Regulation blog, Mike Lillis contribution, "Dems: Obama can act unilaterally on immigration reform", discusses if President Obama can act on his own if he does not get the support that he needs in order to pass a comprehensive immigration reform bill from Congress. He has acted on his own accord before, in summer 2012. At that time he ensured that those who had been brought to the U.S. as children and did not have legal status would not face deportation.²¹⁸ As many as 102,965 young people were affected by this program and were allowed to stay.²¹⁹ Barack Obama managed to do this by launching a program through DHS. This resulted in the support of an astonishing 70 percent of all Hispanic voters that showed up at the polls in the 2012 election. As President Obama has acted unilaterally before, it is reason to believe that he can do it again, and he has said that he will. Some say that he can use executive orders and actually do a great deal without Congress, while others say that what he can do is limited. Despite the fact that he has possibilities to act on his own, it is in Obama and the Democrats' interest to get a bill through Congress with bipartisan support.²²⁰

Even though immigration is at a standstill, Fareed Zakaria recognizes in his article in Time Magazine, "Broken and Obsolete: An immigration deadlock makes the U.S. a second-rate nation", that immigration issues is still important as there are already many illegal immigrants in the U.S. that has to be dealt with regardless if new migrants decide to cross the border and enter the U.S. illegally. However, he also believes that an immigration reform will not get passed because of disagreements and differences between and within the two parties.²²¹ Zakaria may believe that the disparities between the two parties are too great, but according to President Obama and members of his administration, the president is nevertheless confident that he will manage to pass a comprehensive immigration reform bill.²²²

²¹⁷ Megan Slack, "Open For Questions: The State of the Union and Immigration Reform," *The White House Blog*, whitehouse.gov, February 15, 2013, www.whitehouse.gov/blog/2013/02/15/open-questions-state-union-and-immigration-reform (accessed March 19, 2013).

²¹⁸ Mike Lillis, "Dems: Obama can act unilaterally on immigration reform," *RegWatch*, thehill.com, February 16, 2013, www.thehill.com/blogs/regwatch/administration/283583-dems-recognize-that-obama-can-act-unilaterally-on-immigration-reform (accessed April 12, 2013).

²¹⁹ Elise Foley, "Obama Gears Up For Immigration Reform Push In Second Term," *The Huffington Post*, huffingtonpost.com, published February 15, 2013, updated February 22, 2013, www.huffingtonpost.com/2013/01/15/obama-immigration-reform_n_2463388.html (accessed April 12, 2013).

²²⁰ Lillis.

²²¹ Zakaria, 20-21.

²²² "President Obama Speaks on Comprehensive Immigration Reform."

The proposed reform will have implications for many illegal immigrants from Mexico who is currently residing in the U.S., and it is met with a positive outlook in Mexico according to Rey Rodriguez and Catherine E. Shoichet's article "Mexico 'welcomes' new U.S. immigration reform push" that was published on CNN's website. Mexican officials who have expressed themselves and were quoted in the article, support the reform and think that it is a step in the right direction.²²³

There are also people who are not in favor of a comprehensive immigration reform bill, primarily conservatives. In the article "Sen. Rubio rallying conservatives behind comprehensive immigration reform", Alexander Bolton, writing for The Hill, sheds light on the fact that the Republican senator Marco Rubio is experiencing positive results as he is rallying for immigration reform. More conservatives than expected seem to be open minded and open to immigration reform.²²⁴ However, those who oppose the proposed bill might constitute a minority and lose the battle. Currently it seems like the majority of the policymakers already have a positive outlook on this and are in favor of passing the reform or can be convinced to adapt this view in the near future.

It is not just the politicians and the policymakers who have expressed their opinion on this issue. The Center for Immigration Studies (CIS), which characterizes itself as "an independent, non-partisan, non-profit research organization" and as "the nation's only think tank devoted exclusively to research and policy analysis of the economic, social, demographic, fiscal, and other impacts of immigration on the United States", published the backgrounder "Legalization vs. Enforcement: What the American People Think on Immigration" in April 2013.²²⁵ The backgrounder is written by Steven A. Camarota who is the Director of Research at CIS, and it is based on a recent poll conducted by Pulse Opinion Research.²²⁶

According to the result of a recent Pulse Opinion Research poll conducted in late March 2013, the majority of the U.S. population wants to enforce immigration laws. Also, Republican voters are more prone than Democratic voters and people who vote for other

²²³ Rey Rodriguez and Catherine E. Shoichet, "Mexico 'welcomes' new U.S. immigration reform push," *CNN*, cnn.com, January 30, 2013, www.edition.cnn.com/2013/01/29/world/Americas/mexico-immigration-reform-reaction/index.html (accessed March 22, 2013).

²²⁴ Alexander Bolton, "Sen. Rubio rallying conservatives behind comprehensive immigration reform," *thehill.com*, January 20, 2013, <http://thehill.com/homenews/senate/278159-rubio-rallying-conservatives-behind-principles-for-comprehensive-immigration-reform> (accessed January 21, 2013).

²²⁵ Steven A. Camarota, "Legalization vs. Enforcement: What the American People Think on Immigration," *Center for Immigration Studies*, cis.org, Washington April 5, 2013, published April 2013, www.cis.org/legalization-vs-enforcement-what-the-american-people-think (accessed April 9, 2013).

²²⁶ *Ibid.*

parties to answer that they favor enforcement of immigration laws over a conditional legalization in order to reduce the number of illegal immigrants in the country. That is the main findings of the poll. When a survey is conducted, one can question the accuracy of it. Camarota argues that other similar surveys that have been conducted on the issue of immigration do not ask questions that accurately present people's opinions on the issue because the policy debate is not reflected in the questions. However, he believes that this poll asks the right questions that more accurately present people's opinions. He is positive that it will influence polls in the future so that they will ask questions differently.²²⁷ Although the public may change their opinion over time, the result at the time that the poll was conducted shows that the majority of the population wants President Obama to enforce immigration laws in order to curb the problem of illegal immigration instead of legalizing them on certain conditions.

As President Obama chose to push for comprehensive immigration reform, he wants it to encompass both enforcement and legalization. It will certainly require hard work for President Obama and his administration in the following weeks and months in order to get it passed. The former president, George W. Bush, attempted to pass a comprehensive immigration reform during his presidency, but he did not succeed. One of Barack Obama's obstacles will be to get the required number of Republicans to vote in favor of the reform. This is necessary in order to pass the legislation as the Democrats do not constitute the majority in House of Representatives.²²⁸ However, with bipartisan support for the reform, what President Obama has undertaken may be possible to see through.

President Obama is dependent on a bipartisan support in Congress in order to pass the legislation, and there is a possibility that he will be able to persuade the required amount of Republicans to vote in favor of the bill in order to pass it. As it is in the Republicans' interest to pass a comprehensive immigration bill, it is highly likely that the Republicans will cooperate with the Democrats in trying to pass comprehensive immigration reform. One has already seen that there is bipartisan support for the bill and that a bipartisan group has been assembled to start drafting the bill.²²⁹ Therefore it is likely that this bipartisan group will be able to come to an agreement that both parties eventually can accept and subsequently vote in favor of.

²²⁷ Ibid.

²²⁸ United States House of Representatives, "Party Divisions of the House of Representatives, 1789-Present," United States House of Representatives, History, Art & Archives, <http://history.house.gov/Institution/Party-Divisions/Party-Divisions/> (accessed April 15, 2013).

²²⁹ "The 2013 State of the Union Address."

David Axelrod, a former adviser to the president, clearly states that the Republicans ought to vote for reform. With the great number of Hispanic voters, the Republicans will be at a disadvantage when it comes to securing Hispanic voters if they continue to oppose the reform as a great number of Hispanics are in favor of reform. Axelrod was quoted in *The Huffington Post* saying that "it would be a suicidal impulse for Republicans in Congress to continue to block [reform]."²³⁰ Alexander Bolton also supports this view. He wrote: "Republicans on Capitol Hill are hungry to move immigration reform to boost their numbers with Hispanic voters, who are the fastest-growing major bloc of the national electorate."²³¹ Consequently, eagerness to gather Hispanic voters might be of great concern to many Republicans and prompt them to vote in favor of the bill.

Currently the President and his team are doing all they can to inform people about the reform and use all the opportunities they have in order to convince them that passing a comprehensive immigration reform is the right thing to do. When Vice President Joe Biden was at a luncheon at the Irish American Hall of Fame on March 21, 2013, he used the opportunity to talk about immigration reform. Joe Biden basically made the same points that President Obama made when he spoke on immigration reform in Las Vegas in January and also on several occasions since then. Just as President Obama, Joe Biden stressed the importance of combining efforts to fix what is broken about the legal immigration system, creating a pathway for earned citizenship for those who already are in the country illegally, and making it easier for students with advanced degrees in certain fields to stay and work in the U.S. after graduation.²³² In fact, both members of the Republican and the Democratic party alike who support the bill are doing all they can to rally up enough supporters of the bill that has been introduced and convince Congressional members in committees to vote in favor of a bill once a draft is going to be voted on, first in the House and then in the Senate. The members will discuss the bill, possibly make changes to it, and then vote for it. That is the usual practice in the enactment of bills.²³³

The Hill published the article "Obama hails Senate immigration proposal" which announced that the group of senators who have had the task of drafting the proposal for comprehensive immigration reform presented the first proposal of a bill. The senators who

²³⁰ Foley.

²³¹ Bolton.

²³² Felicia Escobar, "Vice President Biden Calls for Immigration Reform at the Irish America Hall of Fame," *The White House Blog*, whitehouse.gov, March 22, 2013, www.whitehouse.gov/blog/2013/03/22/vice-president-biden-calls-immigration-reform-irish-hall-fame (accessed April 11, 2013).

²³³ Cummings and Wise, 405-407.

have been responsible for drafting the proposal are from both parties. However, the proposal was going to be presented on the same day of the Boston bombings, and the fact that a proposal was ready was overshadowed by this. The planned public announcement of what the proposed bill encapsulates has therefore been postponed according to *The Hill*.²³⁴

If the reform is passed, it will have implications for the illegal immigrants already in the country, roughly over half of those are believed to be Mexicans.²³⁵ If the provision of earned citizenship is included in the draft of the final bill that eventually passes Congress, many illegal Mexican immigrants will be able to become American citizens over time if certain requirements are passed. The details of what those requirements will be will not be discussed in further detail here as it is impossible to know for certain what they will be before the bill is passed and this thesis only covers events until the end of April 2013. However, the point is that it is not a clean cut amnesty program just giving all the illegal immigrants citizenship immediately, they will have to earn it over time. In addition, if the provision of strengthened border security is included in the final bill together with the provision to punish work places who hire illegal workers, that might lead to less illegal immigration from Mexico.

5.7 Conclusion

Barack Obama came into office working to pass the health reform and he also had a tough job as he came into office at the peak of the financial crisis, so there were other and more pressing issues that took a lot of his attention off issues related to illegal immigration and the strengthening of the border. During his presidency, he has not passed any laws and the like as significant as the *Secure Fence Act* or initiated anything as drastic as *Operation Gatekeeper*, like his two predecessors have done, so far. Now, after he has achieved some of the things that he set out to do, immigration and border enforcement have become issues that he will give priority.

With the current standstill on immigration combined with efforts to pass a comprehensive immigration reform bill and increased border enforcement measures, it seems like President Obama has full control of the current situation. He set out to do what he said he would, only it took some time. Slowly but steady, he has worked towards achieving his goals. He presented his plan for the comprehensive immigration reform bill during his second term

²³⁴ Russell Berman and Alexander Bolton, "Obama hails Senate immigration proposal," *The Hill*, thehill.com, April 16, 2013, <http://thehill.com/homenews/senate/294357-obama-hails-immigration-proposal> (accessed April 17, 2013).

²³⁵ "Net Migration from Mexico Falls to Zero ó and Perhaps Less,"

because he sense that he has enough support from both parties so that he stands a chance to get it passed.

President Obama has continued the practices that former presidents Clinton and Bush started. He has in no way been more lenient on illegal immigration and border enforcement despite the fact that he did not pass as much legislation as his predecessors. There is a clear distinction between President Obama's first and second term. During his first term, he has made sure to uphold the status quo. Immigration and border control could never be President Barack Obama's number one priority at the time that he took office. Other issues prevented him from working to significantly change the status quo on border security and immigration issues at the start of his first term. Now, during his second term, he has made moves to work towards passing the comprehensive immigration reform bill. At the moment, passing that bill is his number one priority when it comes to legislation and issues dealing with immigration and border enforcement. If the bill is passed, it may become a very significant change to the current immigration system.

6 Analysis

The Clinton, Bush and Obama administrations have been distinctly different and marked by events that have influenced the presidents and shaped their politics. As the presidential periods are markedly different and the presidents' suppositions for achieving something on immigration and border control issues have varied tremendously, it is difficult to compare the three presidents and their achievements. However, there exists a continuity to a certain extent that can be traced through these three administrations.

One concern is that President Obama just was reelected to his second term in office, while the two previous presidents sat for two whole presidential periods. This thereby results in an unequal number of years that the presidents have been in office. As one cannot take for granted that a president is reelected to a second term, it is appropriate to conduct this research paper although he has not finished his second term yet. However, it puts limitations on the research as one can only write about what President Obama has achieved until the end of April 2013 and his hopes and aspirations for the rest of his second presidential period. If this had been done after he had finished his second term in office and one had the whole picture, the result might have been different.

One can analyse several aspects during the course of the Clinton, Bush, and Obama administrations. They have had different approaches to immigration and border issues and one can certainly see a change in their perspectives on the issue. In order to see what the administrations have accomplished legislatively, one can look at the composition of Congress and draw conclusions from that. One can also look at the budget that has been allocated to the Border Patrol over the years and the number of new Border Patrol agents that have been hired in order to see what the development has been. Various ways that the Border Patrol has evolved can be seen as one studies its strategic plans that have been released over the years. In addition, the relation with Mexico has changed over the years.

6.1 Administrations compared

The border is more secure than ever. With the increases in Border Patrol agents and as the Border Patrol utilize more technology along the border, they have the capacity to monitor and control vast areas of land previously unaccounted for. This is the result of the efforts by

the Clinton, Bush, and Obama administrations and the contributions they made. That being said, it does not mean that the border is under control yet.

One sees that border enforcement becomes more and more important throughout the different administrations. A border that is more difficult to cross has become the result as the three administrations have imposed more and more restrictions and ensured that physical barriers have been erected along the border. The build-up at the border that started in the 1990s has continued to the present. Andreas firmly argues that it has been more important to uphold an image and establish the U.S.'s authority over its territory and the border than deterring illegal immigrants. He states:

“The unprecedented expansion of border policing, I argue, has ultimately been less about achieving the stated instrumental goal of deterring illegal border crossers and more about politically recrafting the image of the border and symbolically reaffirming the state's territorial authority.”²³⁶

The focus has been on preventing illegal border crossers from entering the U.S., and in a way that has been an effective cover, although not intentionally, for these underlying reasons that Andreas believes were more important.²³⁷ It has been necessary though, given that it has been such a huge problem with migrants crossing the border illegally in great numbers, to find a way to both deter them and to make sure that the nation is presented as one with authority. All three administrations have actively sought to project an image of the border under control during their respective presidencies.

There have been differences in how restrictive the different administrations have been. Alden acknowledges that both the Clinton administration and the Bush administration was in favor of an open border. However, the Bush administration must have been in favor of a more open border than the Clinton administration as Alden goes on to say that George W. Bush criticized the current administration when he was campaigning for the presidency. He states: “when George W. Bush ran for president in 2000, he criticized the Clinton administration for not being liberal enough on either trade or immigration.”²³⁸ Alden further states that: “Bush came to office believing strongly that both open trade and a liberal immigration policy were crucial to the nation's future economic success. Even as 9/11 was transforming his presidency, there was no evidence that he was reconsidering either of those beliefs.”²³⁹ President Bush's beliefs may be one thing and may have remained a constant, but if so, his

²³⁶ Andreas, 8, 85.

²³⁷ Ibid.

²³⁸ Alden, 50-52.

²³⁹ Ibid., 52.

actions were the opposite of what he believed in. His actions have shown that he took a very restrictive approach towards border enforcement and immigration. Clinton also had a more restrictive approach than what he intended to have when he became president. The Obama administration have upheld the restrictions that the two previous administrations initiated, but he has not taken any major actions to increase restrictions on border control even more. President Obama too can be said to be liberal on immigration in one respect. If the proposed comprehensive immigration reform bill that he wants to pass includes provisions for earned citizenship and provisions that makes it easier for professionals to get a work visa in the U.S., it might be said to be liberal despite provisions for border enforcement.²⁴⁰ In essence, the president who initially was the most liberal of these three on border issues and immigration, George W. Bush, became the president that imposed the greatest restrictions.

The majority of the restrictions that George W. Bush initiated that have been dealt with in this thesis have been written into law as he took a legislative approach to border enforcement and immigration restriction. Bill Clinton and his administration launched *Operation Gatekeeper*, a very visible operation to secure the border within a limited area. The Obama administration have been quite low key on major changes to immigration and border enforcement. President Obama has focused on the interior during his first term as his initiatives related to deportations and worksite strategy in *Building a 21st Century Immigration System* attest to.²⁴¹ The focus have been on other issues, but he has had it in the back of his head that he wants to do more about it. Now, during his second term, he is trying to pass comprehensive immigration reform, reforming the whole system, including immigration and border enforcement.

6.2 Enactment

In order to get an overview over which party, the Republican or the Democratic party, that has held the majority in the House of Representatives and the Senate during the Clinton, Bush, and Obama administrations, the numbers of the representatives have been compiled into a table. The number of representatives that belong to independent parties is also included, although independent parties have not at any time between 1993 and now had more than two representatives during one congressional period. By presenting the numbers in a table, it

²⁴⁰ ðFACT SHEET: Fixing our Broken Immigration System so Everyone Plays by the Rules.ö

²⁴¹ ðBuilding a 21st Century Immigration System,ö 7-9.

makes it more perspicuous so that it will be easier to compare the party divisions during the three different administrations.

Clinton administration	House of Representatives			Senate		
Congress (Years)	Democrats	Republicans	Independent	Democrats	Republicans	Independent
103rd (1993-1995)	258	176	1	57	43	0
104th (1995-1997)	206	228	1	48	52	0
105th (1997-1999)	207	226	2	45	55	0
106th (1999-2001)	211	223	1	45	55	0

Bush administration	House of Representatives			Senate		
Congress (Years)	Democrats	Republicans	Independent	Democrats	Republicans	Independent
107th (2001-2003)	213	220	2	50	50	0
108th (2003-2005)	205	229	1	48	51	1
109th (2005-2007)	201	233	1	44	55	1
110th (2007-2009)	232	203	0	49	49	2

Obama administration	House of Representatives			Senate		
Congress (Years)	Democrats	Republicans	Independent	Democrats	Republicans	Independent
111th (2009-2011)	257	178	0	47	41	2
112th (2011-2013)	192	243	0	51	47	2
113th (2013-2015)	201	234	0	53	45	2

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As can be seen from the table, during the Clinton administration the Democrats only held the majority in the House and the Senate during Bill Clinton's first two years in office. For the remaining six years he held office, the Republican party constituted the majority in both the House and the Senate. That may very well be a contributing factor to the fact that he did not pass as much legislation on border enforcement as his successor, George W. Bush, whose party were in majority

The Republican party continued to hold the majority of seats in the House during the first six years of the Bush administration. That means that the Republicans held the majority in the House for twelve consecutive years. In the Senate it was a different story. During the 107th Congress both the Republicans and the Democrats held the majority in the Senate for various lengths of time. This does not show in the table, as the party division during the start of the period is shown there. However, the division changed four times during the 107th Congress and both the Republican and the Democratic party were in majority at different

²⁴² Sources used to make the table: "Party Divisions of the House of Representatives, 1789-Present"; United States Senate, "Party Division in the Senate, 1789-Present," www.senate.gov/pagelayout/history/one_item_and_teasers/partydiv.htm (accessed April 15, 2013).

times. It was evenly divided or the Republican party were in majority the whole time, except for a period starting June 6, 2001 till November 12, 2002 when the Democratic party held the majority of seats.²⁴³ Had it not been for this short period when the Democrats held the majority, the Republicans would have held the majority in the Senate for twelve consecutive years as well.

During Barack Obama's presidency, the 2010 midterm election resulted in a change. Prior to the 2010 midterm election, the Democrats held the majority of seats in both the House and the Senate, but as a result of the election, the Democrats lost as many as 65 seats in the House to the Republicans. Consequently, the Democrats no longer had the majority of seats in the House. The Democrats still hold a majority in the Senate although they lost six seats in the midterm election.²⁴⁴ According to Robert S. Singh, this is one of the reasons for why Barack Obama has not been able to pass legislation on several other issues that is important to him, immigration is included among those.²⁴⁵ It is evident that President Obama has problems passing legislation now that the Democrats does not control both chambers of Congress. Although the Democrats still holds a majority in the Senate, it is barely a majority.

The Democrats have constituted the majority in the Senate during Barack Obama's presidency, but that has not given the Democrats a leeway or enough support and he has had difficulty passing legislation. The reason this is a problem for him when he wants to pass legislation, is how the legislative system is built up. When a law is passed, it is a long process, and it needs to pass the House of Representatives first, and then the Senate. When the ruling party does not have a majority in one of the chambers, the other party or the opposition within the ruling party can basically pose significant problems by slowing things down or completely block the passage of legislation.²⁴⁶ As legislation has to pass the House before the Senate votes on it, it has not helped President Obama much as he still encounter problems when he tries to enact legislation.

The representatives that belong to independent parties, in both the House of Representatives and the Senate, can be important players. As it can be uncertain if they will vote with the Democrats or the Republicans because they are not affiliated with either party,

²⁴³ "Party Division in the Senate, 1789-Present."

²⁴⁴ Sinclair, 218.

²⁴⁵ Robert S. Singh, "Continuity and Change in Obama's Foreign Policy," in *The Obama Presidency: Appraisals and Prospects*, eds. Bert A. Rockman, Andrew Rudalevige, and Colin Campbell, 268-294 (Washington, DC: CQ Press, 2012), 289-290.

²⁴⁶ Cummings and Wise, 397-399, 405-407.

they can swing and vote with either party. Of course, Democrats and Republicans are not bound to vote with their party, but the majority usually do.

One can conclude that it definitely was easier for George W. Bush to pass legislation, compared to both his predecessor Bill Clinton and his successor Barack Obama. The Republicans held the majority in the House for six years while George W. Bush held office. In addition, the Republicans has either held the majority or the two parties have had an equal number of representatives in the Senate during both his first and second presidential periods. George W. Bush can attest to a long series of laws related to immigration and border enforcement that have been passed. Despite the fact that he was able to pass the laws, one has to take other events into consideration as it is not enough to just look at the party division in the House and the Senate.

The attacks on 9/11 is one factor that has had a great impact on George W. Bush's ability to pass immigration and border enforcement laws. During George W. Bush's presidency, a lot of legislation related to border enforcement passed Congress. The main reason for this is that people were willing to give legislators more power after 9/11. The American people wanted to see quick results, and one way was to give government even more power. This was especially true as the U.S. led a war on terror and wanted to preserve the national security.²⁴⁷ By giving legislators more power, the government could take action and do what was considered necessary fast. Naturally, laws related to border security and immigration would also be passed as one could argue that they were necessary for national security reasons.²⁴⁸

Both Bill Clinton and Barack Obama were able to pass less legislation related to immigration and border enforcement compared to George W. Bush. So far, President Obama has experienced the same disadvantage that Bill Clinton did as the Democrats lost the majority they had in the House after two years in office. Although the Democrats still constitute the majority in the Senate, that has not given President Obama much advantage yet. It still remains to be seen if Barack Obama manages to pass a comprehensive immigration reform despite Republicans' cry for a piecemeal approach and the disadvantage of a minority of Democrats in the House if it has to vote on a bill.

²⁴⁷ William E. Hudson, *American Democracy in Peril: Eight Challenges to America's Future*, 6th ed., (Washington D.C.: CQ Press, 2010), 295-339.

²⁴⁸ Payan, 100-101.

6.3 Border Patrol and the different administrations

One way to analyze what the different administrations have achieved on border enforcement is to look at and compare some aspects of the Border Patrol. One can compare the budget that the Border Patrol is given each year and increase in staffing from 1993 till 2012. The Border Patrol does not provide numbers for fiscal year (FY) 2013 yet, but numbers up until 2012 are sufficient in order to do a comparison.

From 1993 to 2012, the Border Patrol's budget has increased tremendously. In FY 1993, the Border Patrol had an annual budget of 362,659 dollars. In FY 2012, the budget had increased to 3,530,994 dollars.²⁴⁹ Over a period of almost 20 years, the budget has been multiplied and is now nearly ten times as great as it was in 1993. The increase in budget testifies to the increased importance the Border Patrol has gotten throughout the years, and that there is a need for its presence along the border.

The budget allocated to the Border Patrol has increased regularly from 1993 till 2012. It has increased more in recent years than for example between 1993 and 1994, but the increase is more or less proportionate.²⁵⁰ There is no single administration that stands out as having increased the Border Patrol's budget significantly more than the others.

It is not just the budget that has increased, the number of Border Patrol agents has also increased significantly between FY 1993 and FY 2012. During Bill Clinton's presidency, from 1993 till 2000, the number of Border Patrol agents situated on the Southern border increased from 2,496 to 8,597. His successor, George W. Bush, can also attest to a significant increase in Border Patrol agents that have been hired during his presidency. When President Bush took office in 2001, there was 9,159 agents along the Southern border. In 2008, that number had increased to 15,442 Border Patrol agents. As President Obama took office in 2009 and until 2012, the number of Border Patrol agents along the Southern border has increased from 17,408 to 18,516.²⁵¹

As the Obama administration lays out what actions the administration has taken on border enforcement, the Obama administration claims in *Building a 21st Century Immigration System* that: "Today, the Border Patrol is better staffed than at any time in its 87-year history, having doubled the number of agents from approximately 10,000 in 2004 to more than 20,700

²⁴⁹ United States Border Patrol, "Enacted Border Patrol Program Budget By Fiscal Year," *cbp.gov*, February 4, 2013, http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/usbp_fy12_stats/program_budget.ctt/program_budget.pdf (accessed April 21, 2013).

²⁵⁰ Ibid.

²⁵¹ "Border Patrol Agent Staffing By Fiscal Year,"

in 2010.²⁵² Even if one use the numbers that the Border Patrol provide for the total number of Border Patrol agents and not just the ones deployed on the Southern border, one gets a total of 10,819 agents in 2004 and 20,558 in 2010. Barack Obama was inaugurated in 2009, and there were 20,119 Border Patrol agents that year. That increased to 21,394 in 2012.²⁵³ By presenting the information like it is, the Obama administration disguise the fact that very few Border Patrol agents have been hired during the Obama administration.

So far, the greatest increase in number of Border Patrol agents along the U.S.-Mexican border have occurred during Bush's presidency. Less agents have been hired during Obama's presidency, but one has to be aware of the fact that he has only sat for four years while his predecessors, Presidents Clinton and Bush, sat for eight years each. One cannot completely rule out that changes will occur and that a bulk of Border Patrol agents will be hired during the next four years that Obama holds office. Still, unless some drastic changes are made, it seems like the regular increase that took place during the Clinton and Bush presidencies have come to a halt. There might also be a discrepancy as the numbers are collected for fiscal years. That means that there might be an overlap of several months between presidential periods in which either presidents could have held office while the hiring of Border Patrol agents were made. Despite this, it is highly unlikely that the numbers deviate from reality to such an extent that they are deceptive.

One has already asserted that the three different strategic plans by the Border Patrol have different approaches (see chapters 3.5, 4.3, and 5.5). However, there is also a clear development in the strategic plans. It becomes evident that the Border Patrol has expanded in numbers as their responsibilities increase. By comparing the different strategic plans, the Border Patrol has more specialized task forces now than it did in the start. The agents also have more technological devices at hand helping them to detect border crossers.

Looking at these numbers, one sees that both the Clinton and the Bush administrations increased both the Border Patrol's budget and the number of agents. The Obama administration might not have ensured that the Border Patrol significantly expanded in numbers so far, but he has increased the Border Patrol's budget. Although that is the case, the increase in budget have been quite regular throughout the last 20 years. The expansion of the Border Patrol and the increased border enforcement measures by the U.S. government has changed the U.S.-Mexico relation.

²⁵² "Building a 21st Century Immigration System," 5.

²⁵³ "Border Patrol Agent Staffing By Fiscal Year."

6.4 Changing U.S.-Mexico relation as a result of border enforcement

The Mexican government has been ambivalent when it comes to the reactions it has given to U.S. border enforcement measures. On one hand, the Mexican government has publicly spoken out and opposed some measures and therefore clearly does not support or even approve of all enforcement measures. On the other hand, the Mexican government has still chosen to collaborate with the U.S. on most accounts, and thereby accepting these measures. The U.S.-Mexico bilateral relation has unquestionably changed as a result of an increasing implementation of border enforcement measures on the U.S.-Mexico border by the U.S. government.

The U.S.-Mexican relation was good at the start of Bill Clinton's first term. At a meeting with the U.S.-Mexico binational commission during the negotiations before NAFTA was ratified, Clinton stated that:

“There is no closer partnership between two nations than that which we have with our neighbor Mexico. We share strong ties of history, our cultures are richly interwoven, our people are strong and their bonds of kinship and friendship. And the peaceful cooperation of the communities along our 2,000 mile border is it not only important, but is a real tribute to both our peoples.”²⁵⁴

President Clinton made that statement before the major build-up at the border was initiated. In many ways, the relationship between the two countries changed after that. *Operation Hold-the-Line*, and to a greater extent *Operation Gatekeeper*, are the start of an increased boundary build-up that results in a relation more defined by Mexico's dependency on the U.S., and therefore the Mexican government's willingness to collaborate to a greater extent. This is further reinforced by 9/11 as one can see that realist thought becomes more profound in the U.S. discourse. As the U.S. strives for national security and increasingly attempts to secure its Southern border by increasing border enforcement, it becomes evident that the Mexican government's opinion on this comes second to the U.S. government as it is in its national interest is to establish national security. The U.S. government prioritizes its own efforts to protect the country.²⁵⁵

²⁵⁴ William J. Clinton, “Remarks by the President in U.S.-Mexico binational meeting,” The White House, Office of the Press Secretary, nara.gov, The Roosevelt Room, June 21, 1993, <http://clinton6.nara.gov/1993/06/1993-06-21-remarks-by-the-president-in-us-mexico-meeting.html> (accessed April 19, 2013).

²⁵⁵ Jackson and Sørensen, 60-61; Andreas, 155-156.

After the implementation of NAFTA, the Mexican government increased their cooperation with the U.S. on border issues. The Border Patrol argues in its Strategic Plan released in 1994 that this includes increased cooperation, both on issues related to illegal immigration and smuggling of illicit drugs.²⁵⁶ It is of great importance to the U.S. Border Patrol to attempt to solve these issues, and commitment and cooperation with Mexico is essential in order to do that. Both countries have an interest in cooperating because of NAFTA as they want to maintain a good bilateral relationship.

Matt Bakker argues in his essay "From 'The Whole Enchilada' to Financialization: Shifting Discourses of Migration Management in North America" that one gets the impression that the U.S. and Mexico has been reluctant to cooperate on border issues, and that this reluctance goes 50 years back in time to when the Bracero program was terminated. He states that "since the termination of the Bracero temporary worker programme (1942-64), neither the Mexican nor the US government has been particularly interested in working together to address the continuing flow of undocumented Mexicans into the United States."²⁵⁷ However, in his essay, Bakker goes about to dispute this argument by arguing that it is only a common impression and shows that, especially during the last three decades, the two countries have cooperated. Bakker argues that Mexico had a "policy of having no policy" until around 1990 in order not to worsen its relation to the U.S., but after 1990 one sees that Mexico begins to cooperate with the U.S. to better the conditions for its expatriates residing in the U.S.²⁵⁸ Despite the Mexican government's reluctance to work together with the U.S. on border security measures, the U.S. has increased border control on its Southern border.

The U.S. Border Patrol has carefully considered possible reactions from the Mexican government as the U.S. steps up border control. The Border Patrol predicted in its *Border Patrol Strategic Plan 1994 and Beyond* that Mexico would react as the U.S. strengthened its border and gained control of it according to the plan. The assumption was that when the border was strengthened, the Border Patrol would get an increase of complaints from Mexico. The Border Patrol also assumed that as it gained control over certain areas along the border, the illegal immigrants would move and try to cross in other areas. The Border Patrol's response to this would in the end be to control the entire Southern border.²⁵⁹ Over the years, that has been the case, and the Border Patrol has stepped up border enforcement along the

²⁵⁶ "Border Patrol Strategic Plan 1994 and Beyond," 3.

²⁵⁷ Bakker, 271.

²⁵⁸ Ibid., 271-275.

²⁵⁹ "Border Patrol Strategic Plan 1994 and Beyond," 9-12.

border despite complaints by the Mexican government in order to attempt to maintain control over the border.

After 9/11, the Mexican government's cooperation with the U.S. on border issues increased even more. Despite this cooperation, the Mexican government is still reluctant to assist in preventing Mexican nationals from entering the U.S. illegally according to Peter Andreas. He argues that the Mexican government wanted to make sure that the U.S.-Mexican border was not closed down completely after 9/11, and that it therefore assured the U.S. that counterterrorism would be taken seriously. National security measures have made Mexican cooperation with the U.S. on border issues more politically acceptable within Mexico. The result of Mexico's cooperation on counterterrorism issues is that the U.S.-Mexican border is strengthened, and Peter Andreas calls it a "quasi-buffer zone" because Mexico now help thicken the U.S. border controls. However, even though Mexico has been more cooperative on border issues and immigration, they are still not eager to stop Mexicans from leaving the country and crossing into the U.S.²⁶⁰

Mexico has one major concern, namely that the U.S. does not take Mexican considerations into account when it comes to border issues. This started once the build-up at the border was initiated with *Operation Gatekeeper* during Bill Clinton's presidency, but it has been especially true after 9/11 and during George W. Bush's presidency. There are several examples of this issue, and the building of the border fence on the U.S.-Mexican border is one example that illustrate why Mexico's concern for this is justified. So despite increased cooperation on border issues, the relationship has increasingly become one defined by dependency after 9/11.²⁶¹

One can also turn the argument around, saying that the U.S. seeks to increase their power over Mexico. As Joseph S. Nye, a University Distinguished Service Professor at Harvard Kennedy School, states:²⁶²

“ there is a simple reason why Americans have a national interest beyond our borders. Events out there can hurt us, and we want to influence distant governments and organizations on a variety of issues such as proliferation of weapons of mass destruction, terrorism, drugs, trade, resources, and ecological damage.”²⁶³

²⁶⁰ Andreas, 155-156.

²⁶¹ Ibid.

²⁶² Harvard Kennedy School, "Joseph S. Nye," *harvard.edu*, 2013, <http://www.hks.harvard.edu/about/faculty-staff-directory/joseph-nye> (accessed May 3, 2013).

²⁶³ Joseph S. Nye, Jr., *The Paradox of American Power: Why the World's Only Superpower Can't Go It Alone*, (New York: Oxford University Press, 2002), 142.

One can argue that the U.S. use the current events related to terrorism and the problems with illegal immigration and smuggling on the U.S.-Mexico border to exert more control over Mexico. Kenneth N. Waltz is a Senior Research Scholar at the Arnold A. Saltzman Institute of War and Peace Studies and author of *Realism and International Politics*.²⁶⁴ On talking about neorealism, Waltz states that it has some important revisions from realism, one of them being the increased concern for security among states. He states: "Power is a possibly useful means, and sensible statesmen try to have an appropriate amount of it. In crucial situations, the ultimate concern of states is not for power but for security."²⁶⁵ That is increasingly true as the U.S. concern increasingly have become to maintain national security after the attacks on 9/11.

One of the measures that the U.S. government employ to maintain national security is to increasingly construct fences on the U.S. Mexico border. Mexico has opposed the building of fences along the border, but it is evident that the U.S. does not take the Mexican government's opinion and the opinions of other Mexican officials and Mexican nationals on this issue into consideration. The voices of Americans living along the border who oppose the fence are in a similar fashion not heard.²⁶⁶

Another example given by Weintraub of how the U.S. just impose restrictions on Mexico without consent is the restrictions put on trucks driving into the U.S. across the Southern border. For security reasons, the U.S. no longer allows cargo trucks coming from Mexico to travel to their destination in the U.S. When the trucks reach the border, the drivers have to switch trucks and reload the cargo over to new trucks at designated locations. What makes this even more complicated is that the U.S. has different standards to the trucks and the cargo. It is not enough to just check the trucks and the cargo and let the drivers continue on the road. While in the U.S., the trucks coming from Mexico have to comply with the standards that the U.S. sets.²⁶⁷ It is evident that Mexico is the underdog and have to yield to the requirements that the U.S. sets.

Also in recent years, the collaboration between the U.S. and Mexico on border issues have improved significantly. This becomes evident when one reads the *2012-2016 Border Patrol Strategic Plan, The Mission: Protect America* by the U.S. Customs and Border Protection. No longer is the Border Patrol only responsible for protecting the nation's borders,

²⁶⁴ Arnold A. Saltzman Institute of War and Peace Studies, "Kenneth N. Waltz," *siwps.com*, 2013, <http://www.siwps.com/people/kennethwaltz.html> (accessed May 9, 2013).

²⁶⁵ Kenneth N. Waltz, *Realism and International Politics*, (New York: Routledge, 2008), 79.

²⁶⁶ Weintraub, 106.

²⁶⁷ *Ibid.*, 120-126.

and so it is cooperating with its colleagues in both Mexico and Canada in order to better protect the nation from terrorists that may enter across the borders. It is stated in CBP's mission statement included in the *2012-2016 Strategic Plan* that the U.S. Customs and Border Patrol is responsible for protecting the U.S. and the American people at the borders, but also beyond the nation's borders.²⁶⁸ In order to protect the U.S. borders, and because the U.S. Border Patrol's responsibilities now also lay beyond the nation's borders, Mexico has felt more pressure to collaborate with the U.S. on border issues.

As Mexico has become more inclined to collaborate with the U.S. on border issues, Mexico and the U.S. signed the declaration *Declaration by The Government Of The United States Of America and The Government Of The United Mexican States Concerning Twenty-First Century Border Management* in 2010. This declaration signifies that the two countries commit themselves to cooperate on border issues to an extent that previously would have been unheard of. The result the two countries want is a more secure border that allows for legal travel and trade, aided by increased information sharing. At the same time, they acknowledge that it is necessary to prevent illegal border crossers and smuggling. Both countries mutually benefit from this as they seek to prevent and combat transnational crime together.²⁶⁹ Cooperation on these issues, if successful, can lead to a better bilateral relationship between the U.S. and Mexico.

The program The International Liaison Unit (ILU) was created in order to better the conditions for cooperation between the U.S. Border Patrol and Mexico. The Border Patrol's *2012-2016 Strategic Plan* state that "it is a national program that fosters local partnerships, trust, and mutual understanding between the Border Patrol and the Government of Mexico to increase border cooperation, security, and safety."²⁷⁰ What this increased effort to cooperate and the other countries' willingness to contribute and collaborate and improve the bilateral relationships shows, is that the U.S. cannot do it itself.

Sidney Weintraub uses the border fence as an illustration of the U.S.-Mexican migration relation as it is today. Just like the fence divide the two countries in a very visible way, the relation is not optimal and the countries are divided when it comes to several issues. As the two countries are physically divided by a barrier, a fence, along long stretches along

²⁶⁸ "2012-2016 Border Patrol Strategic Plan," 4-11.

²⁶⁹ White House, the, "Declaration by The Government Of The United States Of America and The Government Of The United Mexican States Concerning Twenty-First Century Border Management," *Office of the Press Secretary*, May 19, 2010, <http://www.whitehouse.gov/the-press-office/declaration-government-united-states-america-and-government-united-mexican-states-c> (accessed February 7, 2013).

²⁷⁰ "2012-2016 Border Patrol Strategic Plan," 11.

the border, in essence the relation between the two countries is not optimal. However, physically dividing the countries by building fences along the border does not improve the relation, it just further separates the countries.²⁷¹ This has especially been true during the Bush and Obama administrations as the erection of fences started after the *Secure Fence Act of 2006* was enacted and has continued ever since.

The relation between the two countries changed, slowly but steady, after *Operation Gatekeeper* was launched. After that, the U.S. imposed more and more requirements on Mexico and stepped up border enforcement. Especially after 9/11, the U.S. and Mexico collaborated even more on immigration issues, but it was also a time when the U.S. would impose more and more restrictions on Mexico without Mexico's consent. Border enforcement was augmented to unprecedented levels, and as Mexico was dependent on open borders to trade, the Mexican government has increasingly collaborated with the U.S. on border issues.²⁷² However, the U.S. government still prioritize to secure the U.S.-Mexico border as national security is of prime importance to the U.S.

²⁷¹ Weintraub, 106.

²⁷² Andreas, 156.

7 Conclusion

The Clinton, Bush, and Obama administration have all taken actions to attempt to secure the U.S.-Mexico border. Even though the border has become more secure, it still is not completely under control. As the measures to control the border gets more advanced and the rules stricter, the border crossers get more scheming and acquire more advanced technology and tools as well. One has heard stories of border crossers and smugglers have dug tunnels under the ground which end up in warehouses on the other side of the border, effectively avoiding all sorts of border control until the tunnels are detected. The NY Times quotes Secretary of Homeland Security, Janet Napolitano, who in 2005, when she was governor of Arizona, said: "You show me a 50-foot wall and I'll show you a 51-foot ladder at the border."²⁷³ Her quote accurately describes how screwed and desperate border crossers can be. This exemplifies the situation at the border, not just then, but also now, and that is why it is such a great challenge to secure the border and maintain control.

Even though the border has not been secured completely, there has been increased border enforcement and one can see some sort of continuity of the work that has been done from the Clinton administration to the Obama administration. It was during Clinton's presidency that border issues really came into focus and one started in earnest to secure the border in order to restrict illegal immigration and prevent smuggling. His administration chose to launch a very visible operation, *Operation Gatekeeper*, as a response to increasing pressure to control the border. As a result, there would be no doubt as to if the administration had taken major action to enforce the border despite its initial reluctance and the limited success of the operation. The Clinton administration also launched NAFTA at the same time. However, NAFTA facilitated an increase in illegal immigration, something that would increase the problem and the need for even more boundary policing. This has been acknowledged, and the Border Patrol released their strategic plan that stated what areas they needed to get control over and what actions they ought to take, and predominantly the greatest concern was the U.S.-Mexico border. The Clinton administration allocated resources to the Border Patrol, increasing the number of agents and increasing the budget. However, the composition in Congress made it difficult for Bill Clinton to pass laws. He was also in favor of an open border, and he did not push any far reaching restrictive legislation on the matter.

²⁷³ Mark Lacey, "Arizona Officials, Fed Up With U.S. Efforts, Seek Donations to Build Border Fence," *NY Times*, nytimes.com, July 19, 2011, http://www.nytimes.com/2011/07/20/us/20border.html?_r=0 (accessed May 8, 2013).

During the Clinton administration, the U.S. Mexico bilateral relation remained good, but Mexico was reluctant to assist on border issues if it involved illegal immigration. As Mexico is dependent on trade as a result of NAFTA, the Mexican government wanted an open border, something the Clinton administration initially also wanted.

Like Bill Clinton, George W. Bush was also in favor of an open border, exemplified in his attempt to collaborate with Mexico in creating a worker program at the start of his first term. As a direct result of the attacks on 9/11, President Bush's policy changed and he had to increase border enforcement, an increase that was justified on the basis of national security. As a result of this, and the sudden need to secure the nation's borders, a lot of resources were allocated to the U.S.-Mexico border and a lot of important legislation that secured increased border enforcement was passed during his presidency. The Border Patrol expanded in numbers, and the various forms of technology it employed in border enforcement expanded. He clearly took a legislative approach to border enforcement, legislating several important bills that ensured increased militarization of the border and further separating the two countries by a border fence.

Although the Mexican government is not content with the U.S. way of handling border enforcement by increasingly erecting fences, the Mexican government has still chosen to cooperate with the U.S. Mexico has become more and more dependent on the U.S. for trade, and as their unwillingness to cooperate on border issues might affect trade, the Mexican government cooperates increasingly with the U.S. This is especially true for issues relating to smuggling and national security. The Mexican government is still reluctant to stop Mexican nationals from entering the U.S. However, Mexico has increasingly cooperated with regards to stop people from other nationalities from entering Mexico, and thereby limiting their movement further North to the U.S. This practice have been the same during both the Clinton and Obama administrations as Mexico increasingly have had to comply with standards that the U.S. sets and just accept the border enforcement measures that the U.S. makes in the name of national security, especially after 9/11.

President Obama has upheld the practice that his two predecessors initiated in border enforcement. During his first term he did not introduce any significant legislation or initiated any other measures that significantly would change the status quo on the border. However, the composition of Congress during his presidency have made it difficult for him to pass legislation. His focus during his first term has been on other issues and as far as immigration issues goes he has focused on interior issues. One has seen a standstill in immigration during

his presidency and it is believed that it is the result of among other things increased border enforcement and lack of job opportunities in the U.S. President Obama has allocated resources to the Border Patrol, but he has not significantly contributed to an increase of agents. Similar to George W. Bush, President Obama wants to pass immigration reform. It is needed, but one can only speculate over the ramifications it will have if it is passed. However, he has clearly stated his opinion of what it ought to entail, and included among those issues that he wants to be included are provisions for interior issues combined with provisions for stricter border enforcement.

As this thesis only looks at events up until April 2013, it was only possible to explore the events up until that time during Obama's presidency. However, it would have been interesting to see what happens during the rest of his second term in office. Also, if the Obama administration accomplishes to pass a comprehensive immigration reform bill, one can look into what impacts it has. In the future it might impact immigration in general, illegal immigration, and border enforcement on the U.S.-Mexico border. One can also take another viewpoint and explore this from Mexico's point of view. I have focused on the U.S. point of view, but it could give one a different perspective of the situation at the border if one focuses on the Mexican point of view.

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Appendix A

List of abbreviations

CBP ó U.S. Customs and Border Protection

CIEL ó The Center for International Environmental Law

CIS ó The Center for Immigration Studies

DHS ó U.S. Department of Homeland Security

EU ó European Union

FY ó Fiscal Year

ICE ó U.S. Immigration and Customs Enforcement

IIRIRA ó The Illegal Immigration Reform and Immigration Responsibility Act of 1996

IRCA ó The 1986 Immigration Reform and Control Act

LCA ó Labor Condition Application

NAFTA ó The North American Free Trade Agreement

SB 1070 ó Senate Bill 1070

U.S. ó United States