Table 3
Percent Convicted Population Under 25 *

Year	Among Germans	Among Foreign
1977	39.3	30.3
1982	42.3	36.0
1987	36.8	39.3
1992	30.1	39.2
1993	29.2	40.1
1994	27.9	38.8
1995	27.7	37.6
1996	27.7	37.1
1997	28.1	36.8
2001	32.2***	34.4**

*Former West Germany (includes Berlin as a whole). Data not available for new Laender.
Source: Statistisches Bundesamt, Justiz im Spiegel der Rechtspflegestatistik, 1999, p.63
Source: Statistisches Bundesamt, 1998, Table VII-8.4-71
 Federal Statistical Office, 2002, updated 1/7/03**
 Statistisches Bundesamt, 2003, Rechtspflege, 1976-2001, VIIC, p. 29, 55***

Responding to the "Threat" of Unauthorized Immigration? Current U.S. Border Control Strategy at the Border with Mexico and Its Consequences

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Abstract: *This paper examines the impact cultural globalization has on U.S. border control strategy, as exemplified by unauthorized immigration, and the negative consequences of this strategy in terms of policy success as well as viewed from a human rights perspective. Applying a constructivist approach, border control strategies are considered to be shaped by threat perceptions. Thus, the paper is based on the hypothesis that perceiving unauthorized immigration as a threat has influenced current U.S. strategies regarding the control of the border with Mexico. This threat perception compounds the long-standing dilemma of how to reconcile security and economic interests in border protection efforts: While the American economy depends to a considerable degree on cheap labor as provided by unauthorized migrants, perceptions of a threat have induced the U.S. government to reinforce its Southern border. By seeking both to quench societal concerns about immigration and to meet economic demands, a strategy of incomprehensive border enforcement has resulted, which redistributes rather than limits migration flows. Hence, the dilemma of interests has prompted a strategy which fails to accomplish its proclaimed goal. Furthermore, from a human rights perspective, several negative effects are observable: a high physical risk during crossing and critical treatment by U.S. authorities regarding human rights standards.*

Border control is traditionally a principal state activity. Given that territoriality is one defining element of states,[1] the protection of the territorial integrity has always been a priority of state governance. "The effort to restrict territorial access" (Andreas 2003:78), is a key element of what Stephen D. Krasner labels the "interdependence

sovereignty" of states (Krasner 1999).[2] While border control continues to be of pivotal importance, the threat perceptions legitimizing it have been changing. The employed measures traditionally serve military and economic purposes (Andreas 2003:80), aimed at preserving a state's territorial integrity and its control of economic interactions. In the last two decades, however, new threats moved into focus and are now the principal source of legitimacy. Transnational phenomena emerged shaping current border control strategies: drug-trafficking, unauthorized immigration, and transnational terrorism; the latter being the most recent yet most prevalent concern. Even though in the U.S. American context, Peter Andreas dates the emergence of these phenomena back to the early twentieth century, he labels them as the "clandestine side of globalization". Accordingly, he defines the objective of current border control strategies as denying territorial access to what he calls "clandestine transnational actors", CTAs (Andreas 2003:78).[3] In this paper, I will use the term CTA (or CTA activity) since it aptly contrasts the recently emerged motives of border control from traditional ones.

The question arises: How did the change in threat perception come about? How did CTAs move into the center of attention while the importance of military and economic concerns decreased? Globalization offers a conclusive explanation for the decline of both the military function (through the decrease in inter-state wars) and the economic function (through the liberalization of international trade) as well as for the new salience respectively emergence of CTAs. The emergence of CTAs and their actions, both the long-standing phenomena of drug-trafficking and unauthorized immigration as well as the more recent transnational terrorism, are one dimension of the "border-blurring effects" of globalization (Andreas 2003:82). Another one, perhaps the most prominent

one, is the economic dimension. Economic globalization strives for the elimination of obstacles to free unbound economic interaction, such as posed by national borders. States therefore face a grave dilemma: Keeping clandestine transnational actors out by closing borders as tight as possible versus boosting economic growth by opening borders for interaction. In short, economic interests collide with security interests (Marenin 2006:21).

In this article I would like to focus on the link between cultural globalization and border control by looking at the case of unauthorized immigration[4] across the Mexico-U.S. border and the border enforcement measures implemented as a response by the U.S. government. Migration from Mexico into the United States is one conspicuous example of accelerated cultural interaction propelled by cultural globalization. Some segments of American society perceive the influx of unauthorized migrants across the Southern U.S. border as a threat to their seemingly monolithic national identity. The question that I seek to answer in this paper is: What negative consequences does the perception of unauthorized migration across the Mexico-U.S. border as a threat yield – both from a policy perspective and from the perspective of the unauthorized migrants? My hypothesis is that perceiving unauthorized immigration as a threat has given legitimacy to current border control strategies and hence compounded the traditional dilemma of security versus economic interests. Negative effects result from this conflict, reaching from changing cross-border relations with the neighboring state to human rights violations. With this paper, I will focus on the effects for unauthorized migrants, as they are the ones most directly – and most gravely – affected by the consequences of the dilemma of interests.

Cultural Globalization: A Threat to National Identities?
According to Peter Andreas, "globalization" is "generally characterized as an intensification of interdependence and cross-border interactions" (Andreas 2003:82). This notion encompasses processes taking place in many different spheres, such as economic, technological, and cultural ones. While the role of culture in globalization processes is an area of investigation in the humanities and in cultural studies (cf. Anzaldúa 2007; García Canclini 2005), it has not attracted as much attention in the realm of political science. The "methodological nationalism" (Zürn 2002:248), which dominates International Relations research and which regards nation-states as the principal actors and units of the international system, has only slowly been giving way to an inclusion of functionally or culturally rather than territorially defined actors. However, the divergence of territorial and cultural borders lies at the heart of globalization, which Michael Zürn defines as "a process which reduces the significance of national societies, thus calling into question the distinction between domestic and foreign relations" (Zürn 2002:236).

Based on a dynamic notion of culture, I view cultural identities not as an unchangeable, birth-given monolithic entity but as an ever-changing, deliberately chosen, socially constructed and heterogenous means of identification.[5] National identities are collective cultural identities relating to a certain territory over which the bearers of this identity claim certain rights up to sovereignty. Asserting rights turns a culturally defined collective into a political entity, as reflected by Benedict Anderson's definition of the "nation" as an "imagined political community" (Anderson 1991:6).[6] Collective identities can only function if the insiders and the outsiders perceive themselves as such. This process of simultaneous self-identification and external ascription is crucial in

forming a group (Elwert 1996). However, due to the dynamic character of identities, groups face the constant challenge of keeping their coherence. A common reaction of groups to the pressures of change is to close themselves in and refer to the myth of a long-standing monolithic identity. Viewing identities as monolithic entities creates a feeling of security among members of a group.[7]

Cultural globalization has tremendously accelerated cultural interaction and hence amplified the pressures of change national identities are exposed to. Consequently, while the political importance of nation-states as actors is declining in view of the rise of transnational and supranational actors (Zürn 1998), national identities are gaining influence as a factor in policy-making. The rise of national references is exemplified by discussions on how the influx of immigrants into a state affects the prevalent national identity. The argument of a monolithic national identity used in these discussions postulates a cultural homogeneity within state borders that has, however, never been a reality in any country. As Benedict Anderson explains, the idea of territorially bound nations came into existence when the transition from personified governance to territorial governance occurred in Western Europe in the seventeenth century. The nation was created as a category to match this notion of territorially (and hence demographically fixed) governance and the emerging notion of state sovereignty (Anderson 1991:20f). It follows that if nations are socially constructed ("imagined") political communities, the nation-state borders may also be viewed as socially constructed.

However, following the notion that the geographical location of persons adhering to a joint national identity coincides with a state's territoriy, protecting the cohesion of that identity by protecting the territory's borders appears to be a logical conclusion. In that case, border control

serves no longer just as a means to protect the territorial integrity of a state but turns into a means to also protect the cultural integrity of a state. As opposed to a realist perspective based on which borders serve to fend off rationally calculable threats, I apply a social constructivist perspective, according to which threats are a matter of perception and hence socially constructed: "Border security systems are about more issues than security at the border, and their design and implementation are influenced not only by the reality of threats and security needs but also by how such threats are perceived, categorised, interpreted, and integrated into a larger securitisation discourse" (Marenin 2006:19). Consequently, border security systems can be viewed as modelled upon and legitimized by these threat perceptions.

Unauthorized Immigration Across the U.S.-Mexico Border: Endangering the American identity?
Looking at the development of U.S. border control at the frontier with Mexico in the last two decades, the process of expanding the scope of border control from mere protection of a state's territorial integrity to protection of a state's cultural integrity becomes evident. The current border line between the two neighboring countries dates from the mid-18th century. By that time, the southward expansion of U.S. territory "had become the cornerstone of American 'Manifest Destiny'" (Martínez, O. 1988:37).[8] Having lost the American-Mexican War, Mexico was forced to cede its northern parts to the United States through the signing of the Treaty of Guadeloupe Hidalgo in 1848. Five years later, the U.S. acquired territory through the Gadsen Purchase, and the current border line was established.[9] The U.S.-Mexico border spans 1,933 miles along the Rio Grande, crossing deserts, mountains, and connecting the Gulf of Mexico with the Pacific Ocean. For a long time,

economic and military motives dominated border control along the U.S.-Mexico border. Through border control the government first and foremost sought to gain revenues by imposing customs (Payan 2006:9ff.).

The first shift towards recognizing threats by CTAs occurred in the 1920s with attempts to restrict immigration and to uphold prohibition. As a consequence, the U.S. Border Patrol was established through the Immigration Act of 1924.[10] However, only in the late 1970s did border enforcement become an issue of concern again in national public debates. In the meantime, the Braceros program had brought Mexicans as guest workers to the United States, particularly to be employed in agriculture. The program ran from 1942 to 1964 and expressed the need for Mexican labor during and after World War II. Furthermore, there were no numerical restrictions of the number of Mexicans immigrating to the U.S. until 1965, when amendments to the Immigration and Nationality Act imposed limits as to how many Mexicans were able to enter the United States. In the 1970s, the Vietnam War brought hundreds of thousands of refugees to the country while the economic recession increased migration pressures in Mexico. In 1976, legal immigration to the U.S. was further limited for Mexican citizens, which made "the backdoor of illegal entry […] more attractive". The U.S. economy depended more and more on cheap labor force from Mexico, while the Mexican economy depended more and more on sending their working force surplus to the north. The migration impact became increasingly visible to the American public and started stirring policy debates again (Andreas 2000:35ff).

However, unauthorized immigration did not remain the only CTA of concern but was joined in the 1980s by drug-trafficking from and through Mexico. President Reagan declared narcotics traffic a national security

threat and proclaimed "the war on drugs". Worries about CTAs soon trumped military concerns: "U.S. relations with many of its southern neighbors became 'narcotized', as the antidrug campaign replaced anticommunism as the driving force of U.S. security policy in the region" (Andreas 2003:87). Soon another CTA activity joined drugtrafficking in dictating U.S. enforcement of its Southern border, i.e. unauthorized immigration. In the 1990s, the United States was experiencing a significant increase in the unauthorized immigrant population. The number of unauthorized migrants went up from an average three million people throughout the 1980s to five million people in 1996, 8.4 million in the year 2000 and about 12 million people today (Passel 2006:3).

To counter the new "threats", military means were employed at the border for the first time. In 1989, President Bush signed the Defense Authorization Act, thus loosening the 1878 Posse Comitatus Act, a law from the Civil War-era which prohibited military involvement in domestic law enforcement. Joint Task Force 6 was established in Fort Bliss, Texas, to provide military support for counter drug operations. In 2004, it was renamed Joint Task Force North, "and its mission was expanded to include providing homeland security support to the nation's federal law enforcement agencies".[11] This expansion of tasks reflects the shifting focus of border control. While in the 1990s, drug-trafficking and unauthorized migration dominated the agenda, the events of September 11, 2001 added a new CTA. Transnational terrorism became the new dominant security concern prompting a shift from the "war on drugs" to the "war on terrorism" at U.S. borders. Despite the new security infrastructure at the border created after the terrorist attacks on the World Trade Center and the Pentagon, i.e. increased budget, personnel and the establishment of the Department of Homeland Security,

the flow of unauthorized immigrants across the Southern border did not cease (Payan 2006:14). In fact, in 2005 more than 40% of the unauthorized immigration population had arrived only within the preceding five years (Passel 2006:2).

At the same time, immigration to the United States is increasingly perceived as a negative development by the American society. According to a poll by New America Media commissioned by Bendixen & Asociates, a consulting company specializing in Hispanic public opinion polls, 78% of undocumented immigrants from Latin America agree with the statement that "the anti-immigrant sentiment is growing in the United States" (2007). This negative perception is often linked to national security issues: "in the name of promoting national security, the divide between the foreign- and native-born populations grows ever wider" (Keeble 2005:369). However, while currently terrorism is clearly perceived as the main security threat, law enforcement measures at the U.S.-Mexico border still focus primarily on drug trafficking and unauthorized immigration. It was not until 2004 that the Southern U.S. border was seriously considered a potential gate for terrorists (Cottam 2006:280). This contrasts also with the perception of the Canadian border with the United States: While terrorism is explicitly mentioned in the "Smart Border Accord" with Canada, it is not in the respective agreement with Mexico (Gabriel 2006:572). Hence, the threat perceptions regarding immigration from Mexico must be rooted somewhere else. Oscar Martínez explains the anti-immigration sentiment with a cultural argument: "The belief that U.S. Hispanics lack commitment to the American way of life rests largely on lack of information and misunderstanding in Anglo society. That Hispanics wish to preserve at least some of their culture, language and traditions is a well-established

fact. Yet it does not follow that they reject American culture" (Martínez 1988:135). Based on the notion that the American national identity is rooted in the English language and Protestant religion, the influx of Catholic and Spanish-speaking migrants turns into a threat. Hispanic immigration across the Mexico-U.S. border is hence viewed as threatening the American national identity rather than national security.

This perception of a cultural threat is shared and stoked by part of the academic establishment, exemplified by Harvard professor Samuel Huntington and the "Hispanic challenge" he identifies: "In this new era, the single most immediate and most serious challenge to America's traditional identity comes from the immense and continuing immigration from Latin America, especially from Mexico, and the fertility rates of these immigrants compared to black and white Americans." Huntington believes a large Latino population in the United States may cause a "split between a predominantly Spanish-speaking United States and an English-speaking United States", which poses "a major potential threat to the country's cultural and political integrity" (Huntington 2004:32f).[12] Huntington's argument demonstrates that the massive unauthorized immigration from Mexico is not just seen as threat to the well-being of the country in economic and political terms but also as a threat to its cultural identity. This perception is underlined by the use of terms like "reconquista", "Cuban takeover" (speaking of past examples of significant immigration flows from Latin America) and "establishing beachheads" (Huntington 2004:35, 42). In his conclusion, Samuel Huntington calls for the preservation of the Anglo-Saxon bias of the American national identity and of English as the only language: "There is no Americano dream. There is only the American dream created by an Anglo-Protestant society. Mexican Americans will share in that dream and

in that society only if they dream in English" (Huntington 2004:45). Samuel Huntington's perception of the current Hispanic immigration, of which he sees illegality as one defining factor, as a threat to the cultural integrity of the United States is based on a static concept of culture and a monolithic notion of identity. The quest to preserve American culture from Hispanic "takeover" implies the existence of two separate culture and identities, unable to impact each others' characters. Rather than viewing the interaction of the U.S.-American culture and Mexican culture as a potentially mutually enriching exchange, which has been going on for centuries, it is viewed as a power struggle, which just recently emerged.

Certainly, Huntington is but one voice from the academic establishment. However, looking at the public debate one finds like-minded arguments. Peter Brimelow and his publication "Alien Nation" are one prominent example, arguing that the cultural background of immigrants poses a serious threat to the American national identity (Brimelow 1995). The recently failed attempt to reform U.S. immigration policy also hints at a deeply polarized debate within the political sphere as well as in the American public, one pole being the perception that (unauthorized) immigration is a threat. As David Brooks recently pointed out in a New York Times editorial: "The immigration reform bill was defeated last week by Americans who feel their country is being torn apart by outsiders who don't play by its rules, and by a ruling class blind to the threat" (Brooks 2007). Andres Oppenheimer, correspondent for the Argentinean newspaper La Nación comments on the anti-immigrant sentiments involved in the debate over immigration reform, "El reciente debate migratorio en el Senado […] ha dado lugar a la mayor explosion de sentimiento antihispano que he visto desde que llegué a este país, hace tres décadas" (Oppenheimer

2007).[13]   The stalling of the reform process hence underlines the argument that some segments of American society view unauthorized immigration as a cultural threat.[14]

Effects of Border Control at the U.S.-Mexico Border: Mission Not Accomplished, Human Rights at Stake
Perceiving unauthorized immigration as a threat to the national identity strengthens the argument that borders need to be secured, thus exacerbating the dilemma of security versus economic interests. As a consequence of this dilemma the goal of U.S. border enforcement, i.e. "to establish and maintain effective control of the border of the United States" (Aguilar 2007:3), has not been accomplished. On the contrary, controlling the U.S. Southern border has yielded several effects which run counter to the proclaimed goal as well as to human rights obligations. On a policy level, migrant flows have not diminished and the policy has therefore failed. From a human rights perspective, it becomes apparent that human rights violations occur at several points during crossing and during interaction with U.S. law enforcement agencies.

The Dilemma of Security vs. Economic Interests
Following the argument that border control responds to threat perceptions by the broader public, current U.S. border policy may be characterized as follows: On the one hand, the government seeks to demonstrate the concerned constituency that it is actively fighting unauthorized immigration (Caparini and Marenin 2006:305), thus responding to security concerns. As outlined in the preceding chapter, these security concerns relate to the cultural rather than the territorial integrity of the nation. On the other hand, economic interests prevent the government from drafting and implementing a comprehensive, coherent

and, most importantly, feasible strategy of dealing with unauthorized immigration.

The estimated 12 million unauthorized migrants living in the United States are a significant economic factor, which causes current border control measures to aim at restricting rather than ending unauthorized immigration. In 2002, the U.S. Commission on Civil Rights came to the conclusion that there is a "contradiction between domestic labor and border enforcement policies, such that immigrants are enticed to enter the country to fulfill domestic labor needs, but forced to undergo a life-threatening trek to arrive in this country" (U.S. Commission on Civil Rights 2002).

The *Realpolitik* focus on economic interests while staying on a discourse level when addressing the security concerns of the broader society is underlined by the approach taken to worksite enforcement of immigration law. Unauthorized migrants make up a significant part of the U.S. labor force. In the year 2005, out of a labor force of 148 million people 7.2 million, that is 4.9%, were unauthorized workers (Passel 2006:9). Some branches rely heavily on the cheap labor these workers provide: In private households, unauthorized employees made up 21% of the labor force, in food manufacturing they comprised 14%, in farming 13% and in construction 12% (ibd.:14). However, according to a report by the Third Way Culture Project, "worksite enforcement is an area critically lacking in enforcement", and rather than targeting the employers, measures have predominantly been directed against unauthorized workers (Earls and Kessler 2007:8). In fact, 84% of all worksite arrests in the last three years have been administrative arrests of unauthorized workers (Earls and Kessler 2007:8).

Following my constructivist argument, border enforcement is a means to address societal worries predominantly on a level of discourse – i.e. showing

activism in a field of public concern –, while at the same time acting according to pragmatic *Realpolitik*-driven interests – i.e. economic interests put forward by industries dependent on a cheap labor force. The negative consequences of this policy, seeking to meet two competing interests, are twofold: First, the proclaimed goal – the elimination of migration flows – is not accomplished. Second, human rights violations result from this dilemma of interests.

Policy Failure: Continuing Migration Flows
Disregarding the judgment of whatever approach may be the most appropriate one for dealing with the phenomenon of unauthorized migration into the United States and withstanding from the discussion on whether it is a phenomenon to be welcomed or not, it has become apparent that current border control strategy does not accomplish the proclaimed aim. Even though migration is now considered to be a "top national security priority for the United States" (Adamson 2006:165), border control measures, and this includes their post-Cold-War and their post-9/11 tightening, have not decreased migration flows.

Due to the unauthorized nature of entries, there are no reliable figures on migrant crossings from Mexico into the U.S. However, the apprehension statistics convey the dimensions:[15] In the 1990s, when the number of personnel and resources deployed at the southern border more than doubled, the number of apprehensions did not go down but further up. In the new millennium, apprehension numbers have decreased although they remain very high, with about 1.19 million persons annually arrested by the U.S. Border Patrol when trying to enter the country (Nuñez-Neto 2006: 11ff). Gauging the dimension of unauthorized immigration from these numbers, it can be concluded that current border control measures have not been able to stop unauthorized

migration.

Human Rights Concerns
Human rights may be jeopardized at two points during the unauthorized migration process: during the crossing and during the interaction with U.S. law enforcement agencies (in case the unauthorized migrant is apprehended). In the 1990s, U.S. efforts to decrease unauthorized immigration focused on border enforcement in urban areas. The Clinton administration's strategy of "Prevention through Deterrence" sought to block the most frequently trafficked points along the U.S.-Mexico border. Fences were erected in El Paso, Texas (during the Operation "Hold the Line" of 1993), in the San Diego area (Operation "Gatekeeper" of 1994), along a border segment in Arizona (Operation "Safeguard" 1995) and in the south Rio Grande Valley in Texas (Operation "Rio Grande" 1997). Funding for border enforcement increased from $ 750 million in 1993 to $ 7 billion in 2005, with the number of Border Patrol agents tripling (Earls and Kessler 2007). The U.S. Border Patrol did succeed in deterring migrants from entering the United States at the traditional, now well-protected, crossing points. According to a report by the Congressional Research Service, "there is considerable evidence that it [the strategy of 'Prevention through Deterrence', HR] has made border crossing more challenging, expensive, and dangerous for illegal aliens" (Nuñez-Neto 2006:11).

However, while the hope was that higher risks would keep Mexicans from illegally entering the United States at all, they in fact resulted in a mere spatial redistribution of migration flows (Cornelius 2001).[16] Unauthorized migrants and the human smuggling business switched to other routes along the 1,933-mile border, to remote areas where risks posed by the environment, such as exposure to heat and a rough territory, increased significantly.[17] As the American Civil Liberties Union (ACLU) points out, the new border strategy has had deadly

consequences: "The militarization of the border has not deterred border crossers; rather it has forced them to cross in more remote areas – leading to more than 4,000 deaths in the last decade. Additionally, border residents now live in a low-intensity conflict zone and are often racially profiled by federal agents" (ACLU 2006a).[18] Data on migrant deaths continue to lack accuracy but point towards a sharp rise in deaths with the introduction of the "Prevention through Deterrence" strategy in the 1990s. In the first years of the new millenium, numbers of deaths actually decreased although to a considerably lower degree than apprehensions did. According to data compiled by the U.S. Border Patrol, the mortality rate per apprehensions rose steadily between 1997 and 2005 to 4 deaths per 10,000 apprehensions in the Fiscal Year 2005 (Nuñez-Neto 2006:26). The relation between the geographical redistribution of migration and the rising number of migrant deaths is affirmed by the changes in the ranking of death causes in the 1990s: Hypothermia, dehydration, sunstrokes and drowning have turned into the most common causes. All of them relate to the environment where most crossings now take place, i.e. deserts, mountains, and rivers (Cornelius 2001:670). The increased physical risks of unauthorized entries have prompted a rise in the prices charged by coyotes, professional human smugglers, yet on whose services unauthorized immigrants depend more than ever (ibd 668). The market of human smuggling has thus been expanded by a rising demand due to the higher risks and the more difficult routes of border-crossing. Fiona Adamson detects a direct link between the rising demand and state migration policies, calling it "an instance in which market-based mechanisms take over when the demand for opportunities to immigrate outstrips the supply provided by official channels in state migration policies" (Adamson 2006:193). At the same time that the economic interest in unauthorized immigration to the U.S. is rising, the risks for unauthorized crossing are also increasing, thus boosting the human smuggling business.

Those migrants who do make it across the rough natural border separating Mexico and the U.S. naturally run the risk of getting caught. However, at the moment of apprehension, they also risk falling victim to other negative "side effects" of U.S. border policy. Even though under current U.S. law illegal entry is a civil, not a criminal, offense, migrants are often held under poor conditions, labelled as "equivalent to prison" by the Women's Commission for Refugees, Women and Children (Brané 2007:1). The average daily population of U.S. Immigration and Customs Enforcement (ICE) detention facilities in the Southwest border area alone has been rising dramatically – from 19,000 detainees in July of 2006 to 26,000 detainees in October of the same year (ICE 2006a), representing the "fastest growing federal detention population in the country" (ACLU 2006b). Due to the increasing number of detentions, apprehended unauthorized migrants are often put into regular jails, mixed with the criminal population, or in former jails where prison cells serve as bedrooms and freedom of movement is restricted. Along with the Women's Commission for Refugees, Women and Children other prominent civil rights organizations decry the conditions of unauthorized immigrant detention, among them the ACLU and the American Bar Association (ABA). Critical conditions include inadequate provision of medical care, prolonged stays, family separations (including nursing infants), inadequate treatment of unaccompanied children and women, lack of legal information and representation, and insufficient capacities (ABA 2007; ACLU 2006b; Bowers 2007). Responding to the criticism, one of the predecessors of ICE, the Immigration and Naturalization Service,[19] developed detention standards, which are still

effective today. However, as the ABA lamented at a Congressional hearing, "the lack of a legal enforcement mechanism has seriously undermined the effectiveness of the standards" (ABA 2007:4). While the ICE praises this shift to detention as an end to the former "catch-and-release" practice (ICE 2006b), the ABA speaks of a new approach of "deterring by detaining" (ABA 2007:4). At the same Congressional hearing, former ICE official and immigration lawyer Victor X. Cerda called for "viable alternatives to detention that meet both the individual's and the government's needs" (Cerda 2007).

One violation that has been of particular concern to civil rights organizations for many years, is the so-called "expedited removal procedure". Immigrants from countries other than Mexico or Canada arrested at the border face a deportation procedure which does not allow for hearings before an immigration judge but carries a five-year bar to legal re-entry. In 2004, the Department of Homeland Security extended this procedure, which had been in force at airports and border checkpoints since 1997, to every noncitizen within 160 miles of the Mexican or Canadian border who is determined to be illegally present by a border agent. Since its introduction in 1997, legal, religious and human rights groups have voiced deep concern about the lack of hearings as well as about the inadequate training of border agents who decide whether to deport or not. "Putting the life and liberty of aliens in the hands of bureaucrats […] is unfair", an immigration advocate interviewed by the National Journal said (Friel 2006:25). According to that National Journal report, one of the reasons why the use of the expedited removal procedure has recently risen dramatically is the lack of resources. For immigrants who get a court hearing it takes an average of 89 days to be deported, whereas for those in expedited removal it takes only an average of 22

days (ibd.). If there actually is a court hearing, however, it is closed to the public. After 9/11, open immigration hearings were deemed a threat to the national security. Before the hearing, timely notices of the charges are far from being commonly granted to detainees. According to Human Rights Watch, almost one-half of the unauthorized immigrants detained on immigration violations after 9/11 were not charged within a 48-hour period (Human Rights Watch 2005).

Conclusion

Threat perceptions shape border control strategies. Since the demarcation of the border line between Mexico and the United States more than 150 years ago, the evolution of border control measures has been driven by changing threat perceptions. The emergence of CTAs, i.e. "clandestine transnational actors" such as drug traffickers, unauthorized migrants and terrorists, constitutes the most dramatic threat as yet perceived, hence prompting the most dramatic adaptations of border control strategies. This article has focused on the phenomenon of unauthorized migration across the Mexico-U.S. border, arguing that it represents the process of cultural globalization. Perceiving this type of migration as a threat has created a security concern which contrasts with the economic interests linked to it. While in certain economic branches employers rely heavily on cheap labor such as provided by unauthorized workers, viewing the latter as a threat makes them undesirable for other segments of the American society. Current border control policy is a product of this dilemma: by seeking to respond to both interests, a strategy is implemented which does not seek to end but rather restrict and rechannel unauthorized immigration. The result is a variety of negative consequences, which most gravely affect those the strategy is addressed to, the unauthorized migrants. The

physical risk of crossing has been significantly increased by blocking the most frequently trafficked entry points and pushing migration routes into dangerous territories. However, migration flows have not dropped instead they have reached new heights.

This dilemma of security versus economic interests can only be solved if a comprehensive strategy of dealing with unauthorized migration is drafted and implemented. It would have to regard unauthorized immigration as a complex phenomenon, generated by internal and external factors, i.e. by certain conditions in the United States and certain conditions in the countries of origin, and requiring a complex response. Most importantly, the respect for human rights would have to be a basic principle. Trying to grasp the origin and the complex nature of unauthorized immigration would help dilute perceptions of threat in society. According to the constructivist perspective applied in this article, perceptions of threat are based on the constructions of one's identity. Viewing the American identity as a monolithic, unchangeable concept, rooted in Anglo-Saxon Protestant heritage, has produced certain fears of intrusion and hence exacerbated the described dilemma. Thus, by reflecting on one's national identity, in that case the American identity, and viewing it as a heterogenous, dynamic concept that is based on the notion of *E pluribus unum*, "out of many, one", the threat of unauthorized migration may lose its power. Cultural globalization, of which unauthorized immigration is but one feature, although the most dramatic and visible one in the American case, is a development that neither can be ignored nor stopped. Accepting the challenge rather than rejecting it will be the only way of dealing with it.

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Endnotes

[1] Following the classic state definition by Max Weber, a state is an entity that successfully claims the monopoly of the legitimate use of physical force within a given territory (Weber 1984). According to the definition by the legal philosopher Georg Jellinek, a state is made up of *Staatsvolk, Staatsgewalt* and *Staatsgebiet* – people, power and territory (Jellinek 1914).

[2] Border control is but one measure of border management. According to Alice Hills, "border management […] usually concerns the rules,

techniques and procedures regulating activities and traffic across defined border areas or zones" (Hills 2006, 42).

[3] Peter Andreas defines CTAs as "nonstate actors who operate across national borders in violation of state laws and who attempt to evade law enforcement efforts" (Andreas 2003, 78).

[4] The term "unauthorized immigration" describes the unauthorized entry into a country by persons intending to stay for a long or indefinite period of time (cf. Passel 2006, 16). It comprises both the process of border-crossing and the potential interaction with U.S. agencies in the event of apprehension for illegal entry. Unauthorized immigration can be the action of a single person but also describe the sum of all actions defined above. In the context of this paper, an „unauthorized immigrant" is a non-US citizen residing in the U.S. without authorization. Based on the Immigration and Nationality Act of 1952, the official term is "illegal alien", the use of which, however, has been widely criticized for the pejorative associations it may evoke: Not only "alien" has an ambiguous meaning; the term "illegal" blurs the fact that unauthorized residence in the U.S. is civil and not a criminal offense. In 1994, four minority journalism groups, the National Association of Black Journalists (NABJ), the National Association of Hispanic Journalists, the Asian American Journalists Association and the Native American Journalists Association, issued a joint statement denouncing the term "illegal alien" (NABJ 2006). Based on these considerations, I use the term "unauthorized immigration" respectively "unauthorized (im)migrant" in this paper.

[5] Cf. Georg Elwert (1996) and his definition of culture as a "dynamic structure" and Carl Cederman's constructivist definition of "ethnic group" as "a cultural community based on a common belief in real or putative descent" (Cederman 2002, 411).

[6] According to Anderson, a nation is an "imagined community" because even though its members will never meet all of their fellow members, they still feel linked to each other. A nation is also "inherently limited and sovereign" because it never regards itself as identical with mankind. Instead it strives for self-assertion and political self-determination (Anderson 1991, 6f). Ernest Gellner also merges cultural and political references in his definition of "nationalism" which he describes as "primarily a principle which holds that the political and national unit should be congruent" (Gellner 1987, 1). This definition is used by other researchers in the field of nationalism such as Eric J. Hobsbawm (1990).

[7] Ole Waever calls this phenomenon "societal insecurity" (quoted in: Adamson 2006, 183).

[8] The expansionist policies pursued by the U.S.-American government were just one feature of the "Manifest Destiny" ideology. In addition to governmental expansionism, independent adventurers, so-called "filibusters", infiltrated Mexico seeking to realize their colonial ambitions and "to liberate" the northern Mexican territories (Martínez 1988, 32ff).

[9] For a detailed analysis of the formation of the US-Mexico border see ibid.

[10] At the time, border enforcement focused on Europeans and Asians, who were subject to restrictive immigration laws, whereas "strict controls against Mexicans crossing the border were widely perceived as neither viable nor desirable". Consequently, unlike Europeans or Asians, Mexican immigration was not regulated by a quota system (Andreas 2000, 158).

[11] http://www.jtfn.northcom.mil/subpages/history.html (accessed July 13, 2007).

[12] Interestingly, Huntington includes the Afro-American community in his definition of the "United States' Anglo-Protestant culture and the creed it produced", which leads him to perceive the Hispanic population as a threat to Black Americans especially, supplanting it from its position as largest ethnic minority (Huntington 2004, 32).

[13] "The recent immigration debate in the Senate […] has triggered the biggest explosion of anti-Hispanic sentiments since I arrived in this country three decades ago" (translation: HR).

[14] For a detailed analysis of anti-immigrant sentiment in late 20th century America and specifically of Peter Brimelow's writings see Sánchez 1997. An analysis from the perspective of personal accounts of migrants is provided by Martínez 2001.

[15] The number of apprehensions may be misleading when trying to gauge the number of illegal migrants. Statistics may be deterred due to multiple entries and different border enforcement strategies. They do serve as indicators of trends in migration patterns, though, and are the only reliable statistic available when dealing with illegal migration (Nuñez-Neto 2006). Wayne Cornelius points out that, on one hand, apprehension statistics "overstate" the number of illegal immigrants, since they count in multiple entries, and on the other hand, they "understate" numbers, because of the "large numbers" of undetected illegal immigrants, which he estimates to make up 70 to 80% of all attempted crossings (Cornelius 2001, 664f). For more information on the methods of deriving estimates see Passel 2006.

[16] This spatial redistribution also affected other CTA activities, such as

drug-trafficking.

[17] This spatial retribution of illegal migration is demonstrated by the geographical trends in border apprehension. While between 1992 and 2005 apprehensions in the San Diego and the El paso sectors decreased considerably, they rose in other sectors that were not affected by the tightening of border enforcement in the 1990s, such as the Tucson and the Yuma sectors in Arizona (Nuñez-Neto 2006:17).

[18] Other human rights organizations are also deeply troubled by this development. One example is the U.S. Commission on Civil Rights which in 2002 expressed "concern about the physical and mortal dangers faced by undocumented migrants under current U.S. border control policy" (U.S. Commission on Civil Rights 2002). For a detailed analysis of the impact of the militarization of border control see Dunn 1996.

[19] Only the law enforcement arms of the Immigration and Naturalization Service was moved to the ICE, while the service and benefit functions as well as the border controls were moved to the newly founded U.S. Citizenship and Immigration Services and U.S. Customs and Border Protection respectively. All three agencies were created as branches of the Department of Homeland Security in 2003.

"All its people, including its jotería": Rewriting Nationalisms in Cherríe Moraga's Queer Aztlán

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Abstract: *In "Queer Aztlán: the Re-formation of Chicano Tribe," Chicana feminist theorist Cherríe Moraga addresses the multiple inadequate nationalisms of Chicano movement, women's movement and "Queer Nation," finally seeking a re-imagined nationalism that authentically addresses intersections of nation, race, gender, and sexuality. She analyzes strengths and drawbacks in progressive nationalisms that resist oppression but also reproduce oppressive tactics, limiting their potential for effecting real political change. Her interdisciplinary essay offers a comparative, historical and contemporary examination of the strengths and blind spots of past movements, offering a radically intersectional revision she calls "Queer Aztlán."*

Throughout her poetry, essays and drama, Cherríe Moraga generates an oppositional politics that emerges from her multiple locations as Chicana, feminist, and lesbian. Her groundbreaking 1981 anthology *This Bridge Called My Back: Writings by Radical Women of Color*, co-edited with Gloria Anzaldúa, articulates a multi-voiced but specific location within women of color feminism that has continued throughout her prolific career. Women of color feminism shifts the center, to use Patricia Hill Collins and Margaret Anderson's (2004) phrase, and illuminates intricate interconnections in a variety of ways. This interdisciplinary body of work emerges in multiple genres that exist at an intersection of literature, theory and activism. There is no singular theory or theorist directing women of color feminism, but certain common features emerge. These include using both/and approaches