

America's Border Fence

Will it stem the flow of illegal immigrants?

America is rushing to build 670 miles of fencing along the U.S.-Mexican border by the end of the year. The fence — or wall, as critics along the border call it — is to include 370 miles of fencing intended to stop illegal immigrants on foot and 300 miles of vehicle barriers. To speed construction, the Bush administration is using unprecedented authority granted by Congress to waive environmental-, historic- and cultural-protection laws. No one claims that building physical barriers along roughly a third of America's 2,000-mile Southern border will stem illegal immigration by itself, but supporters believe it is an essential first step in "securing the border," providing a critical line of defense against illegal migration, drug smugglers and even terrorists. Opponents see it as a multi-billion-dollar waste that will only shift illegal immigrants toward more dangerous and difficult routes into the country, while doing environmental, cultural and economic damage.



U.S. Army personnel install sections of the fence near Puerto Palomas, Mexico. U.S. officials expect to complete 670 miles of pedestrian and vehicle barriers by year's end.

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America's Border Fence

BY REED KARAIM

THE ISSUES

In the arid landscape near Naco, Ariz., America's new border fence already looks timeworn. A rusted brown the color of the distant Huachuca Mountains, spray-painted here and there with directions for maintenance crews, it snakes up and down rugged hills, disappearing into the distance. Besides its length, the most surprising thing about the fence is how unimpressive it appears. Our nation's highly publicized first line of defense against illegal entry, now being built up and down the U.S.-Mexican border, looks in some places like something that might guard a construction site.

But to Border Patrol Agent Mike Scioli the fence marks a new day. "It's a huge improvement," he said recently, while showing a reporter the 14-foot-high fencing near Naco and the accompanying new roads, lights and other improvements. "It makes a huge difference in our ability to do our job. It changes the game."

A few miles away, Bill Odle, a retired Marine whose house sits only a hundred yards or so from a stretch of fence erected last fall, views the fence quite differently. Odle has lived on the border since 1997 and is familiar with the evidence and even the sight of illegal immigrants stealing across. He regularly picks up the trash they leave behind and fixes livestock fences they've damaged. But it's the border fence itself that raises his ire.

"It's ugly. It doesn't work. It costs too much," Odle said, contemplating the steel-mesh barrier from his



AP/Getty Images/Chip Somodevilla

The fence blocks illegal border crossings near Ciudad Juarez (right side of fence) and El Paso, Texas. The planned 670-mile fence along the U.S.-Mexican border includes a mix of pedestrian and vehicle barriers. Supporters call the fence a vital first step in securing the U.S. border; opponents say it is a waste of money that threatens wildlife and forces undocumented immigrants to take more dangerous desert routes into the U.S.

driveway. "It's the perfect government project."

The 670 miles of barriers the government plans to have in place along the U.S.-Mexican border by the end of the year does more than separate two nations: It sharply divides U.S. opinion about how we should approach illegal immigration and border security. That division becomes evident even in what the barricade is called. The government and supporters of the structure call it a "fence"; opponents disparagingly call it a "wall."

A March 2008 Associated Press poll found Americans almost evenly split over the Secure Border Initiative, with 49 percent favoring the fence and 48 per-

cent opposing it. But only 44 percent believe it will make a difference, while 55 percent do not.¹

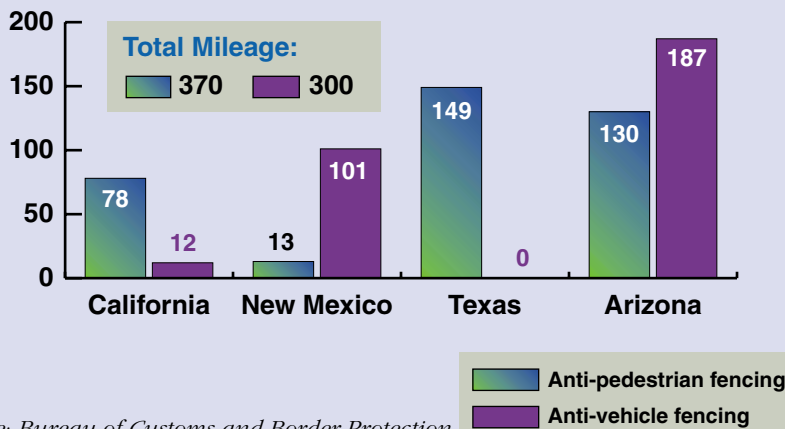
That sentiment may partly reflect skepticism about the effectiveness of the effort. The "fence" is really a melange of barriers — built along several different stretches of the border — designed to hamper immigrants crossing illegally on foot and in vehicles. Some of the earliest portions are solid metal, consisting of corrugated steel once used in Vietnam-era aircraft landing mats. More recent sections are often made of wire mesh reinforced by concrete-filled poles or taller concrete-filled poles planted six inches apart. The height ranges from 12 to 18 feet. Vehicle barriers are lower and often resemble the crossed metal defenses erected by the Germans on the beaches of Normandy during World War II.

The longest continuous segment is 22.5 miles, according to Barry Morrissey, a Bureau of Customs and Border Protection (CBP) spokesman. The United States had constructed 338 miles of fencing as of Aug. 13, 2008.² Homeland Security Secretary Michael Chertoff has said 670 miles will be in place by the end of 2008 — stretching across about one-third of the 1,950-mile-long U.S.-Mexican border. Roughly 370 miles of the fence will be designed to stop pedestrians and 300 miles of it to stop vehicular traffic.³ At least 28 miles of the fence will consist of high-tech sensors and cameras that will create a "virtual fence" in parts of the Arizona desert. However, Homeland Security recently sent that project back to the drawing board after the initial

Border Fence Affects Four States

The U.S.-Mexican border fence is slated to span 670 miles across four states — Texas, New Mexico, Arizona and California — by the end of 2008. More than half of the barricade will be designed to stop pedestrians, and the rest will block vehicular traffic. Nearly half of the fence will be located in Arizona.

Length of Border Fence
(in miles, by state)



Source: Bureau of Customs and Border Protection

effort proved neither high-tech nor particularly effective.⁴

But even as National Guard engineering units and private contractors work to meet Chertoff's ambitious completion timetable, everything about the fencing — from design to location to the very notion itself — has proven controversial. Some prefer a double layer of more formidable fencing along nearly the entire length of the border.⁵ Others object to the wall on humanitarian grounds, believing it only forces illegal migrants to try crossing in more dangerous or remote desert areas or along the Pacific and Gulf of Mexico coasts. In both cases, they say, the death toll — which has been climbing for years — is likely to rise further.⁶

"The fence doesn't stop migration along the border, it simply displaces migration," says Nestor Rodriguez, co-director of the Center for Immigration Research at the University of Houston.

The fence has attracted a widely disparate group of opponents. A coalition

of civic leaders from 19 Texas border communities has sued to halt construction, claiming the federal government has improperly seized land for the fence. The Defenders of Wildlife and the Sierra Club are trying to halt the fence because of concern over what it will do to wildlife and environmentally sensitive habitat.

"This thing might not be very effective at stopping people, but it's stopping wildlife in its tracks," says Matt Clark, the Southwestern representative of Defenders of Wildlife. (See sidebar; p. 758, and "Current Situation," p. 762.)

While critics attack from all directions, supporters concentrate their defense of the fence along two fronts: its important role in halting illegal immigration and bolstering border security at a time of increased threats from terrorists and drug smugglers.

"It sends a message we are finally getting serious about our borders," says Rosemary Jenks, director of governmental affairs for NumbersUSA, a group

that advocates reducing both illegal and legal immigration.

Few think a fence alone will stem the tide of illegal immigrants across the Southern border, estimated by the Pew Hispanic Center at about 850,000 people annually between 2000 to 2006.⁷ But supporters believe properly placed fencing, backed by more surveillance equipment and an expanded Border Patrol (projected to reach 18,319 agents by the end of 2008) can largely halt the flow of illegal human traffic.⁸

The history of the economic, demographic and cultural forces that finally led America to fence off more than a third of its border with Mexico is nearly as long and serpentine as the fence itself. In fact, the fence can be viewed as the physical manifestation of two powerful political currents: heightened U.S. attention to national security after the terrorist attacks of Sept. 11, 2001, and a rapidly integrating global economy that has left many Americans vulnerable to competition from foreign workers, both here and abroad.

The forerunner of the fence building now under way began in a far more limited fashion near San Diego in the 1990s. Congress adopted the idea as a national approach to the border when it passed the Secure Fence Act of 2006, which called for double-layer fencing along specific sections of the border. The law was subsequently modified to give Chertoff wide discretion in where and when to install fencing.

Work is under way in all four states along the border — California, Arizona, New Mexico and Texas. But two states will get most of the barrier: Texas will get 149 miles of pedestrian fencing by the end of 2008, according to the CBP, while Arizona will end up with 317 miles (130 miles of pedestrian fencing and 187 miles of vehicular barriers), covering 84 percent of the state's 377-mile border with Mexico.

The CBP estimates that pedestrian fencing costs about \$4 million to \$5 million per mile, depending on the terrain, while vehicle fencing costs \$2 million to \$3 million. But the Government Accountability Office (GAO) says the final costs will be higher.⁹ Although the long-term price tag is difficult to estimate, the U.S. Army Corps of Engineers predicts the 25-year cost could range from \$16.4 million to \$70 million per mile, depending on the amount of damage done to the fence by illegal border crossers and the elements.¹⁰ Thus the quarter-century cost to taxpayers for 670 miles of fence could reach as high as \$46.9 billion, or nearly seven times the size of the annual budget of the Environmental Protection Agency.

Moreover, if Chertoff's goal is to be met, construction will have to average more than a mile a day for the rest of this year. Many supporters and opponents are skeptical, but government officials are confident they'll meet the self-imposed deadline.

"We are on track to complete this project by the end of the year," says Jason Ahern, CBP deputy commissioner, "and then we'll assess where we need to consider putting additional miles of fence."

Meanwhile, as the fence rises, here are some of the questions being asked:

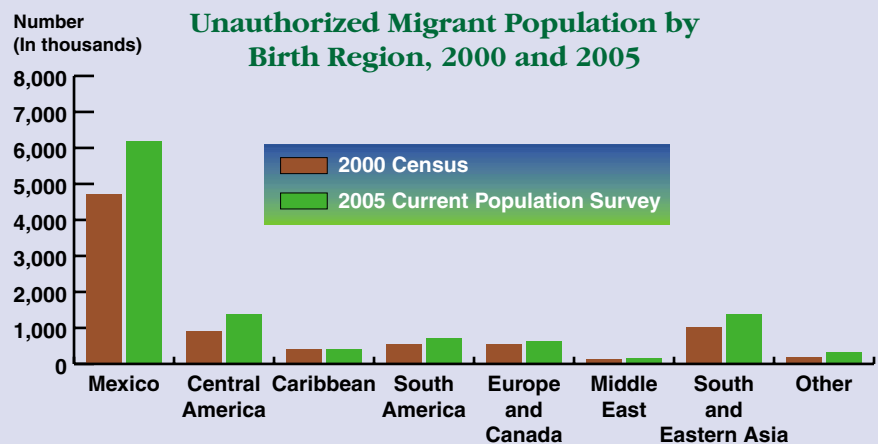
Can a border fence stem the flow of illegal immigrants?

The border below San Diego was being overwhelmed by illegal immigrants in the early 1990s when the U.S. government began building pedestrian fencing in the area. The initial fence did not have the impact supporters had hoped, but when it was backed up with a second and third layer of fencing, along with surveillance equipment and an increased Border Patrol presence, the results were dramatic.

At the Border Patrol's Imperial Beach and Chula Vista stations, which had been ground zero of the illegal migrant

Undocumented Population Rose

The nation's unauthorized migrant population increased by more than 3 million between 2000 and 2005 — a jump of nearly 33 percent, according to the 2005 Current Population Survey. The increases were among immigrants from every region in the world except the Caribbean. Mexico led the way with more than 6.2 million immigrants in 2005, more than all other regions combined.



Source: Jeffrey S. Passel, "The Size and Characteristics of the Unauthorized Migrant Population in the U.S.," Pew Hispanic Center, March 2006

explosion, apprehensions plummeted from 294,740 people in 1994 to 19,035 in 2004.¹¹ (See graph, p. 752.) Apprehensions are considered one of the best measures of the overall number of migrants trying to cross illegally, and supporters of the fence cite these statistics, along with similar ones in the Border Patrol's Yuma, Ariz., sector.

"A fence is a clearly proven technology that, when deployed properly and used in conjunction with other enforcement strategies, clearly works," says Dan Stein, president of the Federation for American Immigration Reform (FAIR), which supports even stronger measures to stop illegal immigrants. "The Yuma fence is triple fencing, and nobody gets over it. You can build a fence that's essentially impenetrable."

Skeptics point out the increases in personnel and equipment may have had as much to do with the success

as the fencing. But Deputy Commissioner Ahern says the fence was always intended to work in conjunction with other resources. "We have what we call the three legs of our stool: tactical infrastructure [the fence], technology and personnel," he says. "It's that combination that's effective."

Agent Scioli believes the fence will deter some migrants and smugglers, but he says it makes his job easier even if illegal migrants make it over the top, because catching border crossers is an equation involving time and distance. Agents are trained in "cutting sign" — following the footprints and other pieces of evidence migrants leave as they pass through the desert. If agents are late to the trail, their chances of success drop dramatically.

"Yes, I've heard what people say. 'Show me a 14-foot fence, and I'll show you someone with a 15-foot ladder,' "

Does the Border Fence Deter Would-be Terrorists?

Some believe terrorists are more likely to enter legally.

The Border Patrol annually rounds up a smattering of illegal entrants from nearly every country in the world, including Middle Eastern countries considered hotbeds of terrorist activity. Indeed, the Internet buzzes with reports of Korans and prayer rugs found along the U.S.-Mexican border.

But so far, no one in the U.S. government has tied any terrorist act to anyone who crossed the border illegally. The 9/11 hijackers all entered the United States on temporary visas, arriving through regular ports of entry. Other foreign terrorists or would-be terrorists apprehended in the United States have followed similar routes into the country.

Many immigration and security experts believe the Southwestern border remains an unattractive option for terrorists plotting their path into the United States. "We have lots of data on terrorist travel. They like to travel the way everybody else travels. They like predictability. They like to know what they're going to face," says James Jay Carafano, a senior defense and counterterrorism analyst for the conservative Heritage Foundation. "That's not to say a terrorist can't try to use a smuggler to get across the border, but they're far more likely to use the legal ports of entry."

Carafano believes a border fence makes sense for immigration control in limited areas but that the cost and effort necessary to build nearly 700 miles of fence is diverting resources that could be better used to improve infrastructure and screening procedures at ports of entry. "Fixating myopically on the wall is just bad public policy," he says. "Looking for terrorists by standing watch on the border is stupid. It's looking for a needle in a haystack."

But Michael Cutler, a former Immigration and Naturalization Service special agent and now a fellow at the Center for Immigration Studies, thinks the danger of terrorists sneaking across the U.S.-Mexican border shouldn't be discounted. "If you're doing risk analysis, any place where somebody could reasonably expect to enter the United States is a place where you want to shore up

security," he says. "And when you look at how many people cross that border every week, and the evidence of Islamists they've found there, then I think you've got to consider it a threat."

Cutler is concerned that Hezbollah and other terrorist groups may have a presence in the "tri-border region" in South America — the area where Argentina, Paraguay and Brazil meet, which includes an immigrant population from the Middle East. He believes the region could provide a Latin American base for Islamic terrorists who could use the Southwestern border to enter the United States. However, the credibility of such a threat is debated in security circles.

Ray Koslowski, director of the Research Program on Border Control and Homeland Security at the University at Albany, in New York, says U.S. efforts to tighten security at ports of entry — particularly a new system intended to make it more difficult for those on the government's terrorist "watch list" to board airplanes bound for the United States — could make the Southwestern border more attractive to "established terrorists." If they did end up contemplating that route, then the border fence might help deter them, Koslowski adds, since it would make their capture — and identification — more likely.

Still, he believes al Qaeda and other terrorist organizations would probably choose a different strategy: sending individuals who don't have a criminal record and thus would be less likely to generate a "watch list" hit. "Such individuals would be in a better position to enter through ports of entry, at lower levels of risk," Koslowski says.

But Ira Mehlman, a spokesman for the Federation for American Immigration Reform (FAIR), which favors less immigration — legal or illegal — says the "general sense of chaos" along the U.S.-Mexican border created by the large number of illegal migrants makes it an attractive target for terrorists.

"The fact that it hasn't happened yet doesn't mean it isn't going to happen," he says. "The presumption ought to be that if we leave any areas unguarded, our enemies will take advantage of them."

Scioli says. "But even if they do get over this fence, it takes time. Now, when I'm on their trail, maybe it only takes minutes to catch them, rather than hours."

The Border Patrol's comprehensive approach sounds impregnable. But to Odle, the ex-Marine who lives along the border, the reality is different. Almost all of the new fencing around Naco, as along most of the border, is a single layer that largely stands alone — a one-legged stool he sees doing little good. The remote-controlled

cameras and motion sensors that have been in the desert for some time don't seem particularly effective, he says, and his stretch of the border is still only lightly patrolled. "The Border Patrol, their presence has lessened considerably since they built the wall," he says.

Odle does credit the vehicle barriers with stopping smugglers from driving across the desert the way they once did. But the rest fails to impress him. If anything, he believes illegal migration may have increased slightly in the area since

the fence went up. "I've seen women and kids as well as guys climbing over it," he says. "I could put up with the damn thing if it worked, but it doesn't."

Criticism of the fence grows even stronger when its effectiveness is measured on a national scale. "It can slow down or deter migration in some areas that are very popular for border crossing, as it did in San Diego, but that doesn't mean it stops migration along the whole border," notes Rodriguez of the Center for Immigration Research.

National statistics back this assertion. The Border Patrol made 1.2 million apprehensions in 1992 along the entire Southern border and about the same number in 2004, suggesting that increased enforcement in the San Diego sector and other areas made little difference in the overall number of immigrants trying to cross illegally.¹²

The more recent squeeze in Yuma also has been met with increased activity elsewhere. Fence supporters counter that's because much of the new fencing is still inadequate. They note that before the Secure Fence Act of 2006 was revised last year, it required double layers of fencing along specified parts of the border. "They took out that language," says NumbersUSA's Jenks, "which would have made a big difference."

Fencing and stepped-up patrolling are effective, say fence supporters, when the government is willing to commit sufficient resources to the task. "We don't argue that the fence alone is the solution," says Jenks. "The fence is one part of the solution. But there are vast amounts of land . . . where fencing is feasible and where it would do a tremendous amount of good. We need more fence along the border."

But stepped-up border enforcement alone is bound to fail, says Wayne Cornelius, director of the Center for Comparative Immigration Studies at the University of California, San Diego, which favors lower U.S. immigration levels. "A continuous barrier is impossible because of the terrain; even the government recognizes that," he

says. Besides, he continues, a continuous border would only create added pressure at the maritime borders, which is already happening. "We've had about two dozen boats washing up or interdicted in San Diego County since last August. And those were only the boats that were found."

Moreover, Canada does not require Mexicans to produce a visa when entering Canada.¹³ For a continuous Southern-border fence to work, says Rey Koslowski, director of the Research Program on Border Control

found that 91 percent of the villagers interviewed in San Miguel Tlacotepec, a city in Southern Mexico, believed it is "very dangerous" to cross the border without documents. And nearly a quarter of the interviewees knew someone who had died trying to get into the United States.

Yet such awareness didn't make a difference.¹⁵ "Being aware of the physical risks, being aware of someone who actually died in the crossing, knowing about the Border Patrol's increased efforts to interdict

people — none of these things discouraged them," says Cornelius.

In fact, Cornelius says, the interviews revealed that increased border enforcement has ended up discouraging illegal immigrants from returning home because of the danger now involved.

"The undocumented population has tripled during the period of concentrated border enforcement," he says. "We were at 3.9 million in 1995, and now we're over 12 million. To me, that's the most significant evidence that this approach has failed."



Getty Images/David McNew

A vehicle barrier lines the south side of Interstate 8 at the Imperial Dunes, just north of the U.S.-Mexican border near Winterhaven, Calif. Some 300 miles of border fencing are designed to stop vehicles.

and Homeland Security at the University at Albany in New York, "The U.S. would have to build another fence on the much longer 5,525-mile U.S.-Canadian border or persuade the Canadian government to end free travel from Mexico."

But even that wouldn't completely solve the problem, because 45 percent of all illegal immigrants entered the United States legally but did not leave in accordance with the terms of their visas, according to the Pew Hispanic Center.¹⁴

The most recent study by the Center for Comparative Immigration Studies

Would blocking all illegal immigrants hurt or benefit the U.S. economy?

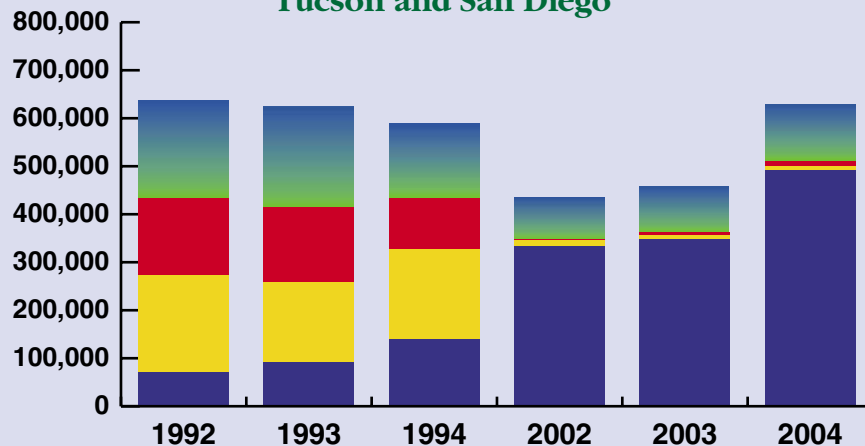
Both supporters and critics of the border fence agree that as long as U.S. businesses continue to hire illegal immigrants for higher salaries than they can earn at home, workers will continue to risk their lives to enter the United States.

But a divide quickly reemerges in discussions about the impact those immigrants have on the U.S. economy. Some see illegal immigrants doing work that U.S. citizens spurn, filling a host of hard, low-paying, but essential service

Arrests Shift After Border Improvements

After the U.S.-Mexican border was strengthened in San Diego in the early 1990s, arrests of illegal immigrants in the region — which includes Imperial Beach and Chula Vista — dropped dramatically. At the same time, however, apprehensions in Tucson skyrocketed to 491,000 in 2004. Because of the shift of illegal immigration to Tucson, the overall number of illegal migrants — 630,000 — apprehended in the San Diego and Tucson border regions remained about the same in 2004 as in 1992.

Apprehensions of Illegal Immigrants in Tucson and San Diego



Source: Blas Nuñez-Neto and Yule Kim, "Border Security: Barriers Along the U.S. International Border," Congressional Research Service, May 2008

■ Tucson
■ Imperial Beach (San Diego)
■ Chula Vista (San Diego)
■ Other San Diego

and trade jobs that allow the rest of us to live comfortably. That view was encapsulated in the 2004 movie "A Day Without a Mexican," a comedy that shows the California economy grinding to a halt when the state's immigrants mysteriously disappear. (The film attracted almost no attention in the United States but was a hit and won several awards in Mexico.)

Others, however, believe illegal immigrants are driving down U.S. wages, draining state and federal treasuries by collecting government payments to which they're not entitled and contributing to rising health-care and law-enforcement costs. These sentiments

are strong enough to have transformed CNN anchor Lou Dobbs — who proudly waves the anti-illegals flag — into a populist hero to millions of Americans. Dobbs ties the illegal immigrant surge to larger economic forces, chiefly globalization, and the "sellout" by U.S. policymakers to powerful business interests, which are all part of what he calls a "war on the middle class." Dobbs particularly claims that the North American Free Trade Agreement (NAFTA), which lowered trade barriers between the United States, Mexico and Canada, has sent U.S. jobs to Mexico and lowered American wages.

Kathleen Staudt, a political science professor at the University of Texas, El Paso, says immigrants make a convenient target during tough economic times. But she believes overheated rhetoric has kept many Americans from seeing the role illegal immigrants play in the economy. "If we were forced to do without this labor, I think the economies of many border towns would begin to die," she says, "and the price of many mainstream goods and services would go up dramatically."

However, Stein, at the Federation for American Immigration Reform, says the laws of supply and demand would bring clear rewards to U.S. workers. "If the people here illegally had to leave, wages would rise, and employers would suddenly have incentives to provide things like health care again," he says. "It would be a great windfall for the rising tide of less-skilled workers in the country, who would have a chance to reestablish their role in the middle class."

But would Americans really take jobs in meatpacking plants, janitorial services, yard care, food service, construction and other trades now dependent on illegal labor? Staudt doubts it. "I think the chamber of commerce in many cities would begin to lobby very hard for relaxed [immigration] rules allowing more people in to fill these jobs," she says.

That has already happened in Arizona, which passed a law last year imposing stiff, new sanctions against employers who hire illegal immigrants. Since then, the hospitality and agriculture industries have reported worker shortages.¹⁶ Some business groups have sued to overturn the law, and some of the original sponsors are even calling for reducing penalties on businesses that violate the law.¹⁷

Opponents of illegal immigrants say businesses' economic distress is just the result of the economic system adjusting to new realities. "It's not a

crime for employers to have to raise wages to get people to do certain jobs,” says Stein.

But Gordon Hanson, an economist at the University of California, San Diego, who has studied the impact of immigrant labor on the workforce, says, “The United States has done a pretty good job of educating itself out of low-end work. Only 8 percent of the U.S. labor force lacks a high-school education. You don’t graduate from high school to go to work in a poultry plant.”

America also has one of the highest incarceration rates in the developed world, Hanson adds, further reducing the low-end labor supply.¹⁸ If illegal immigrant labor is cut off, “you’re not going to fill all those jobs with native workers,” he says. “In industries where work can be exported, you’re going to lose jobs.”

Wages will rise in the service industries where jobs can’t be exported — such as maids, dishwashers, gardeners, waiters and 7-11 clerks — but so will the costs to consumers, Hanson says. While illegal labor hurts low-skilled U.S. workers, it helps higher-skilled workers by providing them with cheaper goods and services, such as home and child care. “In families with two educated workers,” Hanson says, “it allows whoever would be the stay-at-home spouse to stay in the workforce at lower cost.”

The question of how much illegal immigration costs taxpayers also is hotly disputed. The Federation for American Immigration Reform estimates that in just three areas — schooling, medical care and incarceration — illegal immigrants cost local governments \$36 billion a year.¹⁹ Other estimates are lower, but most economists agree illegal workers are a net cost to local governments, especially in communities with large illegal populations.

The costs are incurred, in part, because illegal workers are less likely to have health insurance than U.S. citi-

zens and because their children are more likely to need special assistance in school. With average incomes significantly below the national average, most studies indicate illegal workers pay less in state and local taxes than they collect in services.²⁰

However, the impact appears limited. The Congressional Budget Office estimates that public spending for illegal immigrants generally accounts for less than 5 percent of state and local spending on law enforcement, education and health care.²¹

The impact on the federal budget is less clear. A Center for Immigration Studies report put the net cost to the federal government for services provided to illegal immigrants — such as Medicare, food stamps, subsidized school lunches, federal aid to public schools and increased costs to the federal court and prison systems — at about \$10 billion annually.²² But other analysts say illegal immigrants pay more into the federal treasury in taxes and Social Security taxes — since they usually have fake Social Security cards — than they receive in benefits. A study by Standard & Poor’s, a credit-rating and research firm, noted the U.S. Social Security Administration places \$6 billion to \$7 billion in a special account for unclaimed benefits annually — an amount analysts believe mostly comes from illegal immigrants who pay Social Security taxes but cannot legally claim Social Security or Medicare benefits.²³

When all the economic pluses and minuses are taken into account, Hanson says, “You get something that’s close to a wash. There are distributional shifts within the economy — some employers and consumers who will be hurt, some workers and state and local governments that will benefit. But our best sense is that the net economic impact isn’t huge.”

Does the fence harm U.S. relations with Mexico and other countries?

About a century ago, Mexican strongman Porfirio Diaz surveyed his nation’s already long and troubled relationship with its neighbor to the north and observed, “Poor Mexico, so far from God and so close to the United States.”

Much has changed in both countries since Diaz’s dictatorial reign. Mexico’s politics are far more vibrant, peaceful and democratic. America no longer interferes as bluntly as it once did in its neighbor’s affairs, and NAFTA ties the two countries together economically with Canada.

But in more than one sense, Diaz’s melancholy observation feels as timeless as ever. “Mexico has never been the actor that drives the relationship,” says Tony Payan, an assistant professor of international relations and foreign policy at the University of Texas, El Paso. “It’s always been unilateral action by the United States, and then Mexico is left to react.”

Mexico made its unhappiness with the border fence clear from the beginning. In 2005, then-Mexican President Vicente Fox called the idea “shameful” when it began gaining traction in Congress. “It’s not possible that in the 21st century we’re building walls between two nations that are neighbors, between two nations that are brothers,” Fox said at an event for migrants in his home state of Guanajuato.²⁴

Mexican officials already were distressed by the rising death toll among illegal migrants, which began after U.S. border enforcement activities were stepped up in the mid-1990s. By sealing off the areas of heaviest illegal crossing, the Border Patrol drove border crossers into more remote and deadly terrain, particularly the Arizona desert.

Illegal immigrant deaths along the border have climbed steadily, according to the U.S. Border Patrol and Mexican consular offices, rising to 472 in 2005, compared to an average of about 200 in the early 1990s.²⁵ The totals are widely believed to be undercounted,

however, because they reflect only bodies recovered by the U.S. and Mexican border patrols. In the rugged expanses of the Southwestern desert, many are likely never found.²⁶

Mexico has officially complained about the expansion of fencing. "We certainly recognize that they would prefer not to have a fence between our two countries," says Customs Deputy Commissioner Ahern. "But they acknowledge that we need to secure our country, that it's our responsibility and our sovereign right."

The two countries continue to cooperate along the border, with Mexican officials working with their U.S. counterparts on the International Boundary Waters Commission to ensure that fence construction along the Rio Grande River does not impede water flow or drainage. The two countries also continue to work together to battle violent crime and drug smuggling along the border. "We've had a great relationship with them there," Ahern says.

His comments dovetail with public statements offered by President George W. Bush and Mexican President Felipe Calderon during the North American Leaders Summit in Louisiana last April. Both said the relationship between the two countries remains strong and collaborative, despite Mexican concerns over U.S. immigration policy.²⁷

But some observers are skeptical. "I think there's almost total disillusionment right now among Mexico's ruling elites," says Ed Williams, a retired political science professor from the University of Arizona. "They've recognized that this is the reality and that haranguing isn't going to change anything, but there's enormous disappointment."

The disappointment is particularly profound, he adds, because Mexico initially believed Bush's time as governor of Texas and his close relationship with Fox signaled an era of closer ties between the two countries once he was elected.

Some fence proponents acknowledge the bond between the United States

and its Southern neighbor has been damaged, but they blame Mexican attitudes. "U.S.-Mexico relations are headed for hard times because they insist on respect, but what we want is a mutuality of respect," says FAIR's Stein, "and for some reason they seem to think it's a one-way street. They want a special policy for Mexican nationals."

Americans often take their neighbors — both to the north and south — for granted, even though the Mexicans and Canadians are more important to the U.S. economy than is generally realized. Canada and Mexico are America's top two trading partners as well as, respectively, the largest and third-largest suppliers of crude oil to the United States.

Williams believes dismay over U.S. border policies extends to Canada, too. "The policy elites in both Canada and Mexico are increasingly exasperated with the United States, and therefore a whole host of relationships are jeopardized by a feeling of ill will that characterizes the current situation," he says.

At the end of the Louisiana summit, Bush and Calderon, along with Canadian Prime Minister Stephen Harper, issued a joint communiqué pledging, among other things, to coordinate long-term infrastructure plans along their borders and to "deepen cooperation on the development and application of technology to make our borders both smarter and more secure."²⁸

Although the communiqué painted a picture of three partners marching together into the future, Payan at the University of Texas believes the real picture is different. "What you have is an elephant in the middle with two mice sleeping on either side. Canada and Mexico are always going to have to move in such a way that the elephant doesn't squash them," he says. "But the image is a little more complicated than it first seems because the elephant is afraid of mice. And, right now, the U.S. is viewing its neighbors as potential threats." ■

BACKGROUND

Building Walls

Nations have been building walls or fences along their borders more or less since nations began.

Consider Hadrian's Wall, built in the second century AD along Roman Britain's frontier. The wall was made of turf and stone instead of steel and concrete, but its commonly accepted purpose sounds familiar: to keep the poorer "barbarians" of ancient Scotland from invading the civilized and more prosperous empire.

The Great Wall of China built over several hundred years was a similar, even more expansive effort. Much like the U.S. border fence, it wasn't one structure but a series of walls totaling about 4,000 miles along strategic stretches of the border, designed to keep out the Mongols and other nomadic tribes from Central Asia.

More recently, the Berlin Wall appears to have been built for the opposite reason: to keep residents inside communist East Berlin. However, as former University of Arizona political science Professor Williams points out, East Germany claimed the wall was designed to protect East Berliners from the "alien influences of capitalism."

American history is replete with its own examples of walls, notes Williams, who edited an upcoming special issue of the university's *Journal of the Southwest* entitled, "Fences."²⁹ The Jamestown settlers and the Pilgrims built palisades — fences of pointed wooden stakes — around their small communities to keep out the Native Americans and wild animals.

Through the centuries, barriers have been erected along borders "to protect 'us' from 'them,'" Williams says.

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Chronology

Pre-1950s *The U.S. restricts immigration based on race and national origin.*

1882

Chinese Exclusion Act suspends immigration of Chinese laborers for 10 years — the first law in U.S. history to restrict immigration based on nationality.

1921

A rising tide of isolationism prompts the Emergency Quota Act, which limits annual immigration from any one country to 3 percent of existing U.S. population from that country. It sharply reduces immigration from Eastern and Southern Europe.

1924

Congress enacts the Johnson-Reed Act, further tightening quotas for Europeans and excluding immigrants from Asia altogether. . . . The Labor Appropriation Act establishes the Border Patrol, with 450 officers responsible for guarding both borders with Mexico and Canada.

1942

Facing labor shortages during World War II, the United States initiates the Bracero Program, which imports Mexican workers for farm labor and other jobs.

1950s-1960s

America begins to deal with large-scale illegal immigration.

1954

Facing growing illegal immigration from Mexico, the government initiates “Operation Wetback.” Authorities sweep through Mexican-American barrios, and thousands of immigrants are returned to Mexico.

1964

Congress ends Bracero Program.

1965

Immigration and Nationality Act of 1965 abolishes immigration quotas based on national origin but gives preference to relatives of U.S. citizens, permanent resident aliens, scientists and workers with skills in short supply.

1970s-1990s

America offers amnesty to illegal aliens and begins to consider a border fence.

1986

President Ronald Reagan signs Immigration Reform and Control Act of 1986 giving amnesty, under certain circumstances, to illegal immigrants who have been in the United States since 1982.

1990

The Border Patrol begins erecting a 14-mile fence to deter illegal entries and drug smuggling near San Diego.

1993

A Sandia Laboratory study says a three-tiered fence along parts of the border would discourage or delay border crossers and channel others into areas the Border Patrol could more easily control.

1994

Operation Gatekeeper increases the number of Border Patrol agents near San Diego.

1996

Congress passes the Illegal Immigration Reform and Immigrant Responsibility Act, which gives the government broad authority to

construct barriers along the border and authorizes a secondary layer of fencing in San Diego.

2000-Present

Congress sweeps aside legal restrictions and directs the administration to build fencing.

2002

Congress allows Immigration and Naturalization Service (INS) funds to be used to buy land for border fencing and to construct the fences.

2003

The INS is abolished, and its functions are transferred to the newly created Department of Homeland Security.

2005

Congress passes the REAL ID Act authorizing the Homeland Security secretary to waive all legal requirements in order to expedite the construction of border barriers.

2006

Border Patrol apprehends 1.2 million illegal migrants along U.S.-Mexican border. . . . Secure Fence Act authorizes construction of a total of 850 miles of fencing along the border.

2007

Consolidated Appropriations Act gives the secretary of Homeland Security greater freedom to decide how much fencing to build along the Southern border and where and when to build it.

2008

Homeland Security Secretary Michael Chertoff reaffirms 670 miles of fencing will be in place by the end of the year.

Border-town Life Becomes More Difficult

Cross-border exchanges may be in jeopardy.

On clear afternoons, Tony Zavaleta sometimes stands on the porch of his home outside Brownsville, Texas, gazes across the Rio Grande and watches one of his cousins working his farm on the other side of the river.

"I've got all kinds of family across the river," says Zavaleta, vice president for external affairs at the University of Texas, Brownsville. "In fact, at 3 o'clock today I'm going to the bridge to pick up a cousin, and we're going to Starbucks to have coffee."

The U.S.-Mexico border looks like a clearly drawn line on a map, but up close the delineation is blurred. The two nations are connected by history, economy and, most significantly, a border population with extensive and often deep roots in both nations.

"We have family business, family dealings, intermarriages, social events on both sides of the border, and that is the case for literally hundreds of thousands of people," says Zavaleta, whose family traces its heritage on both sides of the river back to the 18th century.

These strong relationships have created what many describe as a unique border culture — one they believe is threatened by the new border fence. "We're one community, and we've historically operated as one community," says Chad Foster, mayor of Eagle Pass, Texas, about his city's relationship with Piedras Negras, immediately across the border. "We have individuals who live in Piedras Negras but pay tuition so their kids can go to school in Eagle Pass. We have people who live in Eagle Pass and run plants in Piedras Negras. We've always gone back and forth."

The border between the United States and Mexico remains the busiest in the world, with more than 220 million legal crossings a year. But casual interchange between the two nations, the lifeblood of border culture, has been growing more difficult in recent years, particularly with the beefed-up border security since the Sept. 11 terrorist attacks. Now, many fear a further stifling of the relationship.

"You wouldn't think it would affect everyday, legal crossing," says Zavaleta, "but it has already done that."

Foster says the fence sends a signal: "You're not welcome."

When combined with longer waits at the legal ports of entry due to tighter security and inadequate staffing, they say, the fence creates the sense that crossing the border is best avoided — a feeling that could have serious economic implications for border communities.

Tom Fullerton, an economics professor at the University of Texas, El Paso, has studied the financial relationships between cities located across from each other on the border. In El Paso, he attributes an average of \$900 million annually in retail sales to Mexicans crossing the border to shop in the United States.

Business also travels the other way. "I don't know the number of people I've met who routinely go to the dentist in Nogales [Mexico] because it's cheaper," says folklorist Maribel Alvarez, an assistant professor at the University of Arizona's Southwest Center.

Betty Perez, who operates a small ranch a couple of miles from the border near Roma, Texas, says many ranchers

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"The same things are always said about the people on the other side of the fence — they're barbarians or savages or an alien force."

The question is whether they work. After all, the Berlin Wall fell, the Romans eventually abandoned Hadrian's Wall, the Manchu finally conquered China and even the massive fortifications of the French Maginot Line, built between the world wars, were rendered ineffectual when the Germans simply went around them — an approach critics of the U.S. border fence say illegal migrants already are taking.

But such unequivocal dismissal, popular with critics of the U.S. fence, ignores the long periods during which certain fortifications proved effective.

In his book about the Roman Empire, historian Derek Williams says after Hadrian's Wall was built, "Decades passed without emergency." The Berlin Wall fulfilled its function for more than 40 years, he adds, and the Great Wall of China for much longer.³⁰

"It would be very comfortable for my liberal consciousness to say these things don't work," says Williams. "But that's not the case. They do work."

But even if walls and fences work, says Maribel Alvarez, a folklorist at the University of Arizona's Southwest Center, the U.S. barriers still create a simplistic view of the border. "It's a view locked in an either/or perspective," she says. "The border is treated as an untamed badlands. It assumes that in this badlands someone with higher

knowledge needs to impose an order that is lacking."

Some of the rhetoric from Washington concerning the Southwestern border certainly fits Alvarez's description. Rep. Tom Tancredo, R-Colo., a strong opponent of illegal immigration, summed up the view in an article for *Human Events* magazine, titled "Mexico's Lawless Border Poses Huge Test for Washington."³¹

But history may provide an unexpected lesson, says Mary Beard, a classics scholar at Cambridge University in England. The Romans' view of frontiers was more complex than those who cite Hadrian's Wall as a forerunner of the U.S. fence would have it. The Romans did not see borders as clear divisions, Beard wrote

go across the border “to buy a good bull or sell a good bull or a horse. There’s a lot of horse business down there.”

Fullerton says it’s difficult to estimate the economic consequences of the border fence, but with trade liberalization, Mexicans now can find almost anything they might buy in the United States at home. “It’s possible they’ll say, ‘We’ll just stay here and not worry about going into this country where we’re not really welcome,’ ” he notes.

That would be just fine for many fence supporters, including those living along the border. Ed Williams, a retired University of Arizona political science professor, points out the existence of a border culture does not imply universal mutual appreciation. “While many borderlands people have been sympathetic to their brethren across the line, others have always been suspicious,” he says. “There are people in the border communities who say, ‘Build that damn wall.’ ”

But opinion does not necessarily divide strictly along racial lines. “You can find a lot of people with Spanish surnames who will say, ‘Keep those Mexicans out,’ ” says Zavaleta. “And a lot of Anglos feel that’s bad for business.”



Patricia Escobar, left, of Los Angeles, visits through the fence with her daughter Rosa, who lives in Tijuana, Mexico.

AFP/Getty Images/Omar Torres

But Alvarez, who edits the center’s “Borderlore” blog, notes the breadth of the population whose lives have been lived on both sides of the border. “You have the ranchers. You have the Native Americans. You have the bohemians that come to the desert to write and paint,” she says. “You have a very grounded working class that crosses back and forth almost daily.”

Border towns even have shared fire departments and other civic institutions. “Laredo and Nuevo Laredo, prior to the 1980s, was essentially like a spot on the Canadian border or between two Scandinavian countries,” says Fullerton. “That’s how closely intertwined they were. They even shared a minor league baseball team.”

But when people living on the border reminisce about earlier, less-security-conscious days, they most often cite the personal exchanges that built a sense of a shared land. “I remember when my grandfather decided he wanted to give me a horse as a gift,” says Zavaleta. “He just had a ranch hand ride it across the river. I was 14, and I remember standing on the riverbank and watching that horse come across from my grandfather. You wouldn’t do that today.”

in *The Times of London*, but rather as “frontier zones” where the empire gradually disappeared into foreign territory.³²

Contacted by e-mail, Beard notes that one connection between Hadrian’s Wall and “Bush’s wall” is that both are partly symbolic in intent. Critics of the U.S. fence have argued it is primarily a political gesture intended to appease anti-immigration sentiment. Similarly, Hadrian’s Wall was clearly designed as much to impress the Romans behind it as those on the other side, notes historian Williams.³³

But Beard’s description of the fluid nature of Roman borders, which were largely unfortified, describes the U.S.-Mexican border for much of its history.

Bracero Program

U ntil the 1990s, most of America’s border with Mexico was largely invisible. The Rio Grande provided a natural border in Texas. In the deserts of Arizona, New Mexico and inland California, an occasional stone obelisk or a few strings of barbed wire were often all that signified the transition from one nation to another.

Sparsely populated and little traveled for most of its history, the Sonoran Desert in Arizona and New Mexico seemed to need little more than that. The United States did not even establish the Border Patrol until 1924,

when it hired 450 agents. In some border towns, the two countries were no more than a street apart.

People from both countries moved back and forth with little government attention until World War I created a significant shortage of labor in the United States. Congress created a program allowing the temporary admission of nearly 77,000 Mexican “guest workers.” The legislation began a pattern of “recruitment in times of labor shortage followed by massive restrictions and deportations,” writes Katherine Fennelly, a member of the League of Women Voters’ Immigration Study Committee.³⁴

When joblessness rose during the Depression in the late 1920s, thousands of Mexican immigrants were

Critics Say Fence Disrupts Wildlife

Border fence is 'stopping wildlife in their tracks.'

The San Pedro River in Arizona — one of only two major rivers that flow north from Mexico into the United States — provides habitat to an astonishing variety of birds and small mammals. It also serves as a watering hole for deer, mountain lions, bobcats and possibly even jaguars as they range across the arid Sonoran Desert in Mexico and the United States.

The U.S. government recognized the importance of the San Pedro and the surrounding landscape when it created the San Pedro Riparian National Conservation Area — a 57,000-acre refuge for the animals and plants of the region's fragile desert riparian ecosystem, one of the few remaining in the American Southwest.

But today the area is also home to a section of the new border fence, slicing the desert landscape in half as it stretches east from the riverbank. Much of America's new fencing is being built on environmentally sensitive public lands, which critics fear could have disastrous consequences, especially for wildlife.

"You can call this a fence, but to animals it's an impenetrable barrier," says Matt Clark, Southwest representative for Defenders of Wildlife, an organization dedicated to the preservation of wild animals and native plants. "It's between 14 and 18 feet tall; it goes on for miles; it's not something they can jump over or circumvent. It might not be very effective at stopping people, but it's stopping wildlife in their tracks."

Border barriers are being built or are planned for portions of Arizona's Cabeza Prieta National Wildlife Refuge and the Organ Pipe National Monument. In Texas, new fencing is

planned near Big Bend National Park and on the Lower Rio Grande Valley National Wildlife Refuge. In California, the federal government is even filling in a canyon, Smuggler's Gulch, with more than 2 million cubic yards of dirt so it can run a fence across it.

Environmental concerns differ by area, but in general the fence divides the breeding and hunting territories of many species, separating animals from food, water or potential mates, according to wildlife advocates. Sometimes the animals have already had their habitat reduced or disrupted by development, and their populations cannot afford to be split in two.

"With isolation comes a lack of genetic exchange — a lack of genetic diversity, which makes these populations less fit to survive," says Clark.

The impact of new border barriers could be particularly acute in the Lower Rio Grande Valley refuge, according to Scott Nicol, a member of the Texas-based No Border Wall citizens' coalition.

The 90,000-acre refuge consists of 115 separate plots along the Rio Grande River, designed so wildlife can use the river as a corridor to move from one plot to another. But they would be blocked if the government builds new barriers along the river levees as now planned, Nicol says. "You put a wall there that keeps animals from getting to the river," he explains, "and the individual plots are not large enough to support them."

Among the rare or endangered species threatened by the fence, says Clark, are jaguars, Sonoran pronghorn antelopes, ocelots, jaguarundi, flat-tailed horned lizards and the Cactus

deported. But when World War II left the United States with another labor shortage, the country reversed course and created the Bracero Program — Spanish for "laborer" — to bring in Mexicans, mainly to work in agriculture and on the railroads.

The program brought in more than 400,000 workers a year during its 22-year history.³⁵ But illegal immigration grew at the same time, particularly in the late-1940s and '50s as Mexicans came north to take advantage of America's postwar economic boom. In reaction, Immigration and Naturalization Commissioner Gen. Joseph Swing initiated "Operation Wetback" in 1954, with federal and local authorities sweeping through Mexican-

American barrios looking for illegal immigrants. Thousands were deported.³⁶

When the Bracero Program ended in 1965, legal entry became more difficult for Mexican farmworkers. But work in U.S. fields and orchards remained plentiful, so many Mexicans began to travel into the United States seasonally without legal documents.

'Tortilla Curtain' Rises

As illegal immigration grew, certain border cities became the favorites for border crossers. By 1978 the problem had become bad enough in El Paso, Texas, that the government erected 12.5 miles of chain-link fence

— the "Tortilla Curtain" — along the border. The Border Patrol has expanded infrastructure along the border since, with lighting and more agents on the ground, but the fence remains in place, says Tom Fullerton, an economist at the University of Texas, El Paso. "You can't go more than 30 feet without finding spots where either holes have been cut or repaired," he says.

Some see the Tortilla Curtain as the primitive forerunner of today's fence. Before the U.S. government embraced the idea, however, policy would once again veer in a different direction. During the Reagan administration, "Congress allowed people who had been in the United States illegally for a number of years to apply for citizenship,"

Ferruginous Pygmy Owl. A bird may seem an unlikely victim of a 14-foot fence, but wildlife advocates say the fence threatens the habitat for many birds. "You have barriers that can catch debris and sediment, create artificial dams, shifting water flows, impacting the vegetation," Clark says. "All of this does damage."

Department of Homeland Security Secretary Michael Chertoff has used authority granted by Congress to waive compliance with environmental laws in several areas as he proceeds with the fence, a move that upset local officials and led to a lawsuit by Defenders of Wildlife and the Sierra Club. (*See "Current Situation," p. 762.*)

Customs and Border Protection officials say they are still working to protect native plants and animals. "Even though the secretary used his waiver authority to keep moving this process forward, we're not disregarding environmental considerations at all," says Jason Ahern, Customs and Border Protection deputy commissioner. "We're looking at what we need to do to mitigate risk to the environment. Our goal is to make sure we leave the environment in better condition than we found it."



AFP/Getty Images/Elmer Martinez

The ability of the jaguar and other animals to range between Mexico's Sonoran Desert and the Southwestern United States may be blocked by the border fence.

The border fence is being built in several different styles. Some of the most recent, described as "bollard" fencing, is made of round, concrete-filled poles spaced six inches apart in a staggered pattern. In Arizona, bollard fencing is being constructed in the washes, which run with water in the rainy season. Border Patrol officials believe bollard fences are more eco-friendly, because water can flow around the poles and be-

cause small animals and reptiles can pass between them. But environmentalists doubt this will be enough to prevent erosion and habitat damage.

The fence's advocates point out that illegal immigrants are already damaging fragile desert lands. "When hundreds of thousands of people are hiking through pristine ecosystems, setting fires, dumping trash and abandoning vehicles, building a fence that can drastically reduce that destruction is a good thing," says Rosemary Jenks, governmental affairs director for NumbersUSA, which supports reducing both legal and illegal immigration.

But trails and trash can be cleaned up, Clark says. "The wall has significantly more impact," he adds, "because of its magnitude and because it's permanent."

says Staudt, of the University of Texas, El Paso. ³⁷

But the Immigration Reform and Control Act of 1986 — what some call the "amnesty bill" — did little to stem the flow of illegal immigrants, so anti-immigration sentiment continued to grow in Border States. The Clinton administration reacted with operations "Hold the Line" in El Paso in 1993 and "Gatekeeper" in San Diego the following year. Border Patrol agents and technology were concentrated in these areas, and fencing was either built or reinforced. ³⁸

Both operations dramatically reduced illegal immigration in the targeted locations, although illegal crossings did not fall significantly overall. But Con-

gress seemed to judge the approach a success. A series of bills then expanded the Border Patrol, increased money for security measures and, after 9/11, gave the new Homeland Security secretary the authority to ignore laws that might slow fence construction.

Although President Bush pushed for a comprehensive immigration-reform package that would have included guest-worker and limited-amnesty programs, Congress remained focused on enforcement. The Secure Fence Act of 2006 mandated double-layer security fencing along significant parts of the border. That requirement was later modified to give Secretary Chertoff more latitude, but the message was clear: America was building a border fence.

Facing the Fence

In 2006, more than 90 percent of the 1.2 million illegal migrants apprehended by the Border Patrol were caught along the border with Mexico — nearly 88 percent of them Mexicans. But U.S. authorities also picked up nearly 150,000 people from 197 other countries. (*See graphic, p. 749.*)

The largest number, after Mexicans, came from Central America. In 2006, there were 46,329 illegal immigrants from El Salvador, 33,365 from Honduras and 25,135 from Guatemala. Many were twice illegal, having first

entered Mexico without papers and then the United States.

The arduous and dangerous effort to enter the United States is a sign of border-crossers' determination. In *Enrique's Journey, The Story of a Boy's Dangerous Odyssey to Reunite with His Mother*, journalist Sonia Nazario traced the 1,600-mile cross-Mexico migration made by thousands of Central American children following their mothers to the United States. Many were turned back repeatedly but refused to quit. Enrique, the boy she followed, finally succeeded in making it all the way into the United States on his eighth attempt.³⁹

Nazario's book also illuminated a little-noticed trend: An increasing number of women have been making the journey alone, followed by an increasing number of their children. Nazario estimates about 48,000 children a year enter the United States illegally. Mexican railroad workers report children as young as 7 trying to cross their country alone traveling to the United States.⁴⁰

With little or no knowledge of what they are facing, these illegal migrants seem unlikely to give up their journey because of the fence. The Center for Comparative Immigration Studies found similar determination. Briseida, a 24-year-old woman from Oaxaca, recounted being caught six times in a single month before making it into the United States.⁴¹

Research also indicates that most illegal immigrants had jobs in Mexico but thought the United States offered greater opportunity. "Ninety-three percent of undocumented Mexican immigrants left jobs in Mexico," says Robert Pastor, director of the Center for North American Studies at American University in Washington. "They're not coming to the United States for jobs. They're coming because they can earn six to 10 times more." ■

CURRENT SITUATION

Local Blowback

America's new border fence may represent a national commitment by the Bush administration, but it's also a matter of local politics. For many who live on the border, the fence isn't being built along some abstract line, it's going through their community, or neighborhood or even backyard.

In the Rio Grande Valley in Texas, in particular, local concerns are sparking a battle that pits communities in President Bush's home state against his administration. The Texas Border Coalition, made up of mayors, economists and business leaders from 19 municipalities and 10 counties in the valley, in May sued the Department of Homeland Security, alleging it is ignoring due process and abusing private property rights in its rush to put up the fence.

"We didn't want to file this lawsuit, but we felt we had no choice," says coalition Chairman Chad Foster, the mayor of Eagle Pass, a border town of about 22,000. "We just want the government to follow the law."

The anti-fence blowback has been triggered by tactics adopted by the Department of Homeland Security to speed construction. When some property owners refused to give the Corps of Engineers permission to survey for the fence on their land, the Corps sent landowners letters threatening a lawsuit and raising the possibility of seizing their property through eminent domain.⁴²

Landowners responded by challenging the government in court. "I

don't think they counted on anybody standing up to them," says Eloisa Tamez, who lives on a three-acre plot along the Rio Grande that has been in her family for nearly 250 years. "We're not big, powerful people here. We respect our government. But we're not just going to lay down and let the bulldozer roll over us."

In January, a federal judge ordered 10 property owners along the border — including Tamez — to permit the surveying, but only after denying the government the right to take the land without a hearing.⁴³ The government's actions against individual landowners, however, are not the only ones provoking indignation.

In Eagle Pass, for example, the City Council met with Homeland Security in 2006 over the department's plans to leave a city park and golf course south of the proposed barrier. "They were going to cede our municipal golf course and a city park to Mexico," he says. "We had a resolution to oppose it, and they said they would allow us to delete the fence. But they came back a year later and sued us. We can't trust them."

Because the fence is being located on or outside of flood control levees, in several Texas locations the preliminary site is inside the U.S. border. In the small town of Granjeno, for instance, about 35 landowners found they might end up on the wrong side of the border fence.⁴⁴ In Brownsville, the proposed fence will run through the University of Texas campus, leaving some facilities south of the barrier. Campus officials say they are working with Homeland Security to resolve the situation.⁴⁵

Homeland Security said it places a high priority on feedback from local residents. Since May 2007, the agency has held 100 meetings with local officials and 600 with individual property holders along the Southwest border.⁴⁶

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At Issue:

Is a border fence the answer to the illegal immigration problem?



REP. DUNCAN HUNTER, R-CALIF.

WRITTEN FOR *CQ RESEARCHER*, SEPTEMBER 2008

a battle is being waged for control of the U.S.-Mexican border between the U.S. Border Patrol and criminals who utilize this largely unprotected land corridor to carry narcotics and other contraband into the United States. Citizens on both sides of the border, whose safety is seriously threatened by escalating violence, are caught in the middle.

Last year drug-war violence claimed least 2,500 lives in Mexico, and numerous U.S. citizens reportedly have been kidnapped and murdered by Mexican criminals linked to the drug trade. The local sheriff in the Laredo, Texas, border community compared conditions there to a “war zone” and said his officers appear “outgunned” by the drug cartels.

Border Patrol agents are also at risk, because they often are the first to encounter these criminals. Since 2001, assaults against agents have nearly tripled, from 335 to 987 in 2007. Four agents and three other border security officials were killed last year, and two agents have been killed so far in 2008.

The land corridor between Tijuana, Mexico, and San Diego, Calif., has been overrun by smugglers and criminals. It wasn't until my legislation mandating construction of the San Diego border fence that the armed gangs and drug cartels lost control of this smuggling route. Since then, conditions on both sides of the border have improved.

Since construction of the border fence began in 1996, San Diego County has become one of the most secure and responsibly enforced border regions. Smuggling of people and narcotics in this area has decreased by more than 90 percent, and violent crime has declined by 53 percent.

Such a high level of effectiveness illustrates that fencing — supported with the right mix of personnel and technology — is an excellent border enforcement tool.

The Department of Homeland Security (DHS) is accelerating fence construction in several areas along the border, rightly utilizing its broad waiver authority to expedite completion in locations subject to unnecessary delays and litigation. DHS expects to meet its goal of 670 miles of new fence by the end of this year, but overall a lot of work remains in creating an enforceable border.

Moving forward, it would be wise to extend this infrastructure to other smuggling routes and heavily transited areas of the U.S.-Mexican border. Not only is it the quickest and easiest way to control the border, but it's also proven to be the most effective.



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FORMER EL PASO SECTOR CHIEF,
U.S. BORDER PATROL

WRITTEN FOR *CQ RESEARCHER*, SEPTEMBER 2008

i am acutely aware of the challenges of securing our borders, having served for more than 26 years with the U.S. Border Patrol. I have not only patrolled the U.S.-Mexican border but also supervised thousands of hard-working, dedicated Border Patrol agents and initiated a successful deterrence strategy called Operation Hold the Line. I also supported fencing certain strategic areas to augment enforcement. I strongly feel, however, that erecting nearly 700 miles of fencing on our Southern border is wasteful, irresponsible and unnecessary, and I voted against the Secure Fence Act.

Hundreds of miles of fencing will do little to curb the flow of undocumented immigrants and could even increase demand for human smuggling. It will only provide a false sense of security for supporters of a hard line on immigration reform. With construction expected to exceed \$1.2 billion and lifetime maintenance of up to \$50 billion, the exorbitant cost of this border fence would be better invested in additional Border Patrol agents, equipment and technology.

As the only member of Congress with a background in border control, I have worked to educate my colleagues that existing policies and the border fence will do little to honor our legacy as a nation of immigrants and will threaten our nation's security. I have worked with the Department of Homeland Security (DHS), hosted many leaders at annual border conferences and have emphasized that border communities must be consulted in fencing decisions.

Unfortunately, DHS Secretary Michael Chertoff recently made the troubling announcement that he intends to waive more than 30 federal environmental laws to expedite construction of the fence. This approach continues DHS's continued disregard for border communities and undermines decades-old policies that have preserved many of our region's most valuable environmental assets, cultural sites and endangered wildlife.

After Secretary Chertoff's decision, I joined 13 of my colleagues in submitting an *amicus* brief to the U.S. Supreme Court, asking the justices to hear an appeal challenging the secretary's waiver authority.

Our nation needs comprehensive immigration reform with three main components: strengthened border security; an earned path to legalization along with tough, strictly enforced sanctions against employers who hire undocumented immigrants; and a guest worker program. Hundreds of miles of border fencing is not the answer.

Continued from p. 760

CBP Deputy Commissioner Ahern says siting the fence has been a painstaking process. "We looked at enforcement data," he says. "We looked at geography. We looked at landscape. We looked at alternatives. This was a thoughtful and detailed analysis by both local and national Border Patrol leadership."

But some Texans believe politics plays a role. The Texas Border Coalition lawsuit asserts that Homeland Security is violating the Fifth Amendment's Equal Protection provision by "giving certain politically well-connected property owners a pass on having the border fence built on their property," according to the coalition's Web site.

Specifically, the coalition refers to media reports the fence is being built through city and county-owned land while bypassing land owned by Dallas billionaire Ray Hunt, a close friend of President Bush who recently donated \$35 million to help build the George W. Bush Memorial Library at Southern Methodist University.

The coalition's allegations brought a sharp response from Ahern. "I reject the idea out of hand," he says. "Our analysis of where to locate the fence was based on the operational and tactical requirements in a given area, not on who owned the land or whether they were influential individuals."

Legal Challenges

Even as construction continues, however, Chertoff faces another challenge that has the active support of several members of Congress. Last spring Chertoff used the broad authority granted him by Congress to waive more than 30 environmental, historical- and cultural-protection laws and regulations to enable fence construction to proceed.

"Criminal activity at the border does not stop for endless debate or pro-

tracted litigation," Chertoff said in the statement announcing the decision.⁴⁷

The Sierra Club and Defenders of Wildlife already had sued Homeland Security over an earlier, more limited waiver allowing fence construction to continue in the San Pedro Riparian National Conservation Area in Arizona, home to many rare and endangered species of plants and animals. The environmental groups feared that the fence would block migratory patterns and access to water and habitat for several endangered animals and that construction could harm certain rare plants. (See sidebar, p. 758.)

A federal judge ruled against their claim, which challenged the constitutionality of the secretary's waiver authority. The fence is now up in the conservation area. After Chertoff expanded his use of waivers to cover construction of the entire fence, the environmental groups asked the Supreme Court to hear their case; in July the court refused to take the case.

Before the court's decision, however, the lawsuit had been joined by 14 Democratic House members, including Mississippi Rep. Bennie Thompson, chairman of the Homeland Security Committee, and several lawmakers from border districts. Their friend-of-the-court briefs argued that Congress overstepped its constitutional bounds when it allowed the secretary to ignore laws.

On the other side, Rep. Peter King, R-N.Y., ranking minority member of the House Homeland Security Committee, backed Chertoff's use of waivers. "He's acting entirely within the law, and any attempts to impede the fence's progress through frivolous litigation will only serve to lessen the security of our country," King said.⁴⁸

Noah Kahn, an expert on federal lands at Defenders of Wildlife, says Chertoff's decision to bypass laws intended to provide a thorough review of environmental and cultural impacts makes it impossible to determine whether there were other options, such

as better use of surveillance technology in environmentally sensitive areas. "One of the basic problems is the complete lack of transparency in the way the Department of Homeland Security has carried out this entire process," says Kahn. "They've completely ignored not just communities and other public partners but even other federal agencies in their deliberations."

Cindy Alvarez, who oversaw an environmental assessment of the fence in the San Pedro conservation area, defends the agencies building the fence. "Once the waiver came into play, it took it out of our hands," says Alvarez, assistant field manager of the U.S. Bureau of Land Management's Tucson office. "But that said, the Border Patrol and the Corps of Engineers are continuing to try to be good land stewards while meeting the nature of their missions. They are continuing to work with us."

Homeland Security's critics are skeptical. "The only reason you waive the laws is because you're planning on breaking them," says Scott Nicol, a member of the No Border Wall Coalition, a citizens' group in Texas.

The Tohono O'odham Indian Nation, which straddles the border, has also been concerned about Chertoff's use of waivers. The tribe has so far agreed to allow vehicle barriers, but not pedestrian fencing, on tribal lands but is weighing its options concerning the waivers, says Pete Delgado, a tribal spokesman. With more fencing planned for environmentally and culturally sensitive areas in both Texas and California, further legal challenges to Chertoff's authority and the fence's route seem almost inevitable.

Straddling the Fence

Nothing illustrates the complicated political fault lines that run through the border fence debate better

than the way the presidential nominees have straddled the issue.

By voting for the Secure Fence Act of 2006, both GOP candidate Sen. John McCain, R-Ariz., and Democratic contender Sen. Barack Obama, D-Ill., voted to authorize the dramatic expansion of border fencing now under way. A year later, presumably busy campaigning, they missed the key votes on the Consolidated Appropriations Act, which gave the Homeland Security secretary more latitude on when and where to locate the fencing.

Since then, McCain and Obama have sent conflicting messages about what they think now that the fence is actually being built. Obama's campaign Web site calls for preserving "the integrity of our borders" and says the candidate supports "additional personnel, infrastructure and technology on the border and at our ports of entry."

But when a question about the border fence came up during a primary campaign debate with Sen. Hillary Rodham Clinton, D-N.Y., in Texas, Obama struck a skeptical note about the fence now being built. After Clinton criticized the Bush administration's approach and called for more personnel and better technology instead of a physical barrier, Obama agreed. "There may be areas where it makes sense to have some fencing," Obama said. "But for the most part, having [the] border patrolled, surveillance, deploying effective technology, that's going to be the better approach."⁴⁹

McCain's campaign Web site calls for "securing the border through physical and virtual barriers." But the word "fence" can't be found on McCain's Border Security Web page. In interviews, however, McCain has said he supports building a border fence in areas where it's necessary, while he believes technology can more effectively do the job in others.

Anti-immigrant groups have criticized McCain for supporting President Bush's failed comprehensive immi-

gration reform package, which included a path for many illegal immigrants in the United States to gain citizenship. The sensitive nature of the issue in Republican circles was clear at a town meeting in Texas, when McCain was asked how he would balance individual property rights with border security.

"This meeting is adjourned," McCain joked, before saying he would look into the issue.⁵⁰ Earlier, he said he hoped federal and local officials could work together to resolve their differences over the fence.

Neither candidate's campaign press office responded to requests for further information clarifying their candidate's position. ■

OUTLOOK

Demographic Solution

What goes up can always come down — even if it is 670 miles long and built by the U.S. government of double-layered steel. And many critics of the border fence say that's just what will happen.

"The United States eventually will have to tear down the wall they built because the forces of globalization drawing us together are much stronger than the forces trying to tear us apart," says Payan, at the University of Texas, El Paso.

Others, particularly those concerned with the fence's impact on the environment, place their faith in technology. "Ultimately, we're going to be a lot less dependent on physical infrastructure," says Bob Barnes, a senior policy adviser at the Nature Conservancy. "Particularly in open country, virtual fencing — sensors, cameras and other surveillance technology — is a lot more mobile and can react to

changing patterns of immigration more easily."

Customs and Border Protection Deputy Commissioner Ahern says the agency will continue using sensors, remote-controlled cameras, unmanned surveillance planes and other high-tech hardware. But he believes there will always be a need for fencing.

"No matter how good our technology is, in some of these areas of the border [illegal crossings are] going to be too easy," he says. "So, especially in urban environments, we're always going to need that tactical infrastructure, some kind of physical barrier."

But illegal immigration is about more than the border. It also reflects economic and political conditions in two countries, and that's where some experts believe the most significant changes will be seen, Payan suggests. Rodriguez, at the University of Houston's Center for Immigration Research, notes that the rapidly growing U.S. Latino population is likely to make anti-immigrant political posturing less acceptable in the future.⁵¹

At the same, he says, a little noticed demographic trend within Mexico could also shift the equation. The Mexican birthrate has been falling for decades and, Rodriguez says, is expected to decline to the replacement rate by 2050.⁵² Then, the country will no longer have the surplus labor it now exports to the United States. "If you think there are too many Mexicans," he says, "the problem eventually is that there's not going to be enough Mexicans to do the dirty work."

Other analysts believe further economic integration between the two nations will regularize the labor flow. "I can't help but think that in the future there will be a time when the North American continent will resemble the European Union," says Staudt, at the University of Texas.

Meanwhile, what happens to the border fence? Back in Eagle Pass, Texas, Mayor Foster had the most cynical

view. Given the estimates of up to \$47 billion to maintain it over the next 25 years, he believes it will simply be abandoned. "I think it gets turned into barbecue grills on both sides of the border," Foster says. ■

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⁶ See the Humane Borders Web site, www.humaneborders.org/, one of several organizations that object to the fence.

⁷ Estimates of the annual number of illegal

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About the Author



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"Fence Foolishness," editorial, *Fort-Worth Star Telegram (Texas)*, Dec. 8, 2006, p. B8.

Building a fence along the U.S.-Mexican border represents an undiplomatic and xenophobic affront to the neighbors to the south as well as other countries.

"Keep Out," editorial, *San Diego Union-Tribune*, Oct. 5, 2006, p. B10.

Mexico shouldn't be advising the United States about border security given its failure to provide job opportunities for its own people.

Tobar, Hector, "Mexicans See Good and Bad Side to Wall," *Los Angeles Times*, Oct. 1, 2006, p. A27.

Latin Americans see the construction of a border fence as a rejection of the cultural impact Latinos have had in the United States.

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