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SECURING BORDERS THE INTENDED, UNINTENDED, AND PERVERSE CONSEQUENCES

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The Intended, Unintended, and Perverse Consequences

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Executive Summary

All borders are porous, but the ease with which goods and people move across borders varies by country and context. And all countries have the same basic goals in regard to national borders: to ensure that the beneficial movement—of legal goods, tourists, students, business people, and some migrants—is allowed, while keeping unwanted goods and people out of the country.

All countries also face a similar set of border enforcement goals and challenges. They must prevent cross-border terrorism, illegal migration, human smuggling and trafficking, and other criminal activity such as drug trafficking.

In adopting policies and practices to combat these activities, countries face a basic dilemma: policies in any one area have perverse, regrettable, and often unintended, consequences and feedbacks. As states implement extensive border controls and apply a wide variety of deterrence measures such as visas and carrier sanctions to prevent illegal migration, they indirectly push unauthorized migrants into the hands of smugglers and traffickers who promise to evade these controls.

Weak states cannot have strong borders, and states will not get border policy right unless they get their institutions right.

In tackling these illicit flows, policymakers must also contend with the fact that borders themselves are constantly shifting. As an example, the creation of the Schengen zone eliminated internal border controls in the European Union, changing the sites and manner of border enforcement activities. In the United States, the emerging trend in several states of allowing police or government officials to check the immigration status of suspected unauthorized migrants also indicates a relocation of border enforcement activity.

To operate successfully in the changing landscape of border management, and prevent the perverse consequences of border control efforts, policymakers must focus on principles of good governance. Weak states cannot have strong borders, and states will not get border policy right unless they get their institutions right. Proper border policy depends on a commitment to the rule of law, low levels of corruption, effective police and border control forces, and successful coordination both among responsible agencies and with like-minded states. In this regard, effective coordination among strong institutions and agencies is the ultimate force multiplier that makes borders strong and anti-crime efforts effective. To this end, this report offers several policy recommendations for more effective border security:

1. Ensure that receiving states focus on positively affecting the legal and public institutions, economic development, border capacities, and levels of corruption in sending countries, since weak states cannot have effective border policies.
2. Expand bilateral and regional cooperation on multiple levels, including technology exchange (such as biometric passports and fraud-resistant visas), shared databases on criminals, and on-the-ground cooperation in all matters involving preclearance.
3. Maintain physical border enforcement in high-traffic areas, so that smugglers are not able to take advantage of loosening border controls. And continue to expand border enforcement where it is sparse.
4. Continue to expand border control outwards.



I. Introduction

This report outlines the security-related challenges that borders are intended to address and, in turn, the perverse consequences (both predictable and not) that tighter border enforcement generates. It approaches the topic of borders and security thematically, outlining the major security issues faced by most states. Country-specific examples are used to illustrate these difficulties. It then considers the consequences of efforts to control borders. These challenges are grouped under five categories: terrorism, asylum, human smuggling and trafficking, illegal migration, and drug trafficking.

The report proceeds in three steps. First, it begins with definitional and conceptual issues, defining borders and security and reflecting on the character of borders as a policy area. Second, it reviews the major challenges that states face in securing borders. Finally, it outlines policy recommendations for discussion purposes.

II. Defining Borders and Security

There is a basic—and constantly evolving¹—relationship between borders and security. *Borders* delineate the boundaries of sovereign states. As no state is hermetically sealed, and all are effectively open for legitimate trade and transactions such as money transfers, borders are porous—though to greatly varying degrees. For example, the United Kingdom’s borders in the late Victorian period were as porous as possible, since there was effectively no control on the movement of people or goods. In a contemporary context, most borders within Central America and Central Asia are virtually unpatrolled. The borders of the Soviet Union, which allowed a trickle of temporary and almost no permanent movement, were as restricted as possible (as are North Korea’s borders today). And there are many points in between.

All border policies aim for two sets of related goals. First, they want to ensure that movement deemed beneficial (e.g., of legal goods, most tourists, some categories of students, business people, and certain categories of migrants) is unimpeded; while unwanted movement (of drugs, other unauthorized goods, and unauthorized migrants) is blocked. The costs of failed border policy can be enormous. After the September 11, 2001 attacks, the United States responded by grounding all flights and essentially closing its borders. Within hours, there was a 50-mile backup at the Windsor-Detroit Bridge, through which most vehicle-based trade between Canada and the United States passes. Border delays today—which in large part continue to stem from the stringency of post-9/11 border security measures—added about \$800 to the price of every new vehicle manufactured in North America.²

*There is a basic—and constantly evolving—
relationship between borders and security.*

Second, states want to give the impression that all people within their borders—whether citizens, legal residents, or unauthorized migrants—are receiving fair and equal treatment. When unwanted migrants are disproportionately associated with particular ethnic or national groups, this task is particularly challenging. Many activists in Europe and North America believe that border controls are inherently biased

- 1 Collecting customs and duties, a traditional function of border posts, is certainly on the decline; trade agreements have eliminated many such revenues, and today most duties do not necessarily have to be collected at borders. At the same time, illegitimate financial transactions—often associated with terrorism and, in some corridors, the profits from drugs and other illegal transactions—are the new frontier of border control.
- 2 Laura Dawson, “The Canada-U.S. Border Action Plan: This Time It’s For Real, Charlie Brown,” in *A Safe and Smart Border: The Ongoing Quest in U.S.-Canada Relations* (One Issue Two Voices series, issue 15, The Wilson Center, September 2012): 9, www.wilsoncenter.org/sites/default/files/CI_120828_One%20Issue%20Two%20Voices%2015_FINAL.pdf.



by race and class considerations, citing the disproportionate targeting of nationals of certain states and of nonwhite migrants.

Both democratic states (those with free elections, alternating governments, and independent judiciaries) and non-democratic ones face identical challenges. They only differ in the range of options they have in responding to them. Non-democratic states such as China and most Middle Eastern and Gulf states pursue the same goals as democratic states, with two important differences: they often do not recognize a right of exit, and they are less concerned about appearing fair and just in their treatment of different classes of migrants.

*As borders have expanded outwards, they
also have expanded inwards.*

Security is understood for the purposes of this report in negative terms: an absence of unwanted movement across borders.³ Fully secure borders are free of terrorists, unauthorized and other unwanted migrants, the smuggling of drugs and contraband goods, and smuggled and trafficked people. Of course, borders are never perfectly secure; achieving security is thus invariably a matter of relative success.

III. Challenges to Border Security

A. Shifting Borders

Border policy has seen great transformations in recent decades due to the evolution of border security. Most dramatically, the European Union (EU) removed internal border controls for the members of the Schengen zone.⁴ Other countries, too, have changed their ways. The United States has had preclearance facilities in some Canadian airports for decades (and has expanded them to all major Canadian airports in recent years) and now has such facilities in Ireland (in Shannon and Dublin), the Bahamas, Bermuda, and Aruba. And all major immigrant-receiving states have delegated certain immigration controls to private actors, notably airline and shipping companies.⁵ All these measures are designed to push the border outward, to create distance between any attempt to reach the legal borders of a state and the act of reaching the soil of the country itself.

As borders have expanded outwards, they have also expanded inwards. The often-ignored corollary of the Schengen Agreement was the expansion of internal checks and a mutually recognized right to pursue criminals across borders. The latter resulted in much higher levels of cooperation across states in targeting criminal activity. On one level, this move is highly consistent with the continental model of border control, which combines checks at the borders with checks *within* borders (hence the requirement to

3 The focus on security here is restricted to national, or state, security. “Human security,” a currently booming field of social science inquiry, covers the economic and social conditions of particular human populations, and is outside the scope of this report.

4 The Schengen Agreement, signed in 1985, theoretically creates a “borderless” zone among the parties to the agreement. Once inside the zone, a person is able to travel to any member country without needing a passport.

5 Gallya Lahav and Virginie Guiraudon, “Comparative Perspectives on Border Control: Away from the Border and Outside the State,” in *The Wall around the West: State Borders and Immigration Controls in North America and Europe*, eds. Peter Andreas and Timothy Snyder (Lanham, MD: Rowman and Littlefield, 2000); Otwin Marenin, “Democratic Oversight and Border Management: Principles, Complexity, and Agency Interests,” in *Borders and Security Governance*, eds. Marina Caparini and Otwin Marenin (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2006).



carry identity cards on the European continent, which Europeans regard as anodyne, and which North Americans would consider an offensive and unwarranted invasion of privacy).

In the North American context, by contrast, the border evolved over the course of the 20th century as more of a firewall: you cross it with great difficulty, but once you cross, you are left alone. This approach has been changing in recent years, however, as several U.S. states (such as Alabama, Arizona, Georgia, Indiana, South Carolina, and Utah) have passed laws requiring that police officers and other state officials check the immigration status of suspected unauthorized migrants. These laws are highly controversial; they raise jurisdictional issues and the federal government has challenged them. In July 2012, the U.S. Supreme Court delivered a decision in *United States v. Arizona*, a case that the Obama administration brought against Arizona's 2010 immigration law. In a split decision, the high court struck down three provisions: (1) the requirement that immigrants carry registration documents or face misdemeanor charges; (2) the transformation of job-seeking by unauthorized migrants into a criminal offense; and (3) the obligation that police officers stop without a warrant anyone they suspect of having violated U.S. immigration law.⁶ It did, however, uphold one provision, which requires state and local police in Arizona to check the immigration status of anyone they stop or arrest if they suspect the person has entered or remained in the country illegally. Both the original law and the portion that survived the Supreme Court decision reflect a greater American interest in controlling the border after migrants pass through it. The physical border itself and the border guards who screen, detect, detain, and prevent unauthorized migrants, still clearly matter.⁷ But they are nested in a much wider range of internal and external policies designed to protect the border.

B. Governing Borders

In most countries, the border is controlled by a specific agency: U.S. Customs and Border Protection, the Canada Border Services Agency, the French Direction Centrale de la Police aux Frontières, or the German Bundespolizei. Such agencies are generally answerable to interior ministries or their equivalents. Like immigration policy more generally, the implementation of border policy cuts across ministries: interior, justice, and foreign affairs all have a role in the area. (There is often tension between interior and foreign affairs ministries; the former view visas as a basic policy instrument, the latter as a major international irritant).⁸ Finally, the military plays a complementary role in border control. National air forces deal with violations of air space; in the United States the U.S. Coast Guard falls under the jurisdiction of the U.S. Department of Homeland Security (DHS).⁹

C. Embedded Borders

Border policy relies on actions and developments beyond the control of any nation-state. This is of course true in other areas, such as economic policy: changes in global economic conditions can suddenly derail national economic plans. But even in this area, states possess instruments in fiscal and monetary policy that allow them to shape the national and—depending on the size of the country—international economy. Border policy, by contrast, is reactive. It must respond to the changing nature and flows of international

6 Robert Barnes, "Supreme Court upholds key part of Arizona law for now, strikes down other provisions," *Washington Post*, June 25, 2012, http://articles.washingtonpost.com/2012-06-25/politics/35461864_1_immigration-decision-arizona-law-illegal-immigrants; John Schwartz, "Supreme Court Decision on Arizona Immigration Law," *New York Times*, June 26, 2012, www.nytimes.com/interactive/2012/06/26/us/scotus-immigrationlaw-analysis.html?_r=0.

7 Marenin, "Democratic Oversight and Border Management."

8 On this topic in the context of the Schengen negotiations, see Virginie Guiraudon, "Enlisting Third Parties in Border Control: A Comparative Study of its Causes and Consequences," in *Borders and Security Governance*, eds. Marina Caparini and Otwin Marenin (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2006).

9 The U.S. Coast Guard answers to the Department of Homeland Security (DHS) during peacetime, but the executive can transfer responsibility to the U.S. Navy in the event of war. At times, the U.S. National Guard is enlisted in border-control activities. Moreover, DHS has developed its own air arm, which is growing apace. During the Cold War, the German border-control police enjoyed combat status so that its personnel could be immediately switched to a frontline army in the event that the Soviets acted on plans for a conventional attack on Western Europe.



threats and migrants (which are themselves affected by the international economy), including sudden influxes and the latest moves by migrant traffickers. The state can naturally do all that is possible to make its own border impervious to clandestine crossings, but at best, it has an indirect and uncertain effect on the domestic conditions of other states—notably unemployment, limited economic opportunities, and in extreme cases, war—that encourage emigration.

D. Terrorism

The most commonly cited threat to border security is terrorism. Here the picture is particularly complex. The problem is partly definitional: the term *terrorism* means so many different things to different people (one person's terrorist being another's freedom fighter) that some scholars have concluded that it cannot be defined.¹⁰ Even if one accepts that terrorism is recognizable to its victims, if not definable, placing it is nearly impossible. Terrorists often come from within the country themselves: the Irish Republican Army in Northern Ireland, the Red Army Faction in West Germany, and more recently, the 7/7 bombers in London, were all indigenous terrorists. Yet in other cases—the 9/11 bombers; the shoe bomber, Richard Reid; the terrorists involved in a 2006 transatlantic aircraft plot using liquid explosives; and the millennium bomber, Ahmed Ressam—the crossing of borders was essential to the crime. Although these failed or successful attacks all involved airports, terrorists may also move through land borders and ports (but strikingly few cases of such movement have been publicly identified). Airports, seaports, and land borders are frequent targets of attack—or they may be the entry points through which terrorists pass.¹¹

E. Illegal Migration

Illegal migration competes with terrorism for the most visible threat to borders, and with good reason: illegal migration is a direct repudiation of the border itself. As a category, illegal migration encompasses many types of security threats: terrorists, criminals, smugglers, traffickers, and so on. For the overwhelming majority of migrants, however, irregular migration is not followed by illegal, let alone violent, behavior: the vast majority of unauthorized migrants lead peaceful lives—residing, studying, working, and often paying taxes in the country they entered illegally.

Illegal migration competes with terrorism for the most visible threat to borders.

Unauthorized migrants evade the border in two major ways. The first is by overstaying—that is, by crossing borders legally as tourists or students and then staying past the date by which they were to return. Estimates of overstayers in the United States range from 25 to 40 percent of the unauthorized population¹² (and the proportion is much higher in the European Union). The second is illegally crossing the border itself and then staying.

Data on the total number of unauthorized migrants are not fully reliable, but the Migration Policy Institute (MPI) estimates the number of illegal migrants in Europe to be between 1.9 and 3.8 million in 2011.¹³

10 Walter Laqueur, *The Age of Terrorism* (London: Little Brown, 1988).

11 K. Jack Riley, "Border Control," in *The McGraw-Hill Homeland Security Handbook*, ed. David Kamien (Santa Monica, CA: Rand Publication): 595; Lahav and Guiraudon, "Comparative Perspectives on Border Control: Away from the Border and Outside the State."

12 Jeffrey Passel, *Unauthorized Migrants: Numbers and Characteristics* (Washington, DC: Pew Research Center, 2005), <http://pewhispanic.org/files/reports/46.pdf>.

13 Christal Morehouse and Michael Blomfield, *Irregular Migration in Europe* (Washington, DC: Migration Policy Institute, 2011), www.migrationpolicy.org/pubs/tcmirregularmigration.pdf. On regularization as response to these movements, see Kate Brick, *Regularizations in the European Union: The Contentious Policy Tool* (Washington, DC: Migration Policy Institute, 2011), www.migrationpolicy.org/pubs/EURegularization-Insight.pdf.



In the United States, DHS estimated the unauthorized population at 11.5 million in January 2011,¹⁴ a figure that is very close to the estimate of independent researchers.

F. Asylum Seekers

Asylum seekers present particular challenges to border management, because it is in the area of asylum that international law most severely restricts state sovereignty. When asylum seekers declare themselves at the borders of states that have signed the United Nations' 1951 *Convention Relating to the Status of Refugees* and/or its 1967 amending protocol, these states are under an obligation not to return asylum seekers to countries in which their lives could be threatened. In addition, since the signing of the convention, most states or their courts have articulated complex and lengthy legal procedures for processing and appeal, which make full asylum processing both time-consuming and expensive. When asylum seekers are legitimate refugees, there is little the states can or should want to do about it. This is, however, typically not the case. Recognition rates (that is, the proportion of asylum seekers granted refugee status under the 1951 Convention) in Europe rarely exceed 10 percent. Even when including nonconvention statuses, they usually hover around 30 percent and never top 50 percent.¹⁵ In all states, therefore, asylum streams contain large numbers of people who are *not* convention refugees, and who in most cases are economic migrants. The fact that many of those ineligible for protection cannot be returned—because they come from failed states, states that might not be able to protect them effectively, or states that have refused to sign readmission agreements with receiving countries—makes asylum one of the most difficult and divisive “border policy” issues.

G. Smuggling and Trafficking

Illegal migration is in many ways inseparable from smuggling and trafficking. Both involve the illegal movement of people, but the difference between them is in the relationship between transporters and migrants. In the case of smuggling, the relationship is consensual and ends once the migrants have passed border controls, and once other elements of the transaction (such as financial arrangements or delivery to a specific destination) have been completed.¹⁶ On the other hand, the trafficked migrant is forcefully transited against his or her will, or remains in a relationship of dependence—through work, payment, or the coerced provision of sexual or other services—after having passed immigration controls.

According to the United Nations Office on Drugs and Crime (UNODC) research on smuggling, the global patterns of smuggling include:¹⁷

- **Involvement of organized criminals.** Criminals are controlling an increasing proportion of the “trade” in smuggled migrants. Criminal organizations are increasingly providing smuggling services to unauthorized migrants. As a result, the majority of unauthorized migrants now rely on smugglers or traffickers.
- **High risks and high profits.** Demand, associated risks, and barriers to entry into the “business” are all extremely high. These factors, in turn, keep profits high, making smuggling increasingly

14 Michael Hofer, Nancy Rytina, and Bryan Baker, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2011* (Washington, DC: Department of Homeland Security Office of Immigration Statistics, 2012), www.dhs.gov/sites/default/files/publications/ois_ill_pe_2011.pdf.

15 See Eric Neumayer, “Asylum Recognition Rates in Western Europe: Their Determinants, Variation, and Lack of Convergence” *Journal of Conflict Resolution* 49, no. 1 (2005): 43–66.

16 Formally, smuggling is defined as “the procurement, in order to obtain, directly or indirectly, a financial or material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.” See United Nations General Assembly, *Protocol against the Smuggling of Migrants by Land, Sea, and Air, Supplementing the United Nations Convention against Transnational Organized Crime*, November 15, 2000, Article 3, www.refworld.org/docid/479dee062.html.

17 United Nations Office on Drugs and Crime (UNODC), *Smuggling of Migrants* (Vienna: UNODC, 2009), www.unodc.org/documents/human-trafficking/Migrant_Smuggling/09-81206_English_eBook.pdf.



attractive to the most sophisticated criminals—ones with large, international professional networks.

- **Varied smuggling methods.** Smugglers use very different methods, and so the experience of being smuggled varies immensely. Some use highly sophisticated and expensive services such as forged documents and fraudulent visas, while others use low-cost methods such as illegal transport in trucks, small boats, or containers. In some cases, smuggling can resemble genteel, white-collar crime; in others—such as smugglers who rape, rob, beat, and leave to die Central American and Mexican migrants trying to get in the United States—it resembles torture. Generally speaking, the cheaper the method, the greater the risk to the migrant. Deaths due to drowning or suffocation in trucks and containers, or dehydration in the desert, are common.
- **Deadly conditions.** There are probably thousands of deaths due to smuggling each year. For many of those who arrive alive, the conditions en route are appalling.

It is notoriously difficult to obtain reliable information on smuggling and trafficking. A small study (involving 169 cases) of smuggled migrants from Tamil Nadu in southern India identified a number of patterns that might also apply in other cases:¹⁸

- Destinations varied, and encompassed much of the world. Some 25 percent of smuggled migrants planned to travel to Europe (the United Kingdom was particularly popular, but all countries were targets); other destinations included the United States, Canada, Kuwait, Thailand, Malaysia, and Dubai. Some of these countries may have been jumping-off points—a forged Malaysian passport was particularly popular because of the visa-free travel it afforded.
- Unemployment and poverty were the major push factors.
- Smuggled migrants were 89 percent male and disproportionately young (43 percent were under age 30, and 55 percent under age 40).
- Almost all smuggled migrants relied on forged documents. The main techniques smugglers used were false “Emigration Certificate Not Required” stamps for leaving India, photo substitution, and restitched passports.
- The cost of these services was very high: travel to the United Kingdom cost between \$12,000 and \$15,000. The cheapest destinations were in the Middle East, at \$2,000 to \$3,000.

While the numbers are inexact, we can say with confidence that the majority—and probably the *vast majority*—of unauthorized migrants are smuggled. The numbers of trafficked migrants are much smaller, but far too high given the nature of the crime. In 2005, the International Labor Organization (ILO) estimated that there are 2.4 million people in forced labor, including sexual exploitation, at any given time.¹⁹ Unlike unauthorized migrants, who are mostly in developed countries, trafficked migrants are represented in significant numbers in the developing world. ILO estimates that there are about 1.36 million trafficked forced laborers in Asia and the Pacific; 230,000 in the Middle East and North Africa; 130,000 in sub-Saharan Africa; 250,000 in Latin America; and 270,000 in the industrialized countries.²⁰

H. Drug Trafficking and Other Criminal Activity

The drug-trafficking business is estimated to generate over \$300 billion in sales internationally.²¹ It is associated with criminal activities on the part of traffickers and dealers (including organized-crime

18 K. C. Saha, *Smuggling of Migrants from India to Europe and in Particular to UK: A Study on Tamil Nadu* (New Delhi: UNODC, 2009), www.unodc.org/documents/human-trafficking/Smuggling_of_Migrants_from_India.pdf.

19 International Labor Organization (ILO), *A Global Alliance against Forced Labour* (Geneva: International Labor Office, 2005): 10, www.ilo.org/public/english/standards/relm/ilc/ilc93/pdf/rep-i-b.pdf.

20 Ibid., 14.

21 Niklas Pollard, “UN report puts world’s illicit drug trade at estimated \$321b,” Reuters, June 30, 2005.



groups), and the perhaps unwitting participation of consumers, who fund crime through consumption. As drug production is strictly controlled in Europe, North America, Australia, and New Zealand, but demand and resources there are high, drugs that are grown—cocaine and cannabis—are trafficked internationally.²² Cannabis, for instance, is mostly produced in Morocco, Mexico, Afghanistan, Nepal, and India, but 49 percent of cannabis resin seizures take place in Europe and 70 percent of cannabis seizures occur in North America.²³ The trade is largely interregional: most of the cannabis in Europe originates in Morocco.²⁴ The vast majority of profits from the drug business go to traffickers, with organized-crime groups taking around 10 percent of the profits.²⁵ In Mexico and Central America, where organized-crime groups have increasingly taken over the drug-trafficking market, this percentage is much higher.

Border control is one, but only one, element of anti-drug policy. The United States, which has the most developed anti-drug strategy among countries, has based its strategy on three main pillars: domestic education and prevention among users, crop eradication, and interdiction.²⁶ Only the last of these relates to borders. Some 26 percent of the U.S. federal drug control budget (\$12.6 billion in 2007) goes to interdiction.²⁷ Interdiction involves disrupting the narcotics trade abroad through the training of local officials and elimination of crops, and blocking actual drug traffickers crossing U.S. borders. In anti-drug policy, the border is the last—and often unsuccessful—line of defense, since no border is entirely secure.

Focusing narrowly on these three pillars has clearly not been anywhere near adequate. Former Arizona Attorney General Terry Goddard points out in his three-part series of articles titled *How to Fix a Broken Border*²⁸ that drug policy needs to incorporate three additional interrelated elements:

1. Hitting the cartels that control the smuggling of drugs, guns, money, and people across the U.S. border where it hurts (their pocketbooks).
2. Disrupting them at the source by dismantling the various elements of criminal organizations and the tools they use, rather than going after contraband or smuggled people.
3. Following the money—and denying the means through which these networks get their profits back to Mexico.

Border control is one, but only one, element of anti-drug policy.

In many ways these three actions are as difficult to implement as current practices. And they require enormous patience, investments in intelligence gathering, deployment of ample law enforcement resources (including a willingness to incur private-sector ire by verifying and interfering with large-scale money transfers), changes in both legislative and regulatory frameworks, cooperation of state and national authorities, and greater cooperation with Mexican authorities.

These requirements are not easy, nor do they come naturally to the governmental and private-sector agencies (such as wire-transfer companies and banks) that must work together to accomplish them. Moreover, the drug and criminal cartels have several advantages: they are flush with money, can adapt their practices extremely quickly to changing circumstances, do not hesitate to abandon their contraband

22 Chemically produced drugs, such as ecstasy-group substances and amphetamines, consumed in Europe are mostly produced in Europe. UNODC, *World Drug Report 2011* (New York: UNODC, 2011): 38, www.unodc.org/documents/data-and-analysis/WDR2011/World_Drug_Report_2011_ebook.pdf.

23 UNODC, *World Drug Report 2011*, 18, 35–36.

24 *Ibid.*, 21.

25 *Ibid.*, 46.

26 Raphael F. Perl, *International Drug Trade and U.S. Foreign Policy* (Washington, DC: Congressional Research Service, 2006): 2–5, <https://opencrs.com/document/RL33582/>.

27 *Ibid.*

28 Terry Goddard, *How to Fix a Broken Border: A Three Part Series* (Washington, DC: Immigration Policy Center, 2011–12), www.immigrationpolicy.org/perspectives/how-fix-broken-border-three-part-series.



rather than engage the government in firefights, have the proven ability to corrupt officials at all levels on both sides of the border, employ numerous subcontractors with built-in redundancies (so as not to be easily disrupted by isolated government successes), and are as brutal as they need to be.

By making irregular migration more difficult, these measures indirectly push unauthorized migrants into the hands of smugglers and traffickers.

What Goddard proposes is a comprehensive, multilayered, and deeply cooperative anti-crime effort that uses all the tools and resources potentially available to law enforcement; has clear targets (including the bosses, money, and entire infrastructure of the cartels) and goals; and dismantles the criminal networks piece by piece. Though difficult, the potential payoff is enormous. By Goddard's own acknowledgment, the approach is bold and opportunistic. Anything less could not meet the main objective of border controls: to defeat those activities that cause a receiving society the greatest harm.

IV. Perverse Consequences and Policy Feedbacks

In adopting policies and practices to combat terrorism, smuggling and trafficking, illegal migration, drug trafficking, and even asylum abuses, states face a basic dilemma: policies in any one area have perverse, regrettable, and often unintended, consequences and feedbacks. Smuggling and the multiple forms of trafficking are in some ways both the cause and the effect of “harder” border controls. States increase the number of border guards, spend more money on technology designed to protect the border and detect false documents, cooperate with like-minded states to prevent the travel of likely terrorists and unwanted migrants, use interdiction at sea and at international airports, and apply a wide variety of deterrence measures such as visas and carrier sanctions to prevent illegal migration. Yet by making irregular migration more difficult, these measures indirectly push unauthorized migrants into the hands of smugglers and traffickers. In a vicious cycle, making migration more difficult and expensive raises the risks of smuggling, which in turn raises both the costs and profits, and thus lures sophisticated criminal organizations with large resources. Their involvement then makes smuggling more difficult to stop.

Border policies also have peripheral effects, both domestic and international in scope. For example, reinforcement of the U.S.-Mexico border has increased the level of “permanent” immigration into the United States by, in effect, “locking people in,” both because of the increased cost and the higher danger of crossing the border. To escape detection, meanwhile, immigrants make crossings at more remote and dangerous places in the desert,²⁹ resulting in more than 400 deaths per year. At the global scale, efforts by one state to secure its borders can divert migrants to other states. When Germany, for instance, ended a right to asylum in 1993, there was almost immediately a sharp uptick in asylum applications to the United Kingdom. The relatively successful closing down of entry routes to Spain, Malta, and Italy in 2011 diverted illegal flows to Greece in a truly dramatic fashion.³⁰ In the area of trafficking, any successful effort to block an entry route inevitably leads traffickers to probe other, weaker entry points.

Such dilemmas will never be fully resolved, as they inhere in the policy area itself; but a number of recommendations, outlined in the final section, may limit them.

29 David A. Shirk, “US Immigration and Border Security” (paper presented at the Migration Policy Institute/Munk School for Global Affairs conference on The Politics and Policy of Border Security, March 22-23, 2012): 19.

30 See “Illegal Immigration Emerges as New Crisis for Greece—And EU,” *Wall Street Journal*, September 15, 2012.



V. Policy Recommendations

Like immigration policy generally, the conditions of borders cannot be separated from the broader legal economic, social, and political environment. Successful states—those with prosperous economies; an unshakable commitment to the rule of law, and resulting high levels of trust between governments and peoples; and vigilance against corruption in the police, bureaucracy, and judiciary—will, all things being equal, find it easier to control borders. Put another way, weak states cannot have strong borders, and states will not get border policy right unless they get their institutions right. Proper border policy depends on low levels of corruption, effective police and border-control forces, and successful coordination both among responsible agencies and with like-minded states. In this regard, effective coordination among strong institutions and agencies is the ultimate force multiplier that makes borders strong and anti-crime efforts effective. A state with a strong economy, judiciary, bureaucracy, police force, and leverage in international relations (particularly bilateral and regional relations) will find it much easier to secure its borders. Where the state has not rooted out corruption or built reliable border infrastructure, as is the case in Central America’s Northern Triangle and in Eastern Europe,³¹ it will be impossible to create effective border-control arrangements. This means, in short, that the best border-control policies cannot overcome the shortcomings of weak states. It also means that wealthy and stable states can indirectly secure their own borders by helping other countries secure their states. This formulation has the following four implications.

A. Focus on Development, Not Just Borders

Rather than narrowly focusing international efforts in the area of immigration policy on technology transfers and border infrastructure, the focus should be on assisting weak states (or states that find themselves in transition) in strengthening the rule of law and public institutions, tackling corruption, building up national judiciaries, and training reliable police forces and border guards. Doing so will have positive effects for border policy: strong states and successful societies have better borders. To paraphrase Robert Frost, good neighbors make good fences.

The best border-control policies cannot overcome the shortcomings of weak states.

B. Work Both Bilaterally and Regionally

It is almost banal to call for international cooperation, but effective border management depends on it. Different types of countries require different arrangements. Wealthy receiving countries with solid governance structures, for example, can exchange information and cooperate over the implementation of border-control policies on multiple levels: technology exchange such as biometric passports and fraud-resistant visas, shared databases on criminals, and on-the-ground cooperation in all matters involving preclearance. The European Union and the United States have made considerable progress in this area since 9/11.³² Within the European Union itself, the European Council has adopted large numbers of directives on the reception, complementary protection, and housing of asylum seekers, as well as a Blue Card designed to create broad common standards on skilled migrants. In 2005 the Council also established the

31 See Ralph Espach and Daniel Haering, “Border Insecurity in Central America’s Northern Triangle,” in Randall Hansen and Demetrios G. Papademetriou, eds., *Managing Borders in an Increasingly Borderless World* (Washington, DC: Migration Policy Institute, 2013); and Louise Shelley, *Human Smuggling and Trafficking into Europe: A Comparative Perspective* (Cambridge: Cambridge University Press, 2010).

32 Demetrios G. Papademetriou and Elizabeth Collett, *A New Architecture for Border Management* (Washington, DC: Migration Policy Institute, 2011), www.migrationpolicy.org/pubs/borderarchitecture.pdf.



European Agency for the Management of Operational Cooperation at the External Borders of the European Union (FRONTEX), which is tasked with coordinating operational cooperation in managing external borders, assisting in the training of border guards, carrying out risk analysis, providing technical and operational assistance, and coordinating joint return.³³ (Whenever considering EU cooperation, however, it is important to reflect on the extent to which the European Union, as a sui generis organization that developed out of a particular European experience of war and genocide, can offer lessons to states without this history. We can probably learn more from European–North American cooperation than intra-EU cooperation).

Although unpopular with activists, there is ample evidence that expanding borders outwards works.

It may be worth making one comment on venue and approach. If international cooperation is to be effective, it is best that it be taken out of the public eye and depoliticized.³⁴ The more public discussions of border management are, the more likely journalists, nationalists, and even well-intentioned advocates will frighten politicians into retreating to the policy status quo.

C. Continue to Expand Border Controls in High-Traffic Areas

There has been much criticism of DHS' increased spending on enforcement, but the results—in terms of greater border control—have been significant. This is not the time to pull back from such investments. Progress is also being made in other areas, which, over time, is likely to translate into fewer, and perhaps smarter, investments at U.S. borders. Risk-management methodologies are beginning to take hold, an appreciation of the trade and economic benefits of a well-functioning border are now much higher on the agenda, and conversations—and action—on rethinking border controls (protecting the common North American space through smarter policies and investments in the area's external borders) are showing promise, most obviously in the U.S.-Canada relationship, but also in the U.S.-Mexico one. Understanding how to best protect borders will take time, but the initial effort has already gone further than many expected. As ever, however, policymakers must be aware of diversionary effects: smugglers might well target Canadian borders in response to any loosening of Canada-U.S. controls.

D. Expand “Remote-Control” Immigration

Although unpopular with activists, there is ample evidence that expanding borders outwards works. The case of asylum seekers in Germany and Britain is instructive. In response to a sharp increase in asylum seekers in the 1990s and 2000s, both states did everything they could to push the border outwards (through carrier sanctions, visa regimes, declaring airports international zones, and fast-track procedures) and managed to sharply reduce the pressure. And as the United States has learned, such expansion is also less socially divisive than strengthening internal controls, such as through laws delegating immigration enforcement powers to the police, schools, and local bureaucrats. One critical danger of

33 See Elizabeth Collett, “Faltering Schengen Cooperation? The Challenges to Maintaining a Stable System,” in Randall Hansen and Demetrios G. Papademetriou, eds., *Managing Borders in an Increasingly Borderless World* (Washington, DC: Migration Policy Institute, 2013).

34 See Randall Hansen, *Interstate Cooperation: Europe and Central Asia* (Geneva: International Organization for Migration [IOM], 2004); IOM, “The Berne Initiative. Managing Migration through International Cooperation: The International Agenda for Migration Management” (Berne II Conference, December 16-17, 2004), www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/berne/Berne_II_Chairmans_Summary.pdf; IOM, “An Assessment of the Principal Regional Consultative Processes on Migration,” *IOM Migration Research Series* No. 38 (Geneva: IOM, 2010) [This is a 50-page policy report sent to some 125 governments around the world].



inside control, as experienced in the United States when 287(g) agreements authorized local police to take on federal immigration powers,³⁵ is that if immigrant communities come to fear the authorities, then the regular business of police work will become much more difficult, since people will be less willing to report crimes and communicate with law enforcement.

Critics of both sorts of policies abound. Virginie Guiraudon for instance, argues that:

Whether remote control consists of forcing airline companies to scrutinize their passengers' passports and visas for their validity, enticing neighboring countries to guard their own 'frontiers of poverty' (Freudenstein 2000, 172-3) or establishing 'anomalous zones' (Neuman 1996) such as extraterritorial waiting rooms in airports or offshore 'safe havens,' the goal is the same. The measures aim at preventing unwanted migrants from accessing the system of legal protection and the asylum process, thereby avoiding the domestic and international legal norms that stand in the way of restricting migration flows. This strategy, which operates before the border, also allows for less control at the point of entry itself, thus facilitating the movement of inhabitants of the first world, tourists and businessmen.³⁶

Securing a border involves much more than controlling it.

Guiraudon is right, but she takes a critic's liberty, without acknowledging the deeper reason for states' insistence on jealously guarding their borders: the difficulty of securing return. In all countries, deportation only touches a minority of unauthorized migrants and failed asylum seekers. This is true even of the United States, which is currently deporting a peak 400,000 per year. The United States has probably gone as far as it can go, as it is not and will not become the sort of society that drags 11 million crying and screaming people to waiting vans and airplanes, as images are broadcast around the world on CNN. Contrary to the pronouncements of some anti-immigration activists that many will "self-deport," the vast majority of illegally resident immigrants in the United States will not leave voluntarily. For liberal states, deportation is expensive; time-consuming, given judicial activism and legal appeals; and raises popular opposition. It also creates a climate of suspicion and fear. Short of doing nothing in the face of spiraling asylum applications and illegal migration, the alternative to "remote-control" immigration is vastly expanded deportation and societal chaos of one sort or another.

VI. Conclusions

In summary, a complex and varied relationship exists between borders and other policy areas on the one hand, and borders and security on the other. Securing a border involves much more than controlling it: the nature of institutions, social norms, corruption, global forces outside the country, and the ever-present contest with trafficking and smuggling networks all have a direct impact on a state's ability to control its borders. In this report, we have focused on the steps that states have been taking to prevent unwanted migrants and contraband from reaching and crossing their borders, and have assumed that states' interests in these goals are legitimate. We have also argued that securing borders is basic both to state sovereignty *and* migrant human rights, as the alternative to expanded control at the border is not less control, but rather expanded and intrusive internal controls. The former is widely recognized; the latter rarely is.

35 Randy Capps, Marc R. Rosenblum, Cristina Rodriguez, and Muzaffar Chishti, *Delegation and Divergence: A Study of 287(g) State and Local Immigration Enforcement* (Washington, DC: Migration Policy Institute, 2011), www.migrationpolicy.org/pubs/287g-divergence.pdf.

36 Guiraudon, "Enlisting Third Parties in Border Control."



Finally, we have reviewed a number of policy proposals for successful border security and made four recommendations:

1. Ensure that receiving states focus on positively affecting the legal and public institutions, economic development, border capacities, and levels of corruption in sending countries, since weak states cannot have effective border policies.
2. Expand bilateral and regional cooperation.
3. Increase physical border enforcement in states where it is sparse.
4. Continue to expand border control outwards.

All the while, it is important to recognize that all efforts of border control can have perverse consequences that negatively affect migrant welfare and—often at the same time—make the task of controlling borders more difficult still.

Some of these policy recommendations will meet understandable opposition. As with all migration policy choices, options need to be considered in comparison with other alternatives. Given the robust legal, moral, and economic constraints on expanded deportation, and the imperatives of protection against the potential for terrorism and unwanted and dangerous contraband, states have little choice but to invest their efforts in making borders as secure from unwanted crossings as possible. At the end of the day, immigration policy is not about writing a new theory of normative justice, but choosing the lesser evil.

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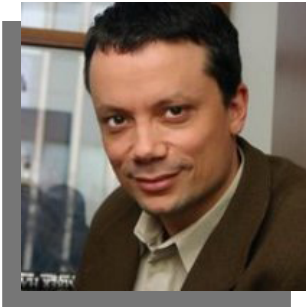
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