

See discussions, stats, and author profiles for this publication at: <https://www.researchgate.net/publication/250174572>

# The Border Fence, Immigration Policy, and the Obama Administration: A Cautionary Note

Article in *Administrative Theory & Praxis* · March 2010

DOI: 10.2753/ATP1084-1806320109

CITATIONS

5

READS

2,843

1 author:



Terence Garrett

University of Texas Rio Grande Valley (Brownsville Campus)

30 PUBLICATIONS 114 CITATIONS

SEE PROFILE

Some of the authors of this publication are also working on these related projects:



Border Security and Immigration Policy Management in South Texas by the Numbers: Perception, Stories and the Knowledge Analytic [View project](#)

# **The Border Fence, Immigration Policy, and the Obama Administration**

## **A Cautionary Note**

**Terence M. Garrett**  
**University of Texas at Brownsville**

---

Happy days are here again,  
The skies above are clear again,  
Let us sing a song of cheer again,  
Happy days are here again!<sup>1</sup>

“Happy days” for whom? In the lower Rio Grande Valley of Texas, the border fence, or “wall” as its detractors designate it, continues to be built. One of the most Democratic and ethnically Hispanic regions in a red state is afflicted with one of the most hideous structures and legacies of the Bush administration and Republican-controlled Congress. The “Real ID” Act of 2005 authorized the secretary of the Department of Homeland Security (DHS) to use virtually any means possible to secure the borders of the United States, including overriding environmental and property laws ostensibly designed to prevent the federal government from imposing its will against citizens and communities without due process. Combined with the “Secure Fence” Act of 2006, the two statutes have paved the way for a 700-mile fence designed to inhibit the entry of illegal immigrants and *terrorists* through the U.S.-Mexico border by setting aside property and environmental laws carefully constructed over the years to protect the rights of the people, giving carte blanche to Secretary of Homeland Security Michael Chertoff to build the fence.<sup>2</sup>

The border fence issue is extremely controversial politically and was addressed during the 2008 presidential campaign. Democratic candidates Hillary Clinton and Barack Obama both visited the University of Texas at Brownsville (UTB) and were given a tour of the area where the eighteen-foot-high, concrete-based, metal pike fence was to be built. After the tour, both candidates assured university and political leaders in the lower Rio Grande Valley that they had not realized at the time when they voted for the Secure Fence Act of 2006 what it meant in terms of the effects the border wall would have on the region as the policy was implemented by President Bush and his administration. Other assurances were uttered to the local leaders that they were now opposed to the idea of the wall as was being contemplated by then-

Secretary Michael Chertoff of the Bush administration. Both candidates stated they were in favor of reconsidering the adverse effects of the structure and that something would be done once they were elected (*Brownsville Herald*, 2008). The 2008 presidential election resulted in a victory for Barack Obama, and Hillary Clinton is now serving as secretary of state. As of this date, the border wall continues to be built unfettered and without any regard for the people adversely affected by its construction. The sense of frustration by the people of the lower Rio Grande Valley is captured by the statement of Brownsville's mayor, Pat Ahumada:

To appease people in middle America, they are going to kill our communities along the border. The rest of America has no idea how we live our lives here. We are linked by the Rio Grande, not divided by it. Our history, our families, our neighbors are tied together on both sides of the river. (Witt, 2008, para. 4)

A total of 180 miles of the border wall is to be built in Texas. Most of the construction is complete, though there are a few lawsuits pending in the U.S. federal court system, including the case of Dr. Eloisa Tamez, the director of the graduate nursing program for UTB. Tamez has had land in her family that is traced back to land grants from the King of Spain in 1767 and has stated "I don't want to just give it up on a whim," as the proposed border wall is scheduled to cut through her property (Witt, 2008, para. 12) and "once the wall is built, it means that DHS has lawlessly taken my land [and] it will take me until my last days to right that wrong" (del Bosque, 2009, para. 5). In response to claims by land owners and other opponents of the fence, Chertoff claimed, "What we're not going to do is say that everyone gets to decide whether they're going to participate in the process and if they don't want to, then the greater good be damned" (Witt, 2008, para. 20). The fence has continued to be built even after the departure of the Bush administration and Chertoff, despite the fact that the cost of the fence has increased from an original DHS estimate of \$1 million in 2006 to \$7.5 million per mile in 2008 (del Bosque, 2009). The central question now for people living along the U.S.-Mexico border is: What will the Obama administration do about the issue?

### SECRETARY JANET NAPOLITANO AND THE DHS

At the onset of the Obama presidency, hopes in the lower Rio Grande Valley were high. As governor of Arizona, Janet Napolitano had attempted to bill the U.S. government for incarcerating criminal immigrants and penalizing companies in the state that hired undocumented workers (Dunham & Pendergast, 2008). The reviews are mixed as to whether Secretary Napolitano will be sufficiently tough on immigration policy as indicated by various interests:

"Though she's gone through the motions of appearing tough, her im-

migration reform record in Arizona is, at best, inconsistent,” said Bob Dane, communications director for the Federation for American Immigration Reform, a group critical of massive immigration. . . . “Based on her record in Arizona, we believe that Gov. Napolitano is well-suited to balancing DHS’ dual responsibilities of welcoming immigrants and enforcing our immigration laws,” stated Ali Noorani, executive director of the National Immigration Forum—an immigrants’ rights group. (Dunham & Pendergast, 2008, para. 9)

During the confirmation hearings for Governor Napolitano for the DHS secretary post, she stated that a fence would “help prevent those who are crossing illegally from blending immediately into a town population” (*New York Daily News*, 2009, para. 8) despite declaring while she was governor, “Build a 50-foot fence; I’ll show you a 51-foot ladder” (del Bosque, 2009, para. 11). In an interview with Madeleine Brand of National Public Radio on February 16, 2009, Secretary Napolitano defers to Congress with regard to the fence construction:

[Madeleine Brand] This report [from the nonpartisan Migration Policy Institute] criticizes the 700-mile border fence—very controversial, this fence between the U.S. and Mexico, a fence the GAO says costs \$4 million per mile. Will you continue building that fence?

[Secretary Napolitano] The section of fence for which Congress actually appropriated the funds has been complete, but I’ve been one of the people out there saying, “Look, you cannot build a fence from San Diego to Brownsville, Texas, and call that an immigration policy.” You’ve got to have boots on the ground. You’ve got to have technology. You’ve got to have interior enforcement of our workplace laws. Some fencing in some places may make sense, but only if its part of an overall system. (Brand, 2009, paras. 5–6)

It is difficult at this point in the Obama era to ascertain whether Secretary Napolitano will make changes that provide relief to the people of the lower Rio Grande Valley victimized by the previous presidential administration’s policies. The verdict on the Obama administration is not yet in, but the bulldozers and wall building continue as of September 2009.

### HOPE? CONGRESS IN 2009

The action that may potentially have the biggest impact and constitute a corrective salve from the perspective of the people living along the border is H.R. 2076 “Border Security and Responsibility Act of 2009” submitted by Representative Raul Grijalva (D-AZ). Currently with 26 Democratic cosponsors, the bill is designed “to provide for the establishment of a border protection

strategy for the international land borders of the United States, to address the ecological and environmental impacts of border security infrastructure, measures, and activities along the international land borders of the United States, and for other purposes” (para. 1). The legislation is an attempt to provide help to private landowners and to reinstate laws that have afforded protections to environmental areas along the U.S.-Mexico border. By all appearances, there is some measure of hope for the people afflicted with the border wall, though the bill is still in the preliminary stages.

## CONCLUSION

In parts of the United States outside of the U.S.-Mexico border region, the border wall issue may not be considered important by those not directly affected by the public policy. Of what consequence is it whether a few individual citizens, mostly poor and Hispanic, are inconvenienced by the loss of their lands and way of life in order to keep out illegals and terrorists? As Chertoff indicated, why can't those people give up their property for the common good, that is, homeland security? Under this interpretation, the illegal immigrants and terrorists must be stopped in order to make America safe, and any remedy is justified to meet that end.

The 2008 election of Barack Obama represents hope for those same people living along the border in the sense that there is a possibility of policy change from the previous presidential leadership. The verdict is still out as to whether they will be helped and be provided some measure of relief or whether the Obama administration will continue the policy of his predecessor. Speaking before the United Nations on September 22, 2009, President Obama stated: “The world must stand together to demonstrate that international law is not an empty promise and that treaties will be enforced” (Loven, 2009, para. 20). In the area of U.S. border security policy and the fence, that admonition to the world would be good advice to follow.

## NOTES

1. “Happy Days Are Here Again” (music by Milton Agar and lyrics by Jack Yellen) was written in 1929. The tune was popularized by Franklin Delano Roosevelt and the Democratic Party in the 1932 presidential election.

2. Garrett and Storbeck (2009) argue that “illegals” and “terrorists” have been defined as people without rights in a state of exception, or something akin to Giorgio Agamben's (1998) category of *homo sacer*.

## REFERENCES

Agamben, G. (1998). *Homo sacer: Sovereign power and bare life*. (D. Heller-Roazen, Trans.). Stanford: Stanford University Press.

- Brand, M. (2009, February 16). Napolitano outlines immigration priorities. National Public Radio. [www.npr.org/templates/story/story.php?storyId=100690879](http://www.npr.org/templates/story/story.php?storyId=100690879), accessed September 15, 2009.
- Brownsville Herald*. (2008, February 25). Clinton speaks out on border fence's shadow over Charro Days. [www.brownsvilleherald.com/news/border-84706-fence-clinton.html](http://www.brownsvilleherald.com/news/border-84706-fence-clinton.html), accessed September 15, 2009.
- del Bosque, M. (2009, February 6). Back to the wall: Can Janet Napolitano stop the border-fence boondoggle? *Texas Observer*. [www.texasobserver.org/article.php?aid=2951](http://www.texasobserver.org/article.php?aid=2951), accessed September 15, 2009.
- Dunham, R. S., & Pendergast, K. (2008, November 20). Shift toward border enforcement? If Napolitano gets security post, immigration issue may take new tack. *Houston Chronicle*. [www.chron.com/disp/story.mpl/front/6124446.html](http://www.chron.com/disp/story.mpl/front/6124446.html), accessed September 15, 2009.
- Garrett, T. M., & Storbeck, J. E. (2009, May 28). *The border wall as simulacrum: The politics of fear and the (de?)construction of the DHS border fence in the Rio Grande Valley*. Paper presented at the Public Administration Theory Network Annual Conference, Frankfort, KY.
- H.R. 2076. 111th Congress: Border Security and Responsibility Act 2009. (2009). <http://thomas.loc.gov/cgi-bin/query/z?c111:h2076>, accessed October 27, 2009.
- Loven, J. (2009, September 23). Obama to world: Don't expect America to fix it all. *San Francisco Chronicle*. [www.sfgate.com/cgi-bin/article.cgi?f=/n/a/2009/09/22/national/a001042D02.DTL&type=news](http://www.sfgate.com/cgi-bin/article.cgi?f=/n/a/2009/09/22/national/a001042D02.DTL&type=news), accessed October 27, 2009.
- New York Daily News*. (2009, January 28). U.S.-Mexico border fence almost complete. [www.nydailynews.com/latino/2009/01/28/2009-01-28\\_us-mexico\\_border\\_fence\\_almost\\_complete\\_-2.html](http://www.nydailynews.com/latino/2009/01/28/2009-01-28_us-mexico_border_fence_almost_complete_-2.html), accessed September 22, 2009.
- Witt, H. (2008, January 16). U.S. fence creates river of ill will on Texas border. *Chicago Tribune*. [www.chicagotribune.com/news/chi-080115fence,0,6983165.story](http://www.chicagotribune.com/news/chi-080115fence,0,6983165.story), accessed September 15, 2009.

**Terry Garrett** is an associate professor of government and a graduate adviser for the MPPM program at the University of Texas at Brownsville. He received his Ph.D. in political science and public administration from the University of Oklahoma in 1997. His research delves primarily into organization theory, crisis management, and decision making. Dr. Garrett has published articles recently in *Administration & Society*, *American Review of Public Administration*, *Homeland Security Review*, and *Public Voices*.