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Economic View

The Search for Illegal Immigrants Stops at the Workplace

By EDUARDO PORTER

IT may seem that the United States government has declared all-out war against illegal immigration. During the last decade, the budget dedicated to enforcement of immigration laws has grown by leaps and bounds. The Border Patrol has about three times as many agents as it did in the early 1990's, and the southern border has been laced with high-tech surveillance gadgetry.

Yet a closer look reveals a very different portrait of immigration policy. It seems designed for failure. Most experts agree that a vast majority of illegal immigrants who make it across the border every year are seeking work. But the workplace is the one spot that is virtually unpoliced.

"What we've done is put a lot of people on the line of scrimmage, but when you do that the other side can just lob a little pass and score a touchdown," said Richard M. Stana, director of homeland security and justice issues at the Government Accountability Office. "Trying to get a better balance between border enforcement and interior enforcement would go a long way."

In a strategy document in 1999, the Immigration and Naturalization Service put monitoring the workplace last among its five enforcement priorities. Today, the Bureau of Immigration and Customs Enforcement, which has replaced the I.N.S. and is a branch of the Department of Homeland Security, devotes about 4 percent of its personnel to enforcement in the workplace, down from 9 percent in 1999.

Demographers estimate that six million to seven million illegal immigrants are working in the United States; that is some 5 percent of the nation's work force. Yet in 2004, the latest year for which there is data, the immigration authorities issued penalty notices to only three companies.

The current approach hasn't halted illegal immigration: some 400,000 to 500,000 illegal immigrants enter the United States every year, almost double the rate of the 1980's, before the buildup in border enforcement.

Regardless of whether the United States ought to have more or less immigration, the nation's policy must be flawed when almost half of all immigrants come in illegally. Indeed, some experts argue that the basic reason illegal immigration hasn't stopped is that the country doesn't want it to. Gordon H. Hanson, an economist at the University of California, San Diego, said the ineffective approach was the product of a collection of interests.

"Employers feel very strongly about maintaining access to immigrant workers, and exert political pressure to prevent enforcement from being effective," Professor Hanson said. "While there are lots of groups concerned about immigration on the other side" of the argument, "it's not like their livelihood depends on this."

Employers have long been the main driver of immigration policy, Professor Hanson said. Not surprisingly, they tend to dislike the provision in current immigration law for penalties against employers.

That may explain why fines for hiring illegal immigrants can be as low as $275 a worker, and immigration officials acknowledge that businesses often negotiate fines downward. And why, after the I.N.S. raided onion fields in Georgia during the 1998 harvest, a senator and four members of the House of Representatives from the state sharply criticized the agency for hurting Georgia farmers.

After the terrorist attacks of 2001, the government limited immigration enforcement in the workplace to what it deemed "critical infrastructure" — places like nuclear power plants and airports — that could be vulnerable to

terrorism. Even in the late 1990's when the economy was booming and labor markets were tight, the I.N.S. virtually stopped looking for illegal immigrants in the workplace.

Employers might not favor a guest worker program to allow immigrants to work here legally, if such a program included harsher policing of the workplace. "A guest worker program would offer secure legal access to immigrant labor, but at the risk that this labor would come in smaller quantities or with more strings attached," Professor Hanson said.

The immigration law of 1986 contained a basic flaw. Congress barred employers from hiring illegal immigrants, but it didn't provide a reliable way for employers to check an immigrant's status.

For less than $50, immigrants can buy a set of fake documents — usually a Social Security card and green card, indicating permanent residency — to get a job. The fake ID's provide employers with crucial protection in the eyes of the law: companies can plausibly deny that they knew they were hiring people without legal permission to work.

The upshot is that millions of illegal immigrants work on the books, with the odd side effect that the Social Security Administration receives millions of Form W2 wage reports from employers that bear random Social Security numbers.

In 1996 the inspector general of the Justice Department warned that fraudulent documents were allowing unscrupulous employers to avoid accountability for hiring illegal immigrants. If the government decided to halt, or at least substantially dent, the flow of these immigrants into the work force, it would find that it probably already has the tools.

Since 1997, immigration authorities and the Social Security Administration have been running a voluntary pilot program that allows employers to check worker documentation on the spot — matching documents against government databases over the Internet.

This system could end employers' deniability, because they could determine quickly whether a given employee was authorized to work in the United States. That's probably why so few companies have signed up: only about 2,300 of the more than six million employers across the country.

EVEN if such a system became mandatory, people might continue to hire illegal immigrants as nannies and housekeepers, and to pay them in cash. Small businesses operating under the radar might also hire them off the books.

Yet many illegal immigrants work on the books. For employers, it is one thing to fail to question the dubious provenance of Social Security cards. It is quite another to overtly break the law.

Ramping up the pilot program into a mandatory national one would be costly. The Department of Homeland Security and the Social Security Administration would have to make their databases compatible. Glitches — such as different spellings for the same name — would have to be ironed out.

But these difficulties do not seem insurmountable, especially when set against the Department of Homeland Security's enormous and utterly ineffective effort to stop illegal immigration at the border.

So why hasn't workplace enforcement increased? "It's an open question," said Mr. Stana of the G.A.O. "Have we turned a blind eye to this in the interest of keeping the economy humming?"