

## OPINION

# Protecting transnational citizens

By Lawrence A. Herzog

Our border region faces a new mini-crisis: armed Mexican federal police running through the streets of a quiet Baja California residential community of mostly American homeowners; police officers forcibly pushing through a blockade; residents turned fugitive, frantically removing furniture and other valuable possessions; U.S. citizens weeping on the doorsteps of seaside homes they built with their life savings, and may lose.

These images last week from Punta Banda near Ensenada raise a red flag for both the U.S. and Mexican governments. In the age of NAFTA, we encourage free movement of products, investment, services, capital and innovation across our borders. We should not be surprised that a new kind of region-building is unfolding, one in which people buy houses, invest in land or business, travel, live and work on both sides of the boundary.

What kinds of rights will these new "transnational citizens" have? To what extent will they be protected by the NAFTA partners, the Mexican and U.S. governments working together? Are both governments prepared to augment the free trade agreement with an appropriate relaxation of old notions of nationalism and sovereignty in favor of a new approach to global citizen rights?

vested in each other's regions and cities.

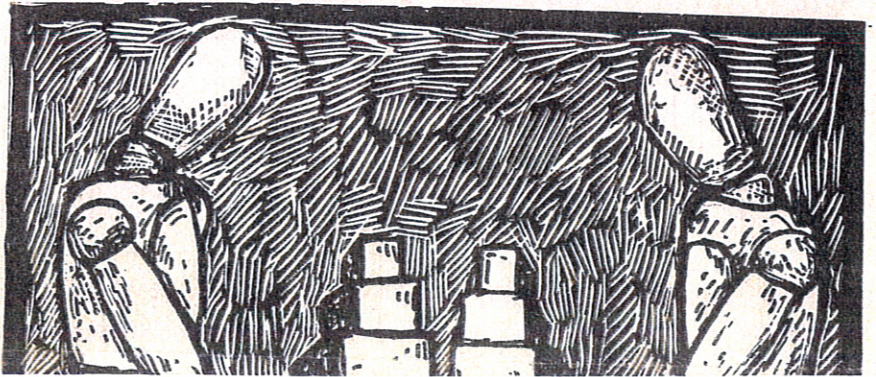
Hollywood blockbuster films like "Titanic" are being produced at the Fox Baja Studios in Rosarito, where both Mexicans and Californians work as partners. Large high-tech electronics firms like Sony are building cross-border manufacturing complexes along the California-Baja California divide. San Diego may find its solution to air travel in the shared use of an expanded future Tijuana international airport. Joint U.S.-Mexican partnerships in capital ventures, high technology, tourism and luxury housing development are going on line in Baja California.

We are becoming transnational citizens in a living space that blankets the Mexico-U.S. frontier.

Let us return to the Punta Banda in-

case, however, we cannot point blame only at Mexico. The United States must address transnational citizen rights, too. We must rethink the way we treat Mexican immigrants and Latino people crossing the border legally. The spirit of Proposition 187, which only a short time ago sought to deny education, health care and other services to Mexican immigrants living in California, has not entirely disappeared, even if the courts have ruled against implementing it.

In a new century of globalization, where walls are being torn down between nations, our government continues to build fences and barriers. The border fence runs some 47 miles in San Diego-Tijuana, much of it in the form of corrugated landing mats recycled from the Persian Gulf War. A newer concrete bollard wall, over 10



When the Mexican and U.S. governments signed the North American Free Trade Agreement in 1992, it was largely characterized as an agreement that would fortify and protect the Mexico-U.S.-Canada free-trade zone from global competition. Only after forceful lobbying from concerned interests, did the governments add the two NAFTA side agreements on labor and the environment.

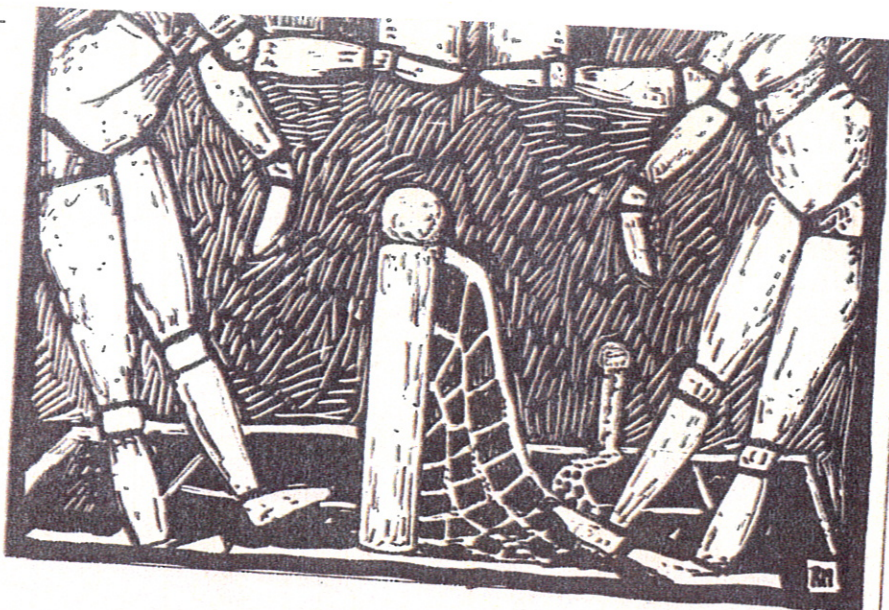
As it turns out, those two side agreements may become as important as the trade accord itself. By making a commitment to open the continent's borders to the free flow of capital, goods and services, the NAFTA also crystallized the increasing interdependence of people, business and community across the boundary.

This formation of cross-border communities means the two nations need to begin to craft better mechanisms for managing life in our transnational border regions. We are, in effect, peering into a 21st century where Mexicans will attend schools and universities or commute to their jobs in San Diego, while American college students attend classes, or start up businesses in Baja California.

Workers and investors will have claims on both sides of the boundaries. We will become consumers, investors, business owners and homeowners on both sides of the boundary. The question is: how will existing laws apply to citizens living and working on both sides of the boundary?

These are not merely academic questions. We already are heavily in-

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Richard Milholland

cident. Americans are obviously caught in a tangle of internal Mexican politics involving changes in the Agrarian Reform sector, in the rights of *ejido* communities, and in the purchase and use of valuable coastal land.

But, this case also illustrates the kinds of land ownership problems that can occur in transnational living areas. In the 21st century, nationalist restrictions on foreign landownership may need to be relaxed, so that landowners have the legal rights to challenge claims on their properties.

Eviction is a harsh outcome for current U.S. residents at Punta Banda. Even with a Supreme Court ruling, one would hope that an appeal process might have preceded this move. More critically, this kind of incident suggests a need for a new legal mechanism, either for working out a compromise through diplomatic channels, or through a U.S.-Mexico commission set up exclusively to work out citizen rights disputes of a transnational nature.

Before we leap to judgment on this

feet tall and topped with tilted mesh screening, has been built on part of the line in recent years. Alongside, six miles of stadium lighting and hundreds of seismic or infra-red sensors detect the movement of people after dark. Border Patrol helicopters buzz overhead at night beaming their laser spotlights down into the land of NAFTA.

Is this the image we want to beam to global investors looking for a strategic investment site? Is it the message we wish to send to our trade partners in Mexico?

With new presidents about to take office in the United States and Mexico in 2001, it is time for the two nations to consider a third NAFTA side agreement: creating a governance mechanism to manage problems inherent to cross-border urban regions, including the rights of transnational citizens, the administration of justice, urban and transportation planning and growth management. Locally, municipal and state leaders also must take bold steps to participate in this process.