

Fencing Fears: The United States Border Fence and the Responsibility of Social Workers

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The October 2006 Secure Fence Act permitted the construction of over 700 miles of double reinforced fence along the United States-Mexico border. While perhaps not the one intended, the fence is having an impact: the death of migrants attempting to cross the border has increased and the construct of “illegality” is being reified, heightening the insecurity of individuals who live in the U.S. with illegal or undocumented status. In addition, the fence can be understood as a statement of exclusion that leads to the further erosion of societal unity among the people who live within the U.S. borders. This paper contextualizes the political discourse that presumes that the construction of a wall is a viable solution to national concerns about migration and security in the history of cross-border migration and legislation. In so doing it analyzes the fence by delineating its effects on undocumented migrants and the power imbalances already evident within the larger U.S. society. Finally, it concludes by asking social workers to act in accordance with their obligation to promote social justice.

IN OCTOBER 2006 THE UNITED STATES CONGRESS PASSED legislation that symbolically defines its current policy with regard to the country's southern neighbor. The Secure Fence Act permitted the construction of over 700 miles of double reinforced fence along the U.S.-Mexico border (Secure Fence Act, 2006). This policy was not a deviation from the norm: some form of border policing has been in place since the creation of the Border Patrol in 1904. The official “birth” of the modern fence can be traced to 1990, when the U.S. Border Patrol began constructing a barrier known as the “primary fence” on the California border (Nuñez-Neto & Garcia, 2007). The first 14 miles of

fence, completed in 1993, served as the “model” for the current fence project (Nuñez-Neto & Garcia, 2007). The latest construction strategy, the Southwest Border Fence Project, is part of the U.S. Department of Homeland Security’s Secure Border Initiative that committed to completing 670 miles of fencing by December 2008 (DHSb, 2008). Spanning the borders of Texas, New Mexico, Arizona, and California, much of the planned fence construction has been completed. Further plans include building through a number of major towns and across American Indian Nations, restricting rights previously protected by both the U.S. and Mexican governments (Seper, 2008).

Policies regarding fence construction and other forms of increased border enforcement have resulted in excessive spending and negative consequences for the people on either side of its boundaries. Under the Secure Border Initiative, the Department of Homeland Security spent an estimated 625 million USD on 215 miles of fencing (Government Accountability Office 2002, a). Studies estimate that there have been between two and three thousand deaths along the U.S.-Mexico border since 1995 (Rubio-Goldsmith et. al. 2006, 2007; GAO, 2006). Reports show that deaths along the border have doubled since 1995 (GAO, 2006) and in 2005 a record 472 deaths were reported (Nuñez-Neto, 2008). Deaths along the border are predominantly due to conditions resulting from increased environmental exposure, including hypothermia and heat stroke, as migrants have been “funneled” into harsher terrain due to stricter U.S. immigration policies (Rubio-Goldsmith et al., 2006, 2007; GAO, 2006; Cornelius, 2001).

While a complete historical analysis of U.S. immigration policy is beyond the scope of this paper, it is necessary to contextualize the problematic political discourse that presumes that the construction of a wall will resolve the complexities of migration and nationalism. This paper examines the fence from historical and legislative perspectives, analyzes its effects on undocumented migrants, offers a connection between the construction of the fence and power imbalances evident within the larger U.S. society, and asks social workers to act in accordance with their obligation to promote social justice.

United States - Mexico Border: History and Migration

The region of the US-Mexico border has a complex territorial history. Originally owned by several Native American Nations, after over 300 years of wars and purchases involving the U.S., Spain, and Mexico, the border was firmly established at its current location in 1853.

Initially, the U.S.-Mexico border was poorly demarcated, sporadically policed, and easily traversed by migrant workers (Massey, 2002). As it has become more "solid," a complex interplay of socioeconomic and political forces on both sides of the border has come to shape who is and is not allowed to move across it freely. Over time, the border has essentially come to represent the dividing line between the demand and supply sides of an international labor market.

Until immigration policy dramatically shifted in 1986, immigration from Mexico to the U.S. reflected (or at least did not overtly prohibit) a pattern of circular migration. A variety of push and pull factors, linked to the economies of both states, influenced waves of migration during this period. Mexican workers migrated, legally or otherwise, to the U.S. for temporary work and then returned home (Massey, 2002). Migrants would fill U.S. labor needs for a period of time, but did not settle permanently in great numbers (Massey, 2002). Laborers experienced cycles of both active recruitment from employers and active deportation from the U.S. government on several different occasions. Various legal mechanisms, including guest worker programs, have facilitated this circular migration. The most well known, the Bracero program, began in 1942 and provided temporary visas to agricultural workers. Highly contested due to reports of civil rights violations by U.S. employers, this program was repealed in 1964. While the passage of the Immigration and Nationality Act in 1965 provided few legal mechanisms for temporary work, circular migration continued unabated (Massey, 2002).

The passage of the 1986 Immigration Reform and Control Act (IRCA) disrupted the characteristic pattern of temporary migration. The law discouraged immigrant outflow by promulgating policies of increased border security, fences, and actual or promised pathways to legal status (Massey, 2002). By coupling amnesty policies with increased impediments to entry, the IRCA essentially made it more beneficial for undocumented immigrants to stay in the U.S., since reentry became more costly (in terms of money, time, and/or security). Additionally, a precedent that continued residence could potentially result in the granting of amnesty and legal resident status was set. Possibly for these reasons, many migrants who would have returned home for temporary vacations began to take up permanent residence in the U.S. After 1986, substantial growth in the undocumented population began to be seen (Passel, 2005).

There were also other factors that led to an increase in undocumented immigration in the 1980s, including the collapse of the Mexican

peso and the passage of the North American Free Trade Agreement (NAFTA) (Massey, 2002). A significant challenge presented by NAFTA is its failure to loosen restrictions on the movement of labor despite relaxing the movement of capital and goods across the border (Massey, 2002). Little has been done to address the facts that the economic and social conditions of the U.S. and Mexico are still widely disparate, and that no viable system that permits sufficient or unrestricted movement of labor across the border has been implemented. Thus, in response to the persistent high demand for labor by the U.S., and Mexico's willingness to supply, undocumented migration has continued. Recent increases in barriers to entry, including the border fence, have only resulted in fewer immigrant departures. As of 2006, there are approximately 11.1 million undocumented people estimated to be residing in the U.S., a number that appears to be steadily growing (Passell, 2006).

Border Fence "Justification"

Supporters of the border fence justify its construction with two main claims. First, that it is necessary in order to curb the flow of undocumented immigrants, and second, that it will prevent terrorism. The actual impact of the border fence, however, is more accurately seen in the increased death rate of migrants attempting to cross the border; reinforcement of the construct of "illegality"; and heightened insecurity of the large population of families and individuals who live in the U.S. with undocumented status.

While reports from the border patrol and the Department of Homeland Security (DHS) often claim that their border enforcement efforts have been somewhat successful in curbing the flow of undocumented migration, the number of undocumented immigrants entering the U.S. has increased (Ackleson, 2005). Whereas in the 1980s, approximately 130,000 undocumented persons arrived per year, in the period from 2000-2004, the number of yearly new arrivals was estimated to have increased to around 700,000 (Passell, 2005). Similarly, the trends in apprehensions of undocumented migrants found crossing the U.S.-Mexico border--the measure DHS uses to estimate undocumented migration--do not necessarily connect construction of the fence to decreased migration.

Despite ongoing border fence construction, the number of apprehensions has generally increased steadily, only showing signifi-

cant drops during three periods: from 1996 to 1997, 2000 to 2003, and recently, in 2006 (DHSOIS, 2006, 2008). These periods of decreased apprehensions coincide with other events: the initial passing of the new immigration law in 1996, the attacks of September 11th and subsequent economic downturn, and the burst of the housing bubble and subsequent global financial crisis. Given that undocumented migration began to increase steadily in-between these two downturns despite the continued construction of the fence, it would be short-sighted to conclude that the fence caused them.

Proponents of the border fence assert that it is a necessary precaution in the war on terror. Supporters might argue that this is demonstrated by the fact that there have been no terrorist attacks on the U.S. since September 11, 2001. Yet in order for a claim that construction of the fence is necessary for the prevention of terrorism to hold, a connection must be made between the fence and the absence of terrorism. However, no such connection exists. Construction of the modern fence began in 1994, well before the terrorist attacks in 2001. Additionally, the majority of hijackers involved on September 11 held doctored passports and visas, and none entered the U.S. by crossing the southern border illegally (National Commission on Terrorist Attacks on the United States, 2004). Finally, if the illegal entry of terrorists via land borders was a legitimate concern, there would be similar anxiety and advocacy for fence construction on the Northern border with Canada. Instead, the Northern Border Project consists of minimal surveillance initiatives and no significant fence construction (DHS, 2008).

Immigration Legislation

Comprehensive immigration reform that both provides for the large undocumented population currently residing in the U.S. and creates a legal means by which future U.S. labor demands can be met is desperately needed. Recent legislation, however, has predominantly focused on increased enforcement of border and labor laws and deterrence strategies, including the border fence. Two legislative proposals that were recently passed, the REAL ID Act of 2005 (H.R. 1268) and the Secure Border Fence Act of 2006 (H.R. 6061), focus on "securing" the Southern border as the means of controlling illegal migration. The REAL ID Act grants the Department of Homeland Security (DHS) the power to waive certain laws that interfere with the construction of physical barriers at the border, and waives the govern-

ment from compliance with previous regulations imposed to protect environmental and indigenous rights. The Secure Border Fence Act, essentially an extension of many of the components of the REAL ID Act, authorized construction of 700 miles of double reinforced fence, security cameras, lights, and other measures to be used in order to protect and defend the Southern border (H.R. 6061).

Several policies aimed at addressing undocumented immigration have since been proposed in Congress, though none of them garnered sufficient support to become law. Comprehensive Immigration Reform bills have been proposed both in the Senate (as S. 1033, S. 2611, and S. 1348) and in the House of Representatives (as the Border Protection, Anti-terrorism, and Illegal Immigration Control Act of 2005, the Secure America through Verification and Enforcement [SAVE] Act of 2005 and 2007, and the STRIVE Act of 2007). Despite their inclusion of some provisions for undocumented individuals and temporary work visa programs, they all propose considerable increases in funding for Secure Border Initiatives, in other words, for increased fencing along the southern border.

Impact of the Border Fence

The gravest consequences of the fence are felt by those attempting to cross the border. Construction of the border fence has funneled migrants into dangerous terrain, resulting in a dramatic increase in deaths along the border due to environmental exposure (Rubio-Goldsmith et al., 2006; Nuñez-Neto & Garcia, 2007; Ackleson, 2005; Cornelius, 2001; Government Accountability Office [GAO], 2006). A 2006 U.S. Government Accountability Office report indicated that the annual number of deaths of undocumented migrants along the border has doubled since 1995 (GAO, 2006). The same report estimates that there were over 2,000 deaths between 1998 and 2004, and a 29% increase in the number of deaths in this period (GAO table page 42, 2006).

The construction of the border fence also impacts the undocumented population by reinforcing the social construct of "illegal" status. Being illegal is not an inherent personal quality; it is a status resulting from a combination of immigration laws and economic opportunities. Though some assert that those with "illegal" status are by nature more criminal because they arrived in the U.S. without authorization, undocumented people currently living in the U.S. have

not been found more likely to commit crime than the documented citizen population (Rumbaut et al., 2006). Evidence indicates that the undocumented population contributes substantially to the U.S. economy despite the fact that they are granted limited access to its resources. It is estimated that undocumented immigrants pay 80,000 USD more in taxes per capita than the amount needed to cover the costs related to their use of government benefits (Smith & Edmonston, 1997). These tax payments come from a combination of sales and property taxes, and “voluntary” income tax payments through Income Taxpayer Identification Numbers (ITNs) (instead of Social Security Numbers), which require immigrants’ employers to make mandatory deductions from their pay (Smith & Edmonston, 1997). Additionally, workers who use false Social Security Numbers, largely undocumented immigrants, are estimated to contribute 7 billion USD to Social Security and 1.5 billion USD to Medicare (National Council on La Raza, 2008).

Despite their significant economic contributions, undocumented immigrants face significant difficulties in the U.S. They are denied access to the majority of benefits that are afforded to documented residents and citizens. Undocumented immigrants are ineligible for the majority of government benefits—public school education and Emergency Medicaid being the sole exceptions (PROWRA, 1996). Though they may have the capacity and training, as a result of their status, undocumented immigrants are often prohibited from obtaining high skills jobs and thereby precluded from obtaining higher economic status. A final impact of the fence is that in reinforcing the construct of illegality, it furthers the reality that life as an undocumented immigrant in the U.S. means living in a state of perpetual awareness, if not fear, of detection and deportation. This is due to the reality of the U.S. immigration and deportation system as it now operates. In 2007 roughly 29,786 immigrants were detained by the U.S. Immigration and Customs Enforcement (ICE) daily (ICE, 2007).

A Call to Action for Social Workers

Social workers, as professionals bound by a Code of Ethics, are obliged to take action on problems created by the fence. Specifically, the core social work values of social justice and respect for the dignity and worth of every person drive this obligation. The value of social justice requires that “social workers pursue social change, particularly with and on behalf of vulnerable and oppressed individuals and groups of

people" (NASW, 1996). Respecting the dignity and worth of the person means that social workers are obligated to "promote clients' socially responsible self-determination" (NASW, 1996). These values provoke questions with regard to the fence. Does the border fence serve to promote social change and break down barriers that create vulnerable and oppressed groups, or does it reinforce further oppression and the vulnerability of a certain group of individuals? Likewise, does the border fence respect an individual's right to determine what is right and necessary to best promote his or her survival and that of his or her family?

The Code of Ethics highlights that "social workers should engage in social and political action that seeks to ensure that all people have equal access to the resources, employment, services, and opportunities they require to meet their basic human needs and to develop fully" (NASW, 1996). As the border fence does not grant all people equal access to resources, then, as the Code of Ethics asserts, social workers should be expected to address this through social or political action. For those living closer to the fence, it is possible to become involved in efforts to directly prevent more deaths along the border. Many agencies and faith-based organizations on both sides of the border currently offer relief to border crossers. Policy advocacy provides another avenue for engagement, as immigration and unnecessary death on U.S. soil are national issues that all representatives can be pressed to notice. If nothing else, on a personal level, education of friends and neighbors with regard to the border fence can help create national awareness about the issues that the fence generates. Social workers cannot "sit on the fence." They must instead consider their ethical obligations in addressing the immensely complex reality of undocumented migration from Mexico to the U.S.

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