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# ‘These People Have No Clue about Us, the Land, or How We Live!’: Second Generation Human Rights Along the Texas–Mexico Border

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'These People Have No Clue about Us, the Land, or How We Live!': Second Generation  
Human Rights Along the Texas–Mexico Border

Jennifer G. Correa, Ph.D.

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ABSTRACT

In this study, we wish to turn attention to how the international human rights framework, developed under the auspices of the United Nations in 1948, is being used by different communities, in particular, the Texas-Mexico border. We emphasize that while the articles contained in the Universal Declaration of Human Rights have, at times, served as a protective platform upon which activists have been able to build, these articles cannot responsibly be imposed without attending to and incorporating the voices of those on the ground. Using both qualitative and ethnographic methods, our objective is to amplify specific voices by analyzing how residents of the Texas Rio Grande Valley have produced a counter-narrative that conflicts with the narrative of security (e.g., “the border is out of control”) that the state is attempting to impose upon them. This community’s experience with the state has the potential to stimulate its members to shape the content of the Human Rights framework to better suit their specific needs. Drawing from a social constructionist approach, we privilege lived experience and people’s agency in the construction of second-generation human rights.

Keywords: Human rights, US–Mexico border, Lived experience, State, Community

The War on Terror, as a political discursive regime, has reconfigured the bordered edges of the U.S. into a “constitution-free zone” (ACLU 2008: 1) or a geo-political space where people’s civil/political rights have been partially or completely suspended in the name of national security. Numerous initiatives have been implemented to “secure the border.” Technologies such as visual surveillance, unmanned aerial vehicles (or drones), face recognition devices, and most recently (with the Secure Fence Act of 2006) the fortification of barrier infrastructure all work together towards this goal. As the use of

these technologies demonstrates, the border is essentially presented as a “new frontier” (Rosas 2012: 16) in need of protection and militarized governing, which disproportionately impacts people of color and immigrants. The concept of a “secure border” does not only manage people’s movements, however. It also profoundly affects second-generation (or socio-economic) human rights as communities struggle to keep their land and resist environmental-ecological harms. The state’s appropriation of private/public lands in these communities has fueled intense economic insecurity and social-psychological stress among local residents, fundamentally reshaping their livelihoods and sensibilities as Americans.

Using a social constructionist framework, we seek to understand the way that individuals push back and act within these constraints. In our work we are specifically interested in revealing the local impetus for and construction of a people’s human rights (see Fields and Narr 1992; Stammers 1999; Pearce 2008; Gregg 2012a). A social constructionist approach to human rights recognizes that rights are *historically contingent* and *dynamic cultural artifacts* that are cultivated through reflection, and revision within communities (Fields and Narr 1992; Stammers 1999; Pearce 2008; Gregg 2010a, 2012a). Human rights are, therefore, not an *a priori* phenomenon—ordained by God, natural law, or metaphysical in nature (Blau and Moncada 2006; Donnelly 2013). Rather, through mutual cooperation, locals are able to work together to shift what Benjamin Gregg (2012b: 630-631) calls traditional “thick norms” or a deep “comprehensive worldview” into “thin norms” that can generate “non-coercive grounds for cooperation with competing groups and authority” (Gregg 2012b: 630-631). Thinner norms envelop a larger group of people and hopefully can be stretched to engulf more and more

communities. As this occurs, local ideas expand and gradually become universal.<sup>1</sup>

Gregg (2012a) declares that for the human rights perspective to carry any meaning in communities, they must be constructed from local experience, rather than unilaterally imposed from the top down. Our objective here, is to turn attention to how the transnational Human Rights perspective that was developed under the auspices of the United Nations in 1948 is being used by different communities, in particular, residents in the Texas Lower Rio Grande Valley. While we agree with the idea that the United Nations' Human Rights program cannot be imposed on communities without attending to or incorporating the needs of those on the ground, we recognize that the sheer existence of this perspective has been a protective platform for many local activists working in dangerous contexts around the world, and that local communities often take advantage of its existence while dealing with local needs. Today, people have become cognizant of human rights as a concept even if they do not use the precise United Nations terms.<sup>2</sup>

We are also guided by the position that as Texas's Lower Rio Grande Valley residents interact with one another, they construct what Gregg (2012a: 53) characterizes as a *web of affiliation*, wherein individuals from different subgroups or communities carry their ideas back and forth and construct a space for what we call a *shared human rights talk*, or a people's own form of human rights grammar based on experiential realities. The shared human rights talk in these communities is crucial for two main reasons: First, it resists the state's dominant narrative about border communities as "dangerous" and "lawless." Second, shared human rights talk can embolden communities to actively challenge the state's appropriation practices. To flesh out these details, we draw from thirty semi-structured ethnographic interviews, participant observation field

notes, government documents obtained through the Freedom of Information Act (FOIA), and regional newspaper coverage concerning the Secure Fence Act. The purpose is to shed light on the local “struggles of real people experiencing real instances of domination” (Fields and Narr 1992: 5) to better understand the matrix of power, resistance strategies, and people’s agency as they unfold on the ground.

## BUILDING A WALL IN THE TEXAS RIO GRANDE VALLEY

The Texas Lower Rio Grande Valley begins from the mouth of the Rio Grande River and centers on the following counties: Cameron, Hidalgo, Willacy, and Starr. The social and economic demographics of Cameron and Hidalgo counties are quite similar, with a total population of 406,220 and 774,769, respectively. These two counties have large percentages of people who identify as Hispanic or Latino (88% percent in Cameron and 91% in Hidalgo) with nearly 40% of the overall population in both counties living below the poverty line (U.S. Census Bureau 2014). In 2013, the Brownsville-Harlingen metro area was dubbed the poorest in the entire country (Watson 2013). The Department of Homeland Security’s (DHS) barrier stretches nearly 700-miles in the states of Texas, New Mexico, Arizona, and California and is comprised of both anti-pedestrian and anti-vehicle physical fencing.

In 2008, Customs and Border Protection (CBP), a department under the purview of the DHS, constructed approximately 149 miles of pedestrian fencing in Texas alone (Karaim 2008: 748). In 2012, the DHS indicated there would be a 50 mile stretch of fencing in the Lower Texas Rio Grande extending from Roma, Texas, situated near the southeastern part of the state down towards Brownsville, Texas, located near the point

where the Rio Grande River flows into the Gulf of Mexico (U.S. Department of Homeland Security 2012: 3-7). During the time of this research, fencing efforts in the following Texas municipalities—Rio Grande City, Los Ebanos, and Roma—were at a standstill due to budgetary issues. The DHS fencing construction has permanently affected 255.3 acres of land, with a significant portion comprised of private property with an anticipated increase to 471.2 by the end of its construction (U.S. Department of Homeland Security 2012: 3-7).

Texas Rio Grande Valley residents live approximately 100 ft. north of the International Boundary and Water Commission (IBWC) levee system, which generally runs parallel to the Rio Grande River. Residents were sent legal waivers by DHS asking for permission to survey their property for possible barrier construction. Those who refused to sign the waivers were met with a swift, legal stronghold of “friendly condemnation” lawsuits issued by the DHS (see Del Bosque 2010; Miller 2010; Gilman 2011). Then DHS Secretary Michael Chertoff justified the land seizures using an eminent domain clause claiming that it would be for protection lest the “greater good be damned” (Witt 2008). Meanwhile, landowners and local officials who (at times reluctantly) acquiesced to these practices experienced an inability to access their properties, an actual loss of homesteads, and negative financial impacts on their local farming/agricultural systems (see Correa 2013).

## HUMAN RIGHTS AND THE U.S.–MEXICO BORDER

The discipline of sociology has had a belated arrival to the discussion of human rights in comparison to its counterparts in philosophy and anthropology (Dunn 2010; Gregg

2012a). Initially, this was said to be the result of classical sociologists' dissatisfaction with the concept of universal rights, which hints at a domain of universal norms or morals rather than acknowledging cultural specificities (see Sjoberg, Gill, and Williams 2001; Blau and Moncada 2006; Somers and Roberts 2008). Following this, sociology used citizenship as "a social institution [which] lends itself to empirical and positivist research methods" rather than for exploring the conceptual possibilities of human rights (Somers and Roberts 2008: 386). Vaughn and Sjoberg (1986), Sjoberg et al. (2001) and others have questioned these concerns by arguing that the study of morals has been at the heart of sociology with its roots dating back to the work of Emile Durkheim.

Numerous scholars have been working on the intersections of immigration, border control, and human rights violations issues on the U.S.–Mexico border (see Dunn 1996, 1999; Huspek, Martinez, and Jimenez 1998; Heyman 1999; Nevins 2003; Romero and Serag 2005; Golash-Boza and Parker 2007; Dunn 2010). Other scholarly trajectories have focused on U.S. born Latino civil rights violations in communities along the Southwest (Johnson 2005; Romero and Serag 2005), as well as forms of racialized State violence or institutional racism targeting citizens and immigrants in the southern border region (Hing 2009; Goldsmith et al. 2009; Correa 2013). Specifically, a focus on policing and racial profiling practices and their connection to U.S. citizenship rights have brought to the fore the disparate and discriminatory treatment used by border law enforcement against U.S. born Latinas/os and their immigrant counterparts (Romero 2006; Goldsmith et al. 2009).

The aforementioned body of human rights work on the U.S.–Mexico border region as well as on other communities of color has been fundamental to a sociology of

human rights. However, at the core of this scholarship is the contestation over civil/political rights versus other sets of human rights. While some scholars reject the idea of having three generations of rights, it is important to note that the U.S. consistently tries to de-emphasize second and third generation, while honoring first generation rights. Briefly stated, first generation rights are those entitlements that focus on civil and political issues. They include such things as the right to life, security, safety and "participation in public life and freedom from undue interference on the part of the state" (Blau and Frezzo 2012: 4). Second generation rights deal with economic and social issues and focus on the right to have an acceptable standard of living and include such things as the right to food, housing, health care, education and so forth. Finally, third generation rights focus on cultural integrity and deal with the right of people to have a culture, to practice their traditions and have their identities respected. It also touches on environmental sustainability issues. An important objective of this paper is to draw attention to the ways in which communities are beginning to challenge the United States' attempt to privilege first generation rights. Within much of this latter scholarship, the study of civil and /political rights *vis à vis* U.S. citizenship status continues to be the primary lens through which these social phenomena have been studied.

We believe that second-generation or socio-economic human rights remain under-theorized in the literature on Latinas/os and the U.S.–Mexico border studies. This study explores how residents living along the Texas Lower Rio Grande Valley come to engage in an experientially *shared human rights talk*, which empowers them to resist state-security policies. Following Sjoberg, we view human rights as “claims made by persons (or movements) in diverse social and cultural systems upon ‘organized power

relationships' in order to advance the dignity of...human beings" (Sjoberg et al 2001: 25) and argue these claims are specifically grounded in experiential knowledge.

## METHODOLOGICAL APPROACH

The method of active participant observation was used to collect preliminary informal interviews, which aided in the process of developing provisional concepts, and later led to the semi-structured interviews with residents concerning the material effects of the barrier, (or locally known as "the border wall,") in Cameron and Hidalgo counties and the surrounding locales. Participant observation allows for an explicit and tacit understanding of the phenomena as it unfolds in the moment (see DeWalt 2011). For instance, the first author was granted the opportunity to reel-in on these tacit understandings by accompanying landowners through their properties as they shared their thoughts, fears, and strategies for resistance. This strategy is described by Kusenbach (2003: 456) as a "go-along method," whereby ethnographers are able to capture the participant's embodied emotions and streams of consciousness when reflecting on their lives. In addition, this method allows one to grasp the proximity of the barrier to the landowner's home, which was of great concern to them (see Emerson, Fretz, and Shaw 2001; Crang and Cook 2007). Further, after gaining entrée into the community, the first author attended City council meetings and local protests that focused on the impacts of the barrier and proved to be useful in further understanding people's perceptions of the barrier.

The narrative accounts stem from landowners, community organizers, local

City/County and federal government officials living and working in communities directly and indirectly affected by the barrier's construction in the Texas Lower Rio Grande Valley. Pseudonyms are used to protect the identity of the participants. We draw from thirty interviews, which ranged between two to three hours, and were conducted intermittently in the summers from 2008 to the present. Purposive sampling was used to meet with residents who were directly impacted (e.g., landowners) by the barrier, followed by snowball sampling to understand its broader effects. The landowners, unlike any other group, experienced not only the unsettling close proximity of the physical barrier to their homes, but also appeared to be under stress due to feelings of uncertainty. The community organizers were activists made up of university students, church leaders, local businessmen, and environmentalists who were all concerned with the social-cultural, economic, and environmental impacts of the barrier. Local City/County officials were judges, mayors, and commissioners who faced condemnation of property within their legal jurisdictions. These individuals also assisted families who confronted the condemnation suits in their respective locales.

We also used secondary materials such as regional newspaper coverage and Freedom of Information Act (FOIA) documents to supplement the participant's narratives and provide a broader picture of the phenomena. Newspaper coverage serves as a public outlet for residents to share their sentiment against the barrier's construction and for many local city/county officials to represent their constituent's concerns (see Dunn 1999). Analysis of the newspaper coverage revealed patterns that also shaped the thematic constructs in the findings. Furthermore, the FOIA documents produced a twofold revelation: first, the state's dominant narrative about the Lower Rio Grande

Valley as a potential threat to national security; and second, it revealed institutional fragmentations whereby its members displayed either acquiescence or resistance to deploying the institution's dominant narrative that the barrier would not cause an environmental-ecological impact in the region.

A constructivist approach to grounded theory was used to analyze all the texts—participant's accounts, ethnographic field-notes, news coverage, and state documents to locate emergent patterns, then, aided in the creation of categorical themes (see Charmaz and Mitchell 2001; Corbin and Strauss 2008). Further, trustworthiness and credibility were established by triangulating the findings and interpretations, applying thick-description, and member-checking (Lincoln and Guba 1985). Three themes were developed from the data that provided evidence of a strong sense of second-generation human rights among residents in the Texas Lower Rio Grande Valley.

#### GENERATING RIGHTS FROM EXPERIENCE: EMERGING COMMUNITY CONCERNS

As the DHS began construction in the Lower Rio Grande Valley, residents along the Rio Grande River, were faced with similar forms of land appropriation. It became clear that despite cultural and class differences, a large majority of residents were upset and they felt that taking private and public lands was not the solution to the War on Terror. Through their confrontations with the state, residents began reframing their ideas about rights and they were emboldened to resist the state's legal intrusion upon their private lands and overall communities. Residents demonstrated that they possessed local

knowledge and their own moral systems. We see this as a legitimate contribution to a better understanding of how second-generation human rights are framed at the local level.

In this study, land was a major focal point for examining socio-economic (or second generation) rights. Landowners, in particular, experienced direct land appropriation of private property, while City/County officials contended with the expropriation of public lands. Finally, community members were immensely concerned with the socio-cultural, economic, and environmental implications of the barrier. We wish to emphasize that these participants were well aware of their civil/political rights, but as a result of their treatment by the state, they decided to expand these U.S. ideals to encompass something broader. The findings point to the development of new ideas about human rights through the constant review of their situation. Three themes emerged from their concerns: economic insecurity, environmental-ecological damages, and 'no man's land': Difficulty accessing U.S. social services.

#### *Economic insecurity*

The barrier affected Rio Grande Valley residents in numerous ways. First, landowners were kept from farming segments of their land by their restricted access. Second, landowners were hard pressed to continue raising farm animals on the south side of the barrier. These residents were forced to travel one to three miles either west or east to locate a gap in the fence, cross over, then travel a few miles to their property; Third, landowners were not made aware of how having a barrier or fence on their land would negatively affect its market value; thus, making it difficult to receive fair compensation from the DHS for their property and any damages incurred in the process of erecting the

barrier. The barrier along with any damages to the property would make the land less desirable in the future, if the owners decided to sell. Finally, local leaders were highly concerned that the barrier would disrupt city development plans to boost the economic infrastructure.

As one drives west of Brownsville on Old Military Highway 281 there are several historical ranching communities known as Encantada-El Ranchito-El Calaboz or what are locally known as El Calaboz *rancheria* (set of ranches). These communities are situated in close proximity to the 18 ft. steel barrier and are draped a few miles north of the Rio Grande River. In *El Ranchito* (The Ranch), a quiet *colonia*, fifteen miles west of Brownville, Texas is home to Mr. and Mrs. Aida and Juan Galindo. Coming of age in the 1950s, Aida Galindo, 78, talks about the difficulty of attending school in an economically depressed region where the primary form of labor consisted of low-wage agricultural work, “I am embarrassed to say this but I only managed to attend the third grade. We were ten in my family and the first three children were not able to obtain much schooling because we had to work to help my family.” Both Aida Galindo and her husband Juan raised their nine children in *El Calaboz*. The property had been in her husband’s family for “five generations, the...family has lived on a seven-acre plot of farmland near the U.S.-Mexico border. They have harvested cotton and squash and raised goats and pigs” (Nedderman, Dulitzky, and Gilman 2008). As migrant workers, Aida and Juan made a living by working in the agricultural fields of south Texas and other parts of the United States including Florida where they picked oranges. Now, in their late 70s, they depend on the meager earnings from their Social Security benefits, which was not enough for them. They were living on the economic margins and found it difficult to meet their

financial needs. Aida describes how the barrier created an uncertain financial future for them:

It [the barrier] affected us very much financially. Like I have said before—we are fighting for what is our own [land], not for something that is not ours. Now, the two of us are in our third stage of life, we survive financially from Social Security. It's not that easy to live life on this amount of money and the government doesn't just give us money—it's our money! For the two of us, we receive one thousand dollars per month. We have always had two or three cows on our property. This was helpful for us since we would sell the calves and make money to pay for our property taxes. We will not be able to do this anymore. How are we going to pay for it now?<sup>3</sup>

Many of the impacted landowners were elderly and of Mexican or Native American background. In this case, the Galindo family stressed their age and their dependency on the extra money made from selling their livestock. Aida made it clear that it is not feasible for her and Juan to continue working as migrant laborers, thus the significance of their farm as a safety net.

Eloisa Tamez, 74, lived a few houses down from the Galindo family. When the first author met Eloisa in the summer of 2007, they walked together through her property and discussed its historical significance and cultural meaning given her Lipan Apache and Mexican background. At that time, the barrier had not yet been built. Originally, the land (approximately 12,000 acres) was the product of a Spanish land grant, dating back to the 1780s, and was provided by the King of Spain to Viceroy Pedro Villarreal. After

three governments (Spain, Mexico, and the United States), Eloisa Tamez, the descendent of Viceroy Villarreal, was fighting the DHS to keep the remaining 3 acres within her family's control.

In the summer of 2009, the tone of Eloisa's discussion had changed. The 18ft. rust colored steel pylons, only yards away from her kitchen window, were a reckoning force for Eloisa, as she mustered the energy to explain what had taken place since the last visit:

It's a barrier that has been founded on the denial of the human rights of people and also denial of equal protection. It was implemented in a way that brought up about a lot of hurt to innocent people. What makes it even worse, is that when we know and when we find out, we are the ones being impacted. We find out that the high income Anglo American people who own property in the path of the wall were not subjected to this pain and suffering. Just the low income Mexican American communities are impacted by the wall and the flagrant disregard for our human rights...The violation of my human rights, the violation of my way of life, the loss of freedom, I have no freedom to be in my own land.<sup>4</sup>

Eloisa, like many other landowners, would not be awarded full market value for her land, nor would she (or anyone in her family) ever be able to sell the land given its now degraded value due to the construction of the barrier; meanwhile, another added layer of concern was access to her property on the south side of the barrier. In this instance, the ability for Eloisa to continue her agricultural plans was subsumed by the fear of being accosted by Border Patrol agents who patrol the line. Eloisa depicted a clear

understanding of her rights as a citizen of the US, and also discussed the concept of rights in terms that went beyond civil/political rights.

Just before celebrating their 48<sup>th</sup> wedding anniversary, Junior and Maria Flores decided to end their long legal battle with the government for financial reasons. As cotton farmers, the Flores family, not unlike many others in the community, was heavily dependent on yielding a prosperous crop. After learning that their neighbors had received nearly forty times more money in compensation for a similar swath of land compared to their offer of \$1,600, the couple decided to initiate a legal suit against the government. Initially, the family had not hired an attorney and was not aware that the government had provided an offer well below market value for their land. The couple spent thousands of dollars in attorney fees and was ultimately told that their case did not stand a chance in court. As Maria explained,

We had hard a time fighting the government. It cost us too much money in legal costs and we couldn't make ends meet here at the farm. How are we supposed to live when our money is going to legal fees? People like us just can't win when it comes to the government.<sup>5</sup>

These disparities were reported from other landowners in local newspapers in the region and raised questions about equal treatment and fair compensation. In a local newspaper, the couple declared, "You know, people that got more money can afford to do more things" (Weber 2012). In addition, the amount of socio-psychological stress present in their narratives, along with many other landowners, is a palpable reminder that the barrier has a chilling emotional dimension beyond its mere physicality.

In a region that is considered one of the poorest in the country, municipalities are in desperate need of economic development. There was fear among many Brownsville local officials that the barrier would shut down an economic development plan called the Brownsville-Matamoros Weir Project. The City commission envisioned that it would be similar to the San Antonio Downtown River Walk, yet with a dynamic cultural and geographical appeal given its proximity to Mexico. It would be a bi-national project that would literally connect the downtown centers of Brownsville and its sister-city Matamoros, Mexico. City/county officials believed that it would contribute immensely to the local economy. Brownsville Mayor Roberto Cruz spoke proudly of the project's potential, yet spoke to the inability of the plan to materialize given the barrier's construction,

Brownsville has a live river as compared to San Antonio which has a canal that has to be cleaned up once a year... this wall is going to kill our River Walk, it's going to hurt our ecological industry, tourism industry, which generates 150 million dollars a year, and it's going to hurt our agricultural industry.<sup>6</sup>

Once the DHS appropriates these lands, future prospects of stimulating a depressed job market as well as economic development in downtown Brownsville would pose important challenges as pointed out by City Councilman Leonardo Marzetti,

This is a multimillion dollar project that some people have talked about putting into the community that would have high end retail, that would have shops and tourist attractions and it would make a huge difference on

downtown Brownville. It may be a dream, it may be a hope, but I can guarantee you it will not happen if the federal government owns that land.<sup>7</sup>

With an unemployment rate in 2013 of 10.1%, these concerns demonstrate the impact of state policy on residents and officials alike (U.S. Bureau of Labor Statistics 2013).

Furthermore, what is not immediately measured (if at all) is the socio-psychological duress experienced by residents as they try to deal with the everyday household economic drawbacks of not being able to pay the electricity, their mortgage, or medical treatment. Social-psychological stress almost always accompanies economic insecurity within families and can wreak havoc in communities overall.

#### *Environmental-ecological damages*

A year before the U.S. Congress passed the Secure Fence Act of 2006, the Real ID Act set the legal stage for then DHS Secretary Michael Chertoff to circumvent any federal, state, and local laws, in particular, environmental laws that would interfere with barrier's construction. In total, Secretary Chertoff waived approximately thirty-six laws including The National Environmental Policy Act, The Endangered Species Act, and The Clean Water Act. Section 102 of the REAL ID Act entitled "Waiver of Laws Necessary for Improvement of Barriers at Borders" reads as follows:

Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive all legal requirements such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this

section...(U.S. Real ID Act 2005: 11).

In a 2007 news report, Secretary Chertoff explained that the barrier was a necessary tool needed to protect the nation from would-be terrorists, narcotics, and undocumented immigration. This mission was viewed as patriotic and did not leave very much room for opposition by residents to the fence's construction. Secretary Chertoff was explicit that landowners did not have much choice in the matter:

Part of what it means to be a country is that sometimes things happen in your back yard. Sometimes people don't want to have a police station in an area where it might interfere with their business. Some people don't want to have a halfway house in their town. You know what we say? We say, 'Sorry, you've got to put up with it.' Now we'll compensate them for it. That's why eminent domain allows for just compensation. But what we're not going to do is to 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 (Barber and Navarette 2007).

This above news account reveals a type of governing suppression upon residents living along the U.S.–Mexico border that targets not only their right to question the legal merit of a law, but also tries to stifle any counter logic toward the state's presence in their communities. Residents concerned about the environmental-ecological conditions of their communities were met with a swift response from DHS. The U.S.–Mexico border would soon experience the environmental and ecological impact on their communities. For example, on July 12, 2008, monsoon rains poured down into southwestern Arizona

from the Sonoran Desert.

Prior to the storm, the DHS in cooperation with U.S. Army Corp of Engineers had just finished implementing a stretch of fencing in the region. As the violent storm made its way from the Sonoran Desert down into Nogales, Sonora (and its sister-city Nogales, Arizona), the newly constructed fencing along a tunnel acted as a barrier, and resulted in severe flooding. A local news report stated that the flood killed two Mexican nationals, pummeled through 578 homes, and swept up 45 cars, averaging \$8 million dollars in total damage (McCombs 2008). Another press account reported that the monsoon had dumped 1 to 2 inches of rain within 90 minutes along the Organ Pipe Cactus National Monument (OPCNM) near Lukeville, Arizona where 5.2 miles of fencing (at a cost of \$21.3 million) was constructed despite local opposition from monument officials, environmental activists, and residents (McCombs 2011).

At this location, the border fence turned into a dam causing turbulent flows of water. In the aftermath of the storm, the OPCNM drafted a detailed report of the damage caused by the border fence: "During the July 12 event, water elevations at nearly all major drainages crossed by the fence rose so significantly that backwater pooling occurred and floodwaters flowed laterally (east- west or west-east) along the fence... It caused flood damage to private property, government offices and commercial businesses in Lukeville, Arizona, and Sonoyta, Sonora, Mexico" (U.S. Department of Interior 2008). Three years later, in the summer of 2011, 40 ft. of fencing was washed away at OPCNM when storm waters built up force against the barrier causing flood damage in the area once again. Mr. Matt Clark, Southwest representative for Defenders of Wildlife, a

conservation organization focusing on safeguarding wildlife, natural habitat, and biodiversity declared, “Flooding is a very visual and physical reminder that walls block ecosystem processes... There are major costs both fiscally and environmentally to building walls across watersheds” (McCombs 2011).

The torrential flooding caused by the monsoon at OPCNM in 2008 coupled with the pooling effects of the fence were of concern to environmental activists, protestors, and local officials in the Texas Rio Grande Valley. Many residents of the Rio Grande Valley had a strong historical memory of previous hurricanes in the region such as Hurricane Dolly in 2008 followed by Hurricane Alex in 2010. Hurricane Dolly, for instance, with its wind and torrential rains caused flooding damages that were well over \$1 billion dollars (National Weather Service 2011). In the aftermath of Hurricane Alex, residents in Rio Grande City, Los Ebanos, and Roma were still battling residual floodwaters. Since then, many local activists, residents and officials have been on high alert in these areas and have pointed out the potential environmental-ecological ramifications of building a fence through their communities.

Scott Nicol, Chair of the Sierra Club Borderlands Team, has also noted that there is potential harm for the three cities located in the Texas floodplain (i.e., Roma, Rio Grande City, and Los Ebanos) to mirror the damage in the sister cities of Nogales, Arizona and Nogales, Sonora, Mexico:

What you see in Nogales, Arizona and Sonora is basically the same design they are talking about for Roma, Rio Grande City, and Los Ebanos. They [engineers] say there will be gaps and posts and that the water will pass

right through it. But, that water is going to be full of debris and it will dam it up. We have seen the proof in other parts of the border.<sup>8</sup>

In July of 2008, Scott Nicol was a leading figure in the “No Border Wall” protest initially staged at the University of Texas-Pan American, which then advanced to the Hidalgo County Courthouse. Hundreds of residents participated in the event demonstrating a collective opposition to the DHS’s fence construction. During the protest, numerous individuals contested the proposed wall, and the overall sentiment was that state officials or “outsiders” as they were described, were primarily responsible for the wall’s construction; officials did not consult the public on *what* type of impact it would have on their communities. Participants in the crowd began shouting, “These people have no clue about us, the land, or how we live!”

Once protestors reached the Hidalgo County Courthouse, participants began erecting a human figure poster they had drawn of then County Judge J.D. Salinas. The poster depicted words on his hands that read: “Democracy?” on the right hand and “Human rights?” on the left hand. In the middle of the poster, what was the figure’s chest, the Spanish word “*Complice*” (complicit) was written to signify that Judge Salinas was complicit with DHS and not transparent with the public, in the construction of the barrier and its potential social, economic, and political impacts on communities.

By 2010, Edward Drusina, Commissioner of the International Boundary and Water Commission (IBWC), feared that parts of the floodplain along Rio Grande Valley would also end up severely flooded due to the barrier. Commissioner Drusina wrote a non-approval letter to Deputy Commissioner David Aguilar, of Customs and Border

Protection (CBP), refusing to allow fence construction through the Texas floodplains of Roma (Section 0-1), Rio Grande City (Section 0-2), and Los Ebanos (Section 0-3). He indicated that CBP's hydraulic report "showed substantial increases in water surface elevations and deflection of flow at several points of all three projects...the USIBWC is not in a position to approve construction of the 0-1, 0-2, and 0-3 fence projects."<sup>9</sup>

A year later, the Mexican IBWC's Principle Engineer Luis Antonio Mendoza had similar concerns and rejected the idea of creating a fence in the floodplain sections, "Notwithstanding the above, the location, alignment and design of the proposed fence represent a clear obstruction of the Rio Grande hydraulic area, since in the towns of Rio Grande City and Roma, TX, the fence would occupy nearly all of the hydraulic area on the U.S. side, causing the deflection of flows towards the Mexican side."<sup>10</sup> The two commissioners justified their refusals on the basis of the 1970 boundary Treaty between both countries, which states: "Each contracting State shall prohibit the construction of works in its territory which, in the judgment of the Commission, may cause deflection or obstruction of the normal flow of the river or of its flood flows" (U.S. Boundary Treaty 1970).

Despite its initial steadfast refusal of fencing, by February of 2012, the U.S. International Boundary and Water Commission (IBWC) changed its position, due to mounting pressure from DHS and CBP: "After an in depth and thorough review, the IBWC concluded that the proposed fence project(s) will not cause significant deflection or obstruction of the normal or flood flows of the Rio Grande..."<sup>11</sup> In a contradictory twist, in July of 2008, the DHS had released its own environmental impact statement testifying to the careful stewardship that officials engaged in during land survey

assessments and fence construction. The official evaluation highlighted that there would be “minor to moderate, short and long term impacts” on hydrology and groundwater and briefly noted that in the floodplains of Roma, Rio Grande City, and Los Ebanos or fence sections 0-1, 0-2, and 0-3, respectively, there would most likely be “adverse impacts in sections 0-1 thru 0-3...[and] no other impacts” (U.S. Department of Homeland Security 2008: 13-9).

As these two federal agencies were in contestation about the barrier’s construction in the three major Texas floodplains, local officials worried over how they would protect their constituents from floodwaters as explained by Rio Grande City Mayor Ruben Villarreal:

If the feds decide to build a fence here, we all know it’s a floodplain and I don’t have the resources to deal with its consequences. These border towns are not equipped to handle a major flood, nor do we have much help from the feds to prepare us. How am I supposed to keep the people of this community safe?<sup>12</sup>

The Mayor’s statement points to the different meanings given to the concept of ‘security’ on the border. On one hand, the state delivers a message of “securing the border” via the construction of fencing. On the other hand, people on the ground have another perspective that differs from this dominant state narrative, security trumps safety, and which is a paradox given that the former is supposed to imply the latter. A Los Ebanos resident Aleida Garcia questioned the potential impact the fence might have on flooding in her community in a news report, “How can you really tell us it’s going to work 100

percent? Because we're talking about people, communities, families" (Sherman 2012a).

The above accounts speak to two crucial points: first, the residents' familiarity with the geographic landscape compared to federal agencies such as the DHS; second, their belief that the construction of the barrier in the floodplain would have devastating consequences for those living in its path; and three, there is community awareness that local knowledge is being disregarded. Yet, the DHS officials and those working under its purview continue to approach the project as if they are the sole experts on the region's landscape and its inhabitants; second, protestors were aware that their rights were being violated and made sure to articulate these concerns by emphasizing how their private (and public) lands would be altered as well as how they may be restricted from access to their lands due to the construction of the barrier. In addition, they understood that DHS's entrance into their lands not only meant problems with access, but also the threat of economic losses, and degradation of the environment. Hence, the shaping of a human rights perspective in the Texas Rio Grande Valley arises out of peoples' evaluations of their situation as they confront multiple forms of state intrusion in their lives and communities.

*'No man's land': Difficulty accessing U.S. social services*

In 2008, despite legal challenges and visible protests against the barrier, construction crews were making their way toward Brownsville, Texas. Many of the residents were not fully aware what these developments meant. In this part of Texas, the Rio Grande River winds and loops through various terrains as it makes its way to the Gulf of Mexico.

Situated within the interstices of this complex landscape are family properties, many of which existed before the 1848 Treaty of Guadalupe–Hidalgo. Once fencing was completed in the region a few years later, pastures, agricultural crops, farm animals, and even homesteads, were resituated in a newly created territory or known locally as a “no man’s land” located between the barrier and Mexico.

A year later, Pamela Taylor, 80, was very concerned that she and her daughter Michele would end up in what she described as a “no man’s land between the United States and Mexico.”<sup>13</sup> Pamela and her daughter made it a point to attend a local town hall meeting set up by the Army Corp of Engineers. The two women pointed out how difficult it was to attend the meeting given the fact that there were armed guards outside. Many residents were intimidated by the guards and returned home. The U.S. Army Corp of Engineers had their contractors present the audience with a map of the proposed fencing locations. Michele noticed that her mother’s property was not on the map and decided to question one of the officials, “Hey you forgot our street and our house! He [the official] said, ‘There is nothing out there!’ Then, I said ‘We live out there, so, there is a house out there!’”<sup>14</sup> Then, Pamela expressed concern about access to social services such as a hospital given her recent cancer diagnosis and wanted to know if an ambulance would be able to reach her property if they were on the south side of the barrier.

By 2011, fencing crews constructed the barrier on the north side of the Taylor property, leaving Pamela to face the question of what would happen if her health took a turn for the worse. As Pamela and her family confront this new reality, it becomes clear that their understanding of American democracy has received a significant jolt as

expressed in the following news press, “It's [the fence is] not providing security for us...it's actually shutting us out of America” (Marosi 2011).

In the southernmost tip of Brownsville, Debbie and Leonard Loop along with their two sons Ray and Frank and nephew Tim grow grapefruit, grain, corn, and soybeans for the region. The Loops had been sued by the DHS because they refused to sign the waivers giving permission to survey their land. In the ensuing legal battle, Debbie Loop feared for her sons, who now head the family's farmland,

Our sons, Ray and Frank, farm this land. That's our concern, nobody came down here, no one came to look at this, and all of this is going to be behind the fence. This is going to be like a no man's land. The government will basically own the entry all the way down the property to get in here. They [DHS] haven't told us what kind of access we are going to have, you know, we just don't know.<sup>15</sup>

At the end of 2011, the Loop family farm was bisected leaving Ray and Tim Loop on the southern side of the fence. CBP officials informed the family that they were going to install gates and would be given a secret passcode to use as the gate entrance. This scenario posed problems since the Loops and their workers would need constant access to both sides of the property. The movement of the family and their workers would need to be monitored by Border Patrol agents who would stand guard at the gate as if it were a regular checkpoint in and out of the country. Monitoring the access in and out of their property did not sit well with Tim Loop as he publicly expressed, “I'll have to ask

permission from the government to live my life" (Casares 2011).

In the southern point of Brownsville sits the 1,034-acre Texas Nature Conservancy's Southmost Preserve. The Southmost Preserve is a unique, biologically diverse landscape and is locally known as the 'Jewel of the Rio Grande Valley' with its native Mexican Sabal Palms, migratory birds, and endangered species such as the Ocelot. The Preserve's Manager, Max Pons, living on the premises, now faces the problem of having to reside in the newly created 'no man's land.' After Border Patrol agents installed a gate to replace the fence's gap, Pons was thinking about what he would do in the case of an emergency, and was overcome by an eerie feeling once he heard the gate shut as he declared in a local newspaper, "I think in my head I'm going to feel trapped...I need to have something that is much easier for me to have to ram to get through" (Sherman 2012b). In addition, the Loops also expressed anxiety over access to the north side of the fence during medical emergencies or a national security alert as well as the possibility of becoming sitting ducks for criminal elements seeking to cross to the other side.

Both the Taylor and Loop families as well as Max Pons among other landowners are now living in a newly fashioned territory they refer to as a 'no man's land' and this liminal space has tremendous implications for the way these families will go about their daily lives. Specifically, the concept of access into and out of their properties poses problems and could potentially hinder their ability to seek emergency assistance when needed. Also, depending on the distance of the nearest gate to a particular landowner's home, it may take several minutes before a gap or gate can be reached. In another added

layer of concern, landowners living near a fence with a gated entry will need to contend with the possibility of unexpected technological glitches or failures. Furthermore, these residents expressed anxiety over access to the north side of the fence during medical emergencies or a national security alert as well as the possibility of becoming sitting ducks for criminal elements seeking to cross to the other side. The ability of the DHS to hinder access into the north side of the fence or to and from other parts of their properties has prompted many landowners, such as Pamela Taylor to declare, “We feel abandoned here” (Marosi 2011).

Texas Rio Grande Valley communities are expected to bear a disproportionate burden in the state’s War on Terror. In this instance, national security concerns have trumped the rights and safety of people on the ground. Here the government assumes that people should bear these social and economic costs as a patriotic duty. Many local residents strongly critique the state’s plan and ask the DHS and its subsidiaries why they did not fully consult with each landowner (and other crucial stakeholders) about the consequences of building the barrier. Many community members have suggested that there were other options available to the DHS besides building a barrier such as adding or shifting Border Patrol agents and increasing the surveillance technologies in designated high-traffic areas (Gilman 2011).

For many residents, federal government officials were out of touch with their everyday lives. In many instances, community members stated that officials were ignorant of the bi-cultural histories and connections between the U.S. and Mexico as well as the consequences of the Secure Fence Act. For example, in 2008, a former U.S. House

of Representative Republican Tom Tancredo, a staunch supporter of the Secure Fence Act, publicly declared in a congressional field hearing at the University of Texas-Brownville, "I suggest that you build this fence around the northern part of your city" (Sherman 2008) implying that these residents are not a part of the U.S. body politic. As previously emphasized by Pamela Taylor and her daughter Michele, the Army Corp of Engineers' proposed map had no sign or marker of their home and property, rendering them invisible to the state. Indeed, this is likely to apply to many others. There has been increased anxieties within these communities as the U.S. Congress continues their contentious debates on the construction of another layer of fencing (Ortega and Kelly 2014). Social justice is at the core of local narratives as they challenge the state's imposition in their communities.

Through their everyday lived realities, the respondents (despite their varying social locations as landowners, city/county officials, activists) are able to establish a web of affiliation through council meetings, protests, and daily exchanges, and so they develop a shared human rights talk, which is rooted in their local struggles to keep DHS out of their day-to-day lives and communities. Although they do not utilize specific articles from the international Human Rights perspective under the UN, they cultivate their own human rights grammar, rooted in the experiential, as they seek full political inclusion in matters that affect their personal lives.

## CONCLUSION: INITIATING HUMAN RIGHTS WITHIN COMMUNITIES

The U.S. War on Terror has fueled security narratives of 'lawlessness' and 'chaos,' necessitating its very need to 'secure its border' through the use of militarized

technologies and increased Border Patrol agents. These highly charged discursive hailings of the U.S.–Mexico border as a ‘dangerous’ geo-political space are not new; however, the state’s security build-up in this region since the tragedy of 9/11 has been unprecedented, as concerns have shifted from ‘illegal immigration’ to terrorism. These politicized discourses of ‘border surges’ have become the meta-narratives of the Southwest border region despite empirical data indicating that violent crimes in the region have dropped over time. For instance, the Government Accountability Office (GAO), using the Federal Bureau of Investigation’s (FBI) Uniform Crime Reporting Program, noted that from 2004 to 2011 violent crimes such as murders, aggravated assaults, and robberies in the region have all dropped overall (U.S. Government Accountability Office 2013: 39). Even metropolitan cities in the region like El Paso, Texas has been regarded as the ‘safest city’ for four years in a row and its lower crime rates are reflective of other areas in the Texas Lower Rio Grande Valley such as McAllen (Aguilar 2014). Despite the decreasing crime trends, the state has developed a particular approach to national security, which is dependent upon mechanisms of exclusion, dispossession, and appropriation in the Texas Lower Rio Grande Valley.

In turn, the residents’ narratives provide evidence that this official state narrative is in conflict with what locals see as their rights. In other words, the state has constructed a very narrow meaning of security that does not include the concerns of those who it publicly states it wishes to protect. We reveal that the resident’s human rights claims are cultivated through the twofold dynamic of experiential knowledge (lived experience) coupled with intersubjective processes (web of affiliation and shared human rights talk). Furthermore, the participants’ accounts also demonstrate that a sociology of human rights

in Latina/o studies predominantly premised on issues of citizenship and voting rights are only the tip of the iceberg in a post 9/11 era.

The participants' claims broaden the content of human rights concerns beyond the usual U.S. emphasis on civil/political rights in order to better protect their communities from state intervention *vis à vis* economic insecurities, ecological-environmental harms, and land appropriation. As a leader of the global human rights platform within the UN, the U.S. has always met resistance from local groups (e.g. NAACP in 1947) within its own borders as noted by Anderson (2003). Before the barrier was constructed in the Rio Grande Valley, residents, environmentalists, and local leaders made the DHS aware, through protests and meetings, of the potential economic insecurities, environmental-ecological problems, and the possible difficulties in accessing social services.

Unfortunately, many of these communities had their collective voices dismissed. This has had the impact of increasing their interest in using the human rights platform. As Nash (2002: 4) has contended: "The legal standing of human rights is felt to contribute to people's willingness to take up rights issues, while, symbolically, rights discourse provides a powerful vocabulary for challenging wrongs." The participants use their own form of human rights talk (or grammar) to try and link their local struggles living in an intensifying militarized region, with the broader Human Rights international perspective under the auspices of the UN.

It is important here to recall Gregg's (2010a) admonition that human rights are not *a priori* in nature; rather, they are socially constructed and historically contingent cultural artifacts. Here, the concept of "assertive selfhood" or the ability for "human

rights [to be] authored by their own addressees” (Gregg 2010a: 635) takes on central importance; rather than simply being bestowed or imposed by the state or other entities such as the UN, people use their experiential knowledge to construct human rights concerns. Thus, sustainable economic and social human rights are being developed within communities as members assess the impact of policies affecting their living standards (Esparza 2012). As the state’s War on Terror discourse continues to redefine security along the U.S.-Mexico border (e.g., “lawless border”) and its inhabitants (e.g. “un-American”), it is imperative to challenge this binary logic.

Overall, the three dimensions of human rights uncovered in this study reveal that despite their varied social locations, residents are able to generate a flow of ideas and resistance strategies that can not only push for an expansion of our current human rights framework to better suit their needs, but also challenge the state’s conception of security in their communities. In this instance, the state is deploying a discursive regime. The refrain “the border is out of control,” necessitates the need to secure it. This has become part of the state’s national security repertoire for fighting terrorism, however, at the expense of many residents in the Texas Rio Grande Valley whose lives are increasingly becoming subject to a “state of carcelment” (Dorsey and Díaz-Barriga 2015: 206). In this ‘Constitution free zone,’ along the U.S.–Mexico border, it is difficult to know what the future holds for these communities and others whose rights have been suspended due to intense militarization efforts in the name of national security. For instance, we have seen this unfold in places like Ferguson, Missouri after the killing of unarmed teenager Michael Brown by Officer Darren Wilson. One thing is certain: in order to effect both legal/policy changes concerning human rights within the U.S., ideas being generated on

the ground must travel, find meaning within other communities, and be used to build new (thin) human rights norms. In doing so, they can find common cause with other locales in their fight against this regime of state intervention.

## ENDNOTES

<sup>1</sup> According to Gregg, human rights norms become more universal as they move from being ‘thick’ to being ‘thin’. Thick norms require everyone to have the same perspective on an issue. It privileges, say, only one belief or identity. Thin norms allow people with different beliefs, ideas, and identities to co-exist.

<sup>2</sup> We follow the lead of Walter Mignolo (2009), who uses the upper case for the United Nations program (Human Rights) and lower case words (human rights) when referring to local developments.

<sup>3</sup> Personal interview with Aida, landowner, June 2009.

<sup>4</sup> Personal interview with Eloisa, landowner, June 2009.

<sup>5</sup> Personal interview with Maria, landowner, August 2014.

<sup>6</sup> Personal interview with Roberto, Brownsville Mayor, June 2009.

<sup>7</sup> Personal interview with Leonardo, Brownsville Councilman, June 2009.

<sup>8</sup> Personal interview with Scott, Chair of Sierra Club Borderlands Team, June 2014.

<sup>9</sup> Edward Drusina, January 21, 2010, Office of the Commissioner, International Boundary and Water Commission, United States and Mexico, United States Section, letter obtained through FOIA request.

<sup>10</sup> Luis Antonio Rascon Mendoza, 2011, International Boundary and Water Commission, United States and Mexico, Mexican Section, letter obtained through FOIA request.

<sup>11</sup> John L. Merino, 2012, Office of the Commissioner, International Boundary and Water Commission, United States and Mexico, United States Section, letter obtained through FOIA request.

<sup>12</sup> Personal interview with Ruben, Rio Grande City Mayor, June 2013

<sup>13</sup> Personal Interview with Pamela, landowner, June 2009.

<sup>14</sup> Personal interview with Michele, landowner, June 2009.

<sup>15</sup> Personal interview with Debbie, landowner, June 2009.

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