

Addendum A

Statement of the O'odham Traditional Leaders Council

April 8, 2010

As representatives of the nine remaining traditional villages of O'odham people, we ask the United Nations to consider the following issues in reviewing United States human rights practices.

We are indigenous to this land, which is currently divided by the U.S.-Mexico border. Throughout our history we have lived on and cared for this land, seeking to fulfill our responsibilities to the land and to our communities.

Within our vast territory, defined by our teacher Elder Brother I'toi, we have traditionally lived in various places, moving with the seasons and during ceremony times. Our ability to travel freely on our lands is essential to preserving our traditional way of life, including our social, political, religious and cultural institutions. Now, we must also be able to travel across the U.S.-Mexico border to obtain basic necessities such as food, drinking water, and health care.

Current U.S. border policies divide our communities and prevent us from maintaining our cultural and spiritual practices. Our sacred sites and burial grounds have been disrupted by construction of the border fence. O'odham people are often treated in a discriminatory and abusive manner by the U.S. Border Patrol, and denied entry into the United States.

Historic Effects of U.S. Policies

Since the United States entered into the 1848 Treaty of Guadalupe Hidalgo and the Gadsden Purchase Treaty of 1853, it has threatened the survival of O'odham people by, among other things:

- occupying our land, selling it to settlers or claiming it for governmental purposes;
- diverting and depleting our water, leaving about 90% of lands we previously cultivated barren;
- promoting devastating environmental policies which threaten the entire ecosphere of the original inhabitants of this land, including our relatives the animals and plants to whom we are directly connected;
- outlawing or interfering with our spiritual practices;
- forcing our children to attend boarding schools; and
- preventing us from traveling freely on our lands.

One result is that while we have many villages, the nine remaining traditional O'odham villages are located south of the U.S.-Mexico border, but their members live on both sides of the border.

After attempting to destroy our traditional forms of governance, the United States has dealt with Indigenous peoples primarily through "tribal" governments which, pursuant to the 1934 Indian Reorganization Act, are "recognized" only if approved by the U.S. Secretary of the Interior. In our case, the tribal council of the U.S.-recognized Tohono O'odham Nation has failed to protect its members, particularly those living on the Mexican side of the border.

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Current Problems

Because our self-sufficiency has been destroyed, we are among the poorest people in the United States and we face a serious health crisis, including one of the highest rates of diabetes in the world.

The United States government has recognized all O’odham members as U.S. citizens, with the right to cross the border and to access services, including healthcare, provided by the Indian Health Service of the Bureau of Indian Affairs. However, its current laws and policies, particularly the Real ID Act, the Western Hemisphere Travel Initiative, and the Secure Fence Act, have resulted in many problems:

- Many of us are forced to travel over a hundred miles to get to a U.S. approved entry point, even if we are going somewhere just a few miles away.
- Once at the checkpoint, we are often denied entry because we cannot obtain the documents required by U.S. officials to cross the border. Most of our Elders were born at home and do not have the birth records required to obtain passports as required by the U.S. government.
- We have been told that new tribal ID cards will allow us entry, but these have not been issued and will not solve the problem of having to travel long distances to entry points.
- At official entry points, we face severe abuse and discrimination. Many O’odham people have been detained and physically assaulted by armed border guards and some even killed by Border Patrol agents. Complaints about some of these incidents have been filed with human rights monitoring organizations.
- Even when O’odham living on the Mexican side are able to get to reservation lands on the U.S. side, we cannot obtain necessary goods and services because of restrictions at border checkpoints on all main roads leading out of the reservation.
- For O’odham people living on the Mexican side, these conditions mean that simple trips to obtain food, drinking water, or healthcare are very difficult and sometimes impossible.
- For O’odham people on the U.S. side, it is increasingly difficult to maintain ties to our traditional villages and families; to access sacred sites, including burial grounds; or to attend ceremonies on the Mexican side.

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- Because of border restrictions, many O’odham have been denied the ability to conduct the ceremonies central to our culture, including particularly birthing ceremonies and death ceremonies. In addition, the families of O’odham who have passed away in U.S. hospitals have been denied the right to bury their relatives in their villages.
- The barriers to travel separate our families and threaten our ability to maintain our communities, language, culture, and identity. The construction of the border fence has destroyed sacred sites and burial grounds.
- In connection with the construction of the border wall, provisions of 37 laws designed to protect the land and the rights of Indigenous peoples have been “waived” by the Secretary of Homeland Security. These include the Native American Grave Protection and Repatriation Act, the Native American Religious Freedom Act, and numerous environmental law.

These issues have been inadequately addressed by the tribal council of the Tohono O’odham Nation, which has denied support to O’odham in Mexico or failed to enforce resolutions to provide protection to all of its members, particularly with respect to border crossing issues. For these and many other reasons, our lives, communities, traditions, and lands have been placed in immediate danger.

Rights and Responsibilities

As traditional O’odham leaders we are responsible for protecting our lands, traditions, and communities for future generations, and for ensuring the health and well-being of our people.

The United States has committed to protecting our right to travel freely on our lands through the Treaty of Guadalupe Hidalgo and the Gadsden Treaty. It has also agreed to provide access to healthcare and other services to all members of the O’odham Nation, regardless of which side of the border we live on. These rights are being effectively denied, especially to O’odham living on the Mexican side of the border. We understand that these obligations must be met with respect to *all* O’odham people, and cannot be satisfied simply by entering into agreements with a tribal government which the U.S. recognizes but which does not adequately represent the traditional members of the nation.

The United States has federal laws, such as the Native American Grave Protection and Repatriation Act, the American Indian Religious Freedom Act, the Religious Freedom Restoration Act, and many laws designed to protect the environment, all of which should prevent the destruction of our sacred sites ensure that we can engage in our ceremonies. However, provisions of these and other laws have been arbitrarily waived in connection with the building of the wall/fence along the border.

We understand that the United States also has obligations under international law which include protecting the rights of *all* O’odham people:

- to self-determination, the most fundamental right of Indigenous peoples, which encompasses the right to freely determine our political status and to pursue our own visions of development

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- to maintain our culture in community with the others of our group, even when divided by international borders;
- to equal access to food, shelter, medical care, and employment;
- to enjoyment or exercise of all our human rights and fundamental freedoms without discrimination based on our identity;
- to play a vital role in the conservation and protection of our environment; and
- to freedom from arbitrary detention, discrimination, and abuse by government officials.

We, therefore, request that the United Nations Human Rights Council, in its Universal Periodic Review of U.S. compliance with human rights obligations, observe, investigate, and report on the human rights violations occurring in and around the traditional O'odham lands as a result of current U.S. border enforcement policies and practices.