BORDER MILITARIZATION AS OCCUPATION

Photo by John Moore/Getty Images

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PREFACE

"Over my dead body will a wall be built" said Verlon Jose, the tribal chairman for the Tohono O'odham, after President Trump signed an executive order in January, 2017 to move ahead with plans to build a wall along the U.S.-Mexico border. Throughout history, the Tohono O'odham and other tribes native to the U.S.-Mexico borderlands like the Kickapoo, Yaqui, and Lipan Apache, have been systemically uprooted, divided and displaced by Anglo colonization and international diplomacy and politics. This history of oppression continues today as border militarization has had major consequences for the everyday life and the cultural traditions of binational tribes across the southwest.

The Tohono O'odham are an indigenous tribe in the Sonoran Desert in southern Arizona. Their reservation spans along the international borderline for 62 miles, with 2,000 of its 34,000 tribal members living in Mexico. Federal policy and militarization in the region have caused a variety of problems for the O'odham, from separating family members, to interrupting cultural and religious events and even forcing drug smuggling and human trafficking onto their indigenous lands.

Tribes have also had to deal with racial profiling, customs harassment and heavily armed law enforcement patrolling on their reservation land. Such issues exist not only at the U.S. border with Mexico, but with Canada as well. As the border and immigration enforcement has traveled to other parts of the country, so have injustices and occupation of indigenous lands. The Mohawk tribe on the border with Canada have reported having to deal with similar issues with Customs and Border Enforcement.

While state governments across North America have always neglected the rights of native peoples, since 9/11 heightened border militarization and securitization has led to many injustices against Indians in the borderlands. In this chapter, we hope to call attention to the consequences that U.S. border policy has had on indigenous communities in the U.S. Mexico borderlands and across the country.

KATE KILPATRICK (ALJAZEERA)

U.S.-MEXICO BORDER WREAKS HAVOC ON LIVES OF AN INDIGENOUS DESERT TRIBE

SAN MANUEL, Mexico — Jesús Manuel Casares Figueroa needs a catheter or he will die. His bloated chest pressed against his blue jacket as he sat in a wheelchair in front of his uncle's modest concrete-block home, one of a handful in this traditional village of the O'odham in the Sonoran desert. His mother touched a gold-colored earring that dangled from Jesús Manuel's left ear. Her son was born with spina bifida, she explained, and a chronic kidney infection has complicated his condition.

In February, the doctor said Jesús Manuel urgently needed the operation. His family didn't have the money then, and they don't have it now.

Jeús Manuel Casares Figueroa sits with his uncle and mother in a tiny O'odham village in the Sonoran desert. (Kate Kilpatrick)

So in a few hours mother and son will go door to door asking for donations in the neighboring O'odham village, about 60 miles south of Nogales.

For thousands of years, the Tohono O'odham (meaning "Desert People") inhabited what is today southern Arizona and the northern state of Sonora in Mexico. But the O'odham were there long before either Mexico or the U.S. existed as nations. "We've always been here," said Amy Juan, 28, a young activist on the reservation. "Nobody can argue that we weren't here first."

After the Mexican-American War, the international boundary between the U.S. and Mexico was drawn at the Gila River, just north of the O'odham ancestral lands. But the Gadsden Purchase in 1854 redrew the border right through O'odham territory. The O'odham were never consulted.

"They just drew a line, and when they drew that line O'odham in Arizona became citizens or were considered part of the U.S., O'odham in Mexico of course were not," said Carlos G. Veléz-Ibáñez, director of the School of Transborder Studies

at Arizona State University. “Unlike some of our Canadian borders, you don’t have the opportunity of dual citizenship or being able to determine which country you’re a citizen of.”

In the aftermath of 9/11, O’odham living on the U.S. reservation were forced to deal with the unintended consequences of a militarized border: Border Patrol agents harass and treat them as undocumented migrants on their sovereign land. Their desert landscape and wildlife get clobbered by migrants, traffickers and federal law enforcement. They return home to find cars stolen, houses ransacked by desperate migrants — migrants who far too often don’t survive the desert elements. It’s also not uncommon for tribal members to be lured by fast cash into working as coyotes or mules for the Mexican cartels, ending up in jail themselves.

Members of the Tohono O’odham used to cross the border for years with no problem (Kate Kilpatrick)

But less attention is paid to the grave impact the same border has on O’odham in Mexico, who’ve become second-class citizens within their own tribe.

A NATION DIVIDED

The Tohono O’odham Nation (pronounced TOHN-oh AUTH-um) is a sovereign government and federally recognized Indian nation that claims 25,000 members. Their reservation — established in 1917 — is the second largest in the U.S. and spans 2.8 million acres, about the size of Connecticut. The southern boundary includes 75 miles of the U.S.-Mexico international border.

Estimates vary on how many Tohono O’odham live in Mexico, and the tribal government refused to comment on the topic. The Tohono O’odham Community College website states that about 1,800 enrolled Tohono O’odham reside in Mexico. According to the 2000 national census and subsequent report by Mexico’s National Commission for the Development of Indigenous Peoples, 363 O’odham were living in Sonora, Mexico. However, that tally included only families in which someone in the household spoke the O’odham language, ñiok, which has been almost entirely replaced by Spanish.

When the Tohono O'odham reservation was created, said Veléz-Ibáñez, it was a distinctive land base that O'odham had control over even though it was held in trust by the U.S. government.

"In Mexico that didn't happen at all. In Mexico they were at the mercy of the Mexican government," he said. O'odham in Mexico had no special rights or recognition, and throughout the 20th century Mexican ranchers encroached on their land. (It wasn't until after the Zapatista movement sprang out of the forests in Chiapas in 1996 that Mexico's federal government officially recognized parcels of indigenous lands.)

"O'odham on this side have that same mind concept — that they're in Mexico, so let Mexico take care of them."

Veléz-Ibáñez said the special relationship between the U.S. and native people beginning early on provided O'odham in the U.S. opportunities for education, economic development, housing subsidies, work and training programs — and health care — not available to O'odham in Mexico.

"The Indian health service is not a Cadillac program," he explained, "but it's still much better than what O'odham in Mexico had."

When the border fence was erected — to this day just concrete vehicle barriers connected by chicken wire — it didn't stop O'odham from crossing between the countries.

"The border meant not a thing to me," said Henry Jose, a Navy veteran whose story was included in "It Is Not Our Fault," a collection of testimonies from O'odham on both sides of the border used to make a case to Congress for citizenship for all O'odham. (The book was published in 2001, shortly before 9/11 changed the immigration debate drastically.) "The border is between the white people and the Mexicans but not us O'odham. These are Indian lands, O'odham lands."

"We used to go back and forth freely," confirmed Jose Garcia, lieutenant governor of the Sonoran O'odham who serves as a liaison between their traditional leaders and the Tohono O'odham Nation. These days Garcia, 72, splits his time between Arizona, where he owns La Indita restaurant in downtown

Tucson, and Magdalena de Kino in Sonora, Mexico, where he advocates for the Mexican O'odham. Garcia's grandparents were born on the U.S. side and migrated to Mexico. "So I look at Sonora and I look at the Nation as one for me," Garcia said.

However, especially after the terrorist attacks of Sept. 11, 2001, Customs and Border Protection — and the Department of Homeland Security it operates under — saw it much differently.

A BORDER STRATEGY

The Southwest Border Strategy, which was implemented beginning in the early 1990s, was a "prevention through deterrence" approach to illegal immigration. The goal was to crack down on the flow of migrants (and drugs) at popular urban crossing areas like Tijuana–San Diego and Juarez–El Paso, and thereby funnel the illicit traffic to the remote, rugged desert, where temperatures reach 110 degrees in summer. Border Patrol believed the maneuver would give it a tactical advantage, and at the same time "make it so difficult and so costly to enter this country illegally that fewer individuals try."

A sign in the desert warns of dangerous conditions for migrants crossing the border. (Kate Kilpatrick)

However, they underestimated the resolve — and desperation — of migrants in search of economic opportunities. Despite the number of border agents in the Tucson sector skyrocketing from 280 to 1,770 between 1993 and 2004, Tohono O'odham tribal officials estimated that up to 1,500 undocumented migrants per day were crossing through the reservation.

For the O'odham, crossing the border anywhere but official points became illegal. Garcia says the fortified border further isolated the Sonoran O'odham.

"In Mexico the government has this mindset that the O'odham people that are living along the border are more Americans than Mexican citizens," he said. "And

O’odham on this side have that same mind concept — that they’re in Mexico, so let Mexico take care of them. So we’re caught between a rock and a hard place.”

All members of the Tohono O’odham tribe, whether U.S. or Mexican citizens, are entitled to access the reservation clinic overseen by the U.S. government. In practice, border policies prevent this.

According to the Tohono O’odham Nation’s Resolution 98-063, passed in 1998, “enforcement of U.S. immigration laws has made it extremely difficult for all Tohono O’odham to continue their sovereign right to pass and re-pass the United States-Mexico border as we have done for centuries as our members are routinely stopped by the U.S. Border Patrol, while others have been actually ‘returned’ to Mexico even though enrolled.”

Many O’odham in Mexico do not have the proper documentation now required to cross legally, whether birth certificates (lacking due to home births) or tribal IDs (because they lack the paperwork or witnesses required for enrollment).

Plus, with the Sonoran desert being used as a backyard for criminal organizations, O’odham families in the U.S. have largely halted visits to their Mexican O’odham kin.

The fear is not unfounded.

“In my village [Wo’osan] you can’t even go out to the wooded area because you would never know who’s there,” said Garcia. Other areas of O’odham villages have been abandoned, he added, and turned into campsites by criminal organizations.

THE PROBLEM OF REPRESENTATION

But for Garcia, the issue facing O’odham in Mexico is not just access to resources but representation. “There isn’t any representation in the [tribal] council that comes from Sonora,” he said.

Even among those O’odham in Mexico who are officially enrolled in the Nation, very few are registered to one of the 12 districts on the reservation. Most Sonoran O’odham IDs state N.D., no district, Garcia said. This means that even though the tribe includes its Mexican members in the annual count that determines federal funds, those funds get divvied up between the districts and don’t reach the O’odham in Mexico.

If the tribe would allow it, he said, representation would give O’odham in Mexico a say in the tribal government.

“They would have a voice in representing the housing needs, the road needs, the education, the health issue — all those things would be voiced here on the Nation if we had representation.”

Garcia believes it’s vital to the economic improvement of O’odham in Mexico as well as their ability to keep their culture and identity intact.

“If the O’odham in Mexico don’t get organized, if they don’t get a unity going, they’re always going to be in the same boat,” he said.

“I feel we have to unify first, bring ourselves back from the dominant culture’s way, relearn what we are as O’odham people.”

FACING EXTINCTION

David Ortega agrees. The self-described warrior with long salt-and-pepper hair was born in the U.S. but moved to Mexico where he lives with his wife, Patty. “We have lost that oneness,” he said. “We as native people have always supported each other. We’ve always lived together as one throughout history and culture.”

“I feel we have to unify first, bring ourselves back from the dominant culture’s way, relearn what we are as O’odham people.”

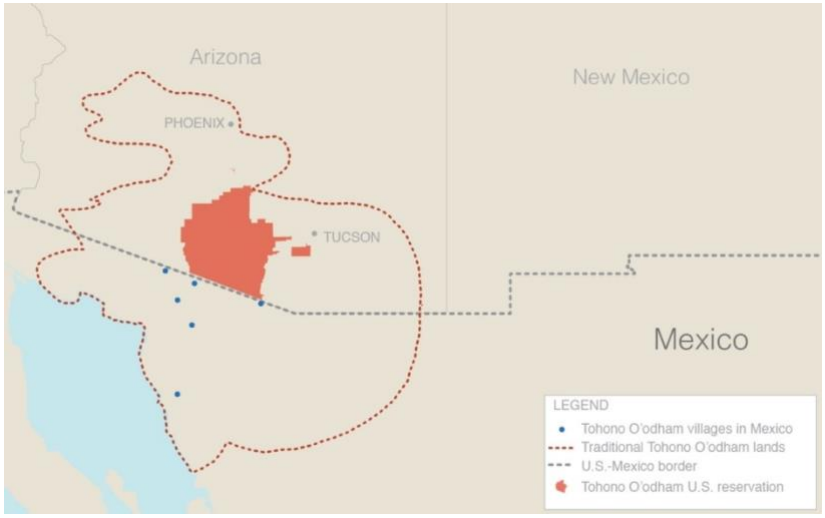
To that end, he’s spent the last year traveling from village to village in Sonora, Mexico, teaching O’odham language classes so that O’odham in Mexico don’t completely lose touch with their traditions and "him dag," or way of life.

But it’s a race against time.

Just a few generations go, almost every O’odham, whether in the U.S. or Mexico, spoke O’odham.

In 2012, researchers from the Center of Research and Higher Studies in Social Anthropology (CIESAS) classified 143 indigenous languages in Mexico that are facing extinction. The O'odham language (still called Pápago in Mexico) falls into the most vulnerable, or "critically endangered," group, with only 116 speakers. Jacob Franco Hernández, a Ph.D. student at the University of Sonora, says even this count is not accurate. Since 2008 he's worked with the Sonoran O'odham, and in his 2010 master's thesis determined there are only 24 fluent speakers in Mexico.

While O'odham on both sides of the border have adopted the dominant language (whether English or Spanish), those on the U.S. side have maintained a much stronger grip on their indigenous language, history and traditions.



The reservation for the Tohono O'odham in the United States and an approximation of traditional lands on both sides of the border. (Sources: "Handbook of North American Indians, Vol. 10: Southwest"; O'odham Solidarity Across Borders Collective; Resource Center at the National Museum of American Indian, New York.)

"There are O'odham descendants [in Mexico] that say, 'We know we're O'odham, but we don't have anyone to show us what it is to be O'odham,'" said Garcia, the former lieutenant governor. "And most of our elders in Mexico that did know something about 'him dag' are gone. They say there's a lot of elders still there, but what I see is a lot of elders who don't have any interest in teaching. And we're trying to revive and restore some of the traditional things that have been forgotten in Mexico."

A BLESSING IN SONG

Outside Jesús Manuel's uncle's home, eight family members gathered under a tree adorned with rusting horseshoes and other metal tools and trinkets. After a hearty breakfast of tortillas, beans, and fresh chicharrones cooked over an outdoor fire, a handful of O'odham youth from the reservation said goodbye to Jesús Manuel's family.

Alex Soto, of the hip-hop duo Shining Soul shared a rap from his new album critiquing U.S. immigration policy.

Amy Juan wanted to leave the family with a traditional song. In the O'odham culture, songs are also prayers. She chose a song in ñiok that's been passed

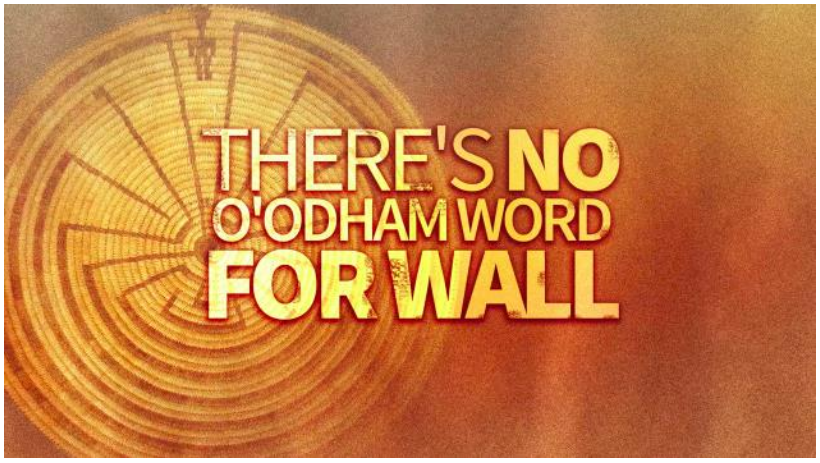
down through the generations and was taught to her by a now-deceased elder […] It's about a young man's journey to the ocean. On the shore he dances the i:dahiwan, the cleansing dance, asking for blessings for everyone.

"I wanted to leave the family with something that would connect them to their O'odham roots," Juan said. "I left it not only with the family but with the land, to remind it and them of our presence and to remind them that it is still O'odham land and our ancestors still remain there."

TOHONO O'ODHAM NATION

VIDEO AND PRESS RELEASE: "THERE'S NO O'ODHAM WORD FOR WALL"

Press Release from the Tohono O'odham Nation and Office of the Chairman and Vice Chairman: Tuesday, Feb. 21 2017



TOHONO O'ODHAM NATION RELEASES VIDEO ON ITS OPPOSITION TO PROPOSED BORDER WALL "There's No O'odham Word for Wall" Demonstrates Why a Fortified Wall Does Not Work

Watch the video here: http://afgj.org/no-oodham-word

SELLS, Ariz. – The Tohono O'odham Nation has released a video, "There's No O'odham Word for Wall," detailing its opposition to the fortified border wall proposed by President Trump's recent Executive Order. The video also reiterates the Nation's commitment to continue working with federal, state and local agencies on border security measures with a proven record of success.

The current international border was drawn through the Nation's traditional lands in Arizona and Sonora, Mexico, which the Tohono O'odham have inhabited since time immemorial. Today, the Nation's reservation includes 75 miles of the US-Mexico border, with tribal members residing on both sides of the border.

As such, the Tohono O'odham Nation has substantial experience in border security efforts. In recent years the Nation's Legislative Council has passed over 20 resolutions supporting border enforcement efforts and opposing a fortified wall. On Feb. 7, 2017 the Nation's Legislative Council passed a Resolution restating this opposition. The Inter Tribal Association of Arizona, National Congress of American Indians and other organizations have formally supported this Resolution.

The video highlights how the proposed wall would further split the Nation in half and have dramatic cultural and environmental impacts. It would also face severe geographic challenges in the rough desert terrain. A wall would also be easily bypassed in remote

regions with the same tunnel and ladder tactics that undocumented immigrants already use to overcome barriers even in more populated areas.

Tohono O'odham Nation Chairman Edward D. Manuel said "This video provides insight on the many reasons why the Tohono O'odham Nation can not and will not support a fortified border wall. The Nation remains committed to working together to protect the border using proven and successful techniques. We invite the President and his Administration to visit the Nation, see these challenges firsthand, and begin a productive dialogue for moving forward."

Link to press release: http://www.tonation-nsn.gov/wp-content/uploads/2017/02/Press-Release-Tohono-Oodham-Nation-Releases-Video-on-its-Opposition-to-Proposed-Border-Wall.pdf

RACHAEL MARCHBANK (TRIBAL COLLEGE, JOURNAL OF AMERICAN INDIAN HIGHER EDUCATION)

THE BORDERLINE: INDIGENOUS COMMUNITIES ON THE INTERNATIONAL FRONTIER

Shortly after the events of September 11, 2001, and the formation of the Department of Homeland Security, a simple T-shirt began appearing at reservation flea markets, tourist shops, and tribal college campuses. The shirt depicts a photograph taken in 1886 of the Apache leader Geronimo—known for rebelling, with his band of Apache warriors, against Mexican and American encroachment and invasion of their territory—standing with armed family members. The slogan on the shirt reads, “Fighting Terrorism Since 1492.” This simple yet powerful message resonated with Native and non-Native people alike, calling attention to the fact that the land we now call the United States was already occupied by and forcefully taken from Indigenous nations.

The attack on the World Trade Towers initiated drastic changes in U.S. policy on securing its borders. It was the catalyst for the formation of the Department of Homeland Security, which combined 40 different agencies charged with securing the nation in various capacities. U.S. borders came under intense scrutiny and new immigration laws and policies were enacted with far-reaching consequences. How did these policy changes affect the welfare and sovereign rights of tribal nations, especially those whose traditional homelands span the modern borders of the United States, Canada, and Mexico?

U.S. IMMIGRATION AND BORDER ENFORCEMENT

The United States is a wealthy country by any standard, and each year attracts thousands of immigrants, documented or otherwise, who seek employment, political asylum, and the chance to pursue a better life. With the goal of preventing terrorism after 9/11 and controlling unauthorized immigration and smuggling, the U.S. has spent billions of dollars on tightening borders and monitoring foreigners in the country—with mixed results.

Approximately 39.9 million foreign-born individuals reside in the United States, 11.2 million of whom are said to be unauthorized. About half of these unauthorized immigrants are from Mexico (Passal and Cohn, 2014). In an effort to control unauthorized immigration across the southern border, Congress passed the controversial Secure Fence Act of 2006 and the Consolidated Appropriations Act of 2008, which mandated construction of 670 miles of fence along the 2,000-mile border between the United States and Mexico (University of Texas at Austin School of Law, n.d.). Currently 651 miles of fencing has been completed, at a cost of about $2.4 billion (Department of Homeland Security, 2013; Sais, 2013). There are additional plans to cover a total of 900 miles by 2016, with an assortment of U.S. Border Patrol agents and technology, including surveillance towers, drones, ground sensors, mobile spy systems,

and remote video cameras (Preston, 2014). More than 18,500 U.S. agents patrol the southern border, a historically high number (Department of Homeland Security, 2013).

The fence has become unpopular with many borderline communities and local governments, who have formed coalitions and adopted formal statements against it. They attest that it disrupts everyday living yet is easily breached by undocumented immigrants and smugglers. Soon after the border fence was constructed, people began breaching segments with torches, hacksaws, and ladders. Certain sections need continual, almost daily repair. Some parts have settled and gaps between the posts are forming where people can squeeze through. Additional complaints include private property owners whose lands have been divided. Farmers and businessmen along the Texas border in the Rio Grande valley have opposed construction of the fence because it blocks their access to the river and hurts companies that conduct legal commerce across the border (Villanueva, 2008).

“On the southern border dividing the United States and Mexico, Native people are generally unable to employ the same rights as those who live along the Canadian border.”

Proponents say that its intention is not to stop the influx but mainly to add a layer of security, slowing down unauthorized crossings (Caldwell, 2008). Since 2008, apprehensions by the Border Patrol have dropped by 53%, which according to the federal government indicates fewer attempts to illegally cross the border. Additionally, the amount of drugs, guns, and cash seized by the Border Patrol has increased over the last three years (Department of Homeland Security, 2013). Statistics show that unauthorized immigration peaked in 2007 at 12.2 million, and has declined since then (Passal and Cohn, 2014).

IMMIGRATION CONTROL AT THE LOCAL LEVEL

For most of the 20th century, the federal government has taken control of immigration policy and enforcement. As recently as 1996, a Department of Justice Office of Legal Counsel Opinion stated that state police do not have legal authority to “arrest or detain aliens solely for the purpose of civil immigration proceedings as opposed to criminal prosecution” (Roseborough, 1996). However, in 2002, Attorney General John Ashcroft announced a new policy which gave state and local police unprecedented authority to enforce immigration law (Waslin, 2010). Ashcroft’s interpretation of federal immigration law opened the door for states to begin passing some of their own immigration laws. Since then, states have attempted to enact a record number of laws addressing immigration control. In April 2010, Arizona passed what was known as the nation’s

toughest bill on unauthorized immigration. Arizona Senate Bill 1070, also known as the Support Our Law Enforcement and Safe Neighborhoods Act, criminalizes unauthorized immigration and requires immigrants to carry identification documents proving their legal right to be in the United States. Under the Act's original provisions, police officers were mandated to detain and even arrest those they suspect of living and working in the United States illegally and who could not produce valid documentation (Archibold, 2010). In June 2012, the Supreme Court struck down some of these more extreme provisions, but allowed parts of the controversial "show me your papers" section to remain (Sherman, 2012).

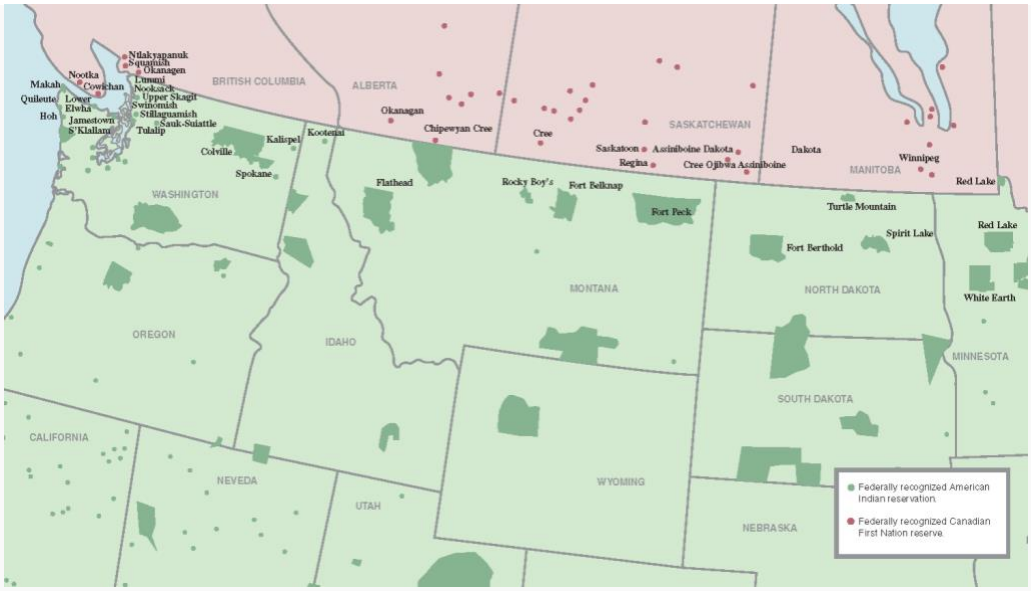
Arizona Senate Bill 1070 and similar laws have been heavily criticized. Opponents claim they negatively affect the economy, driving away investment, businesses, and workers (Liasson, 2011). Enforcement of immigration law by local police requires extensive training and additional resources from the limited budgets of cities and states. Moreover, efforts to enforce such laws increase the possibility of racial profiling and civil rights violations, resulting in costly lawsuits (Waslin, 2010). However, tough state immigration laws are favored by others who argue that the federal government is not doing enough to stop unauthorized immigration and that states such as Arizona must act, since drug smuggling and other illicit trans-border activities take place in their backyard (Marizco, 2012).

Since the Supreme Court's ruling on Senate Bill 1070, the number of proposed state bills on immigration has dropped. Some states, however, continue to pursue policies to discourage immigrants. When President Obama declared that "DREAMers" (undocumented immigrants who came to the United States at an early age) would be eligible to apply for work permits, Arizona, Michigan, Iowa, North Carolina, and Nebraska announced they would not issue them driver's licenses. Due to the unpopularity of such measures, however, some states have reversed this policy (Freed Wessler, 2013).

TRIBAL SOVEREIGNTY AND BORDER ENFORCEMENT ISSUES

Native peoples have been impacted by foreign-imposed borders ever since European colonization. Tribal lands were artificially divided when the U.S., Mexican, and Canadian borders were formed, cutting off Indigenous people from their traditional homelands, relatives, and sacred sites. Tribes have been displaced and relocated to other regions as well. Currently, 25 tribes have land with approximately 200 miles of international borderlands between the United States, Canada, and Mexico (National Native American Law Enforcement Association, 2002). These tribes must navigate conflicting state, federal, and international policies which sometimes interfere with tribal sovereignty.

One of the first laws that recognized the unique situation confronting Indigenous peoples of the borderlands was the Jay Treaty of 1794, which included a provision maintaining Aboriginal rights to freely pass and to carry on commerce across the U.S.-Canada border. A Canadian Indian, however, must have at least 50% blood quantum in order to pass freely between the two borders. After the War of 1812, the U.S. and Great Britain reiterated these rights in the Treaty of Ghent. Both treaties have been cited in immigration cases by Canadian and U.S. courts, confirming protection of Indian border-crossing and commerce rights. These rights, however, have come under attack and courts' rulings on the matter are not consistent in upholding Indian rights under the treaties (Osburn, 1999/2000).



The U.S.-Canada border stretches 3.987 miles across North America. There are six federally recognized tribes in the U.S. that straddle the international border, but many more whose homelands are in the borderlands region. Map by Nakota Designs. (Click for larger view.)

In the eastern half of North America, the Akwesasne Mohawks retain lands on both sides of the international border. Map by Nakota Designs. (Click for larger view.)

On the southern border dividing the United States and Mexico, Native people are generally unable to employ the same rights as those who live along the Canadian border. The Treaty of Guadalupe Hidalgo (which ended the Mexican–American War in 1848) and the Gadsden Purchase of 1853 separated tribal lands in the southern part of the United States. Due to the region's remote location and sparse population at the time, the U.S. and Mexico did not acknowledge tribal border-crossing rights in these agreements or in subsequent federal laws except with the special case of the Kickapoo Tribe in southern Texas. Due to historical relocations and seasonal migration, Congress

passed an act in 1983 allowing Kickapoo tribal members to freely pass across the U.S.-Mexico border (Osburn, 1999/2000). Until recently, tribes such as the Tohono O'odham in southern Arizona and northern Sonora continued normal travel in their homeland as they had done for centuries, prior to the formation of the foreign-imposed border (Tohono O'odham Nation, 2014).

According to a report issued by the National Congress of American Indians, Congress ignored tribal needs when it approved the Homeland Security Act of 2002, which provided direct funding for states (but not for tribes) for enhanced border security measures (National Congress of American Indians, 2005). And the Department of Homeland Security purportedly failed to consult with tribes when it proposed the Western Hemisphere Travel Initiative (WHTI), which mandates that all U.S. citizens must have a passport or other acceptable WHTI document to re-enter the United States from Canada or Mexico (McMullin, 2006). In April 2008, the WHTI ruled that enhanced identification documents of federally recognized Indian tribes are acceptable alternatives to a passport if they meet specific requirements which are similar to those of states developing WHTI-compliant identification (Allen, 2011).

In March 2011, the Pascua Yaqui tribe, located in southern Arizona, announced the creation of Indian Country's first Enhanced Tribal ID Card that fully complies with the WHTI requirements. The card provides a photograph and personal information that is required on a driver's license, plus a physical description, a unique tribal enrollment number, as well as a fingerprint (Allen, 2011). This allows tribal members to easily pass through border checkpoints when entering the United States, but typically other nations will not recognize the Enhanced Tribal ID Card as an acceptable travel document. In 2010, members of an Iroquois national lacrosse team were unable to travel to the world championships in Manchester, England, because the United Kingdom would not accept Iroquois-issued passports (Merkelson, 2010). In addition, Mexico now requires all U.S. citizens travelling in Mexico to possess a U.S. passport, including tribal members whose homelands border Mexico ("Plan to Journey," 2010).

Increased border control efforts such as the construction of the fence between Mexico and the United States have greatly impacted cross-border tribal relationships. The Indian communities who are affected include the Lipan Apache, the Kickapoo Tribe, Ysleta del Sur Pueblo near El Paso, the Tohono O'odham in southern Arizona, the Kumeyaay in southern California, and the Cocopah of the Colorado River Delta (University of Texas at Austin School of Law, n.d.; Villanueva, 2008).

The U.S.-Mexican border stretches 1,933 miles from the Pacific Ocean to the Gulf of Mexico. This southern borderlands region is has come under great scrutiny, and is closely monitored and patrolled. Map by Nakota Designs. (Click for larger view.)

CASE STUDIES: THE TOHONO O'ODHAM NATION AND THE AKWESASNE MOHAWKS

The Tohono O'odham Nation of southern Arizona and northern Mexico, and the Akwesasne Mohawks in the United States and Canada, are two examples of sovereign tribal nations whose homelands span international borders. They each have their own unique history, culture, language, and religious traditions. Although they both have had to defend their territories and culture from encroaching European powers for more than 400 years, they have experienced colonization differently and have exercised their sovereignty in their own way. Additionally, they each have unique circumstances regarding the amount of land they control, the resources at their disposal, and illicit activities such as drug smuggling and human trafficking that occur in their homeland on both sides of the international border. The tribes have taken different approaches in negotiating with the U.S., Canada, and Mexico, each of which maintain separate policies concerning Indigenous peoples and tribal nations.

The Iroquois, or Haudenosaunee (people of the longhouse) is a confederacy consisting of six nations including the Oneida, Onondaga, Cayuga, Seneca, Tuscarora, and Mohawk. The Mohawk, or Kaiienkehaka (people of the flint), are located in the eastern region of the Haudenosaunee territory, spread throughout New York State and southeastern Canada in the provinces of Ontario and Quebec. There are approximately 28,000 members of the Mohawk Nation; 13,000 live in Canada and 15,000 in the United States (New World Encyclopedia, 2011).

Since European contact in the early 1600s, the Mohawk people have demonstrated an indomitable spirit and a steady persistence to maintain a cultural identity and independence from the European colonizers. During the colonial days, they were caught up in battles between the English, French, and the Americans over control of resources and land. Many thousands died during this time due to disease epidemics and colonial

wars. Following the American Revolution, Great Britain and the U.S. drew an international border along the 45th parallel which split Mohawk territory in two. The Jay Treaty of 1794 between the U.S. and Great Britain, which controlled Canadian territories at the time, reiterated and recognized Aboriginal border-crossing and trade rights. Accordingly, the Mohawks, as well as other tribes, continued to bypass colonial trading restrictions between the two countries (George-Kanentiio, 2006).

In addition to the loss of lands and continued encroachment on Mohawk territories, logging led to massive deforestation, compromising their traditional means of survival. Yet they managed to subsist by adapting old ways to a new environment. Many began to relocate for part of the year, becoming loggers, steelworkers, and boatmen to help support their families. Others made a living by selling crafts. During the prohibition era of the 1920s, the Mohawks' unique location straddling two countries enabled some tribal members to profit from illegally transporting liquor from Canada to the United States, which resulted in confrontations with border agents and police officers (George-Kanentiio, 2006).

Throughout the early 20th century there was a revival of traditional culture and political activism. The Mohawks upheld that their homelands were never surrendered by any "legitimate treaties" and took aggressive political action to demonstrate their right to self-determination. In 1924, the Haudenosaunee rejected the American Indian Citizenship Act, which legally granted U.S. citizenship to Indians. They did not want to endanger their treaty rights by accepting citizenship in what they considered a foreign nation. Additionally, the Haudenosaunee sought international acknowledgement of its nation status from the League of Nations (George-Kanentiio, 2006).

"While it is part of O'odham culture to help those in need, tribal members must now lock up their homes and exercise caution when traversing their lands."

Traditional forms of subsisting off the land were further compromised with the construction of the St. Lawrence Seaway in 1959, which polluted the river valley. A system of locks, channels, and canals, the seaway gave Atlantic Ocean vessels access to the Great Lakes. Mohawk men sought construction work on the project, which helped improve their economic situation, but also alienated some from the land and their traditional tribal customs. Rather than seeking work elsewhere, some Mohawk communities opened up stores and used their sovereign nation status to sell tax-free gasoline and tobacco. High-stakes bingo and casinos soon followed. International smuggling networks sprang up on the highways and waterways that passed through Mohawk territory and across the international borders, which led to an increase in

violence, hijacking, and murder (Bonaparte, 1999/2002). These changes led to great divisions in the community but also brought much-needed jobs and income into the area.

Today, the Mohawks maintain two governing bodies: one traditional council and one Western governmental system imposed on them by the U.S. The people generally did not participate in the non-traditional system, actively resisting the new form of governance. In the last 30 years, however, the elected Mohawk Council and the traditional Mohawk Council have worked on a stronger relationship, but disagreements and deep divisions still surface (George-Kanentiio, 2006).

After 9/11, U.S. scrutiny of the Canadian border increased dramatically. With a greater police presence on and off the reservation, highly profitable human- and drug-smuggling activity on Mohawk lands was sharply curtailed (George-Kanentiio, 2006). Until recently, over 2 million cars crossed the U.S.-Canada border on Akwesasne Mohawk lands every year, including tribal members who frequently traversed it to visit family, shop for groceries, or go to work. In 2009, however, the Canadian government announced plans to arm their border patrol agents at the Mohawk station. The Mohawks regarded armed agents from another country on their land as occupational forces, and in protest, tribal members barricaded the bridge out of concern for the safety of residents and to defend their rights as a sovereign nation. Rather than relenting, the Canadians closed their station and the Mohawks temporarily ferried tribal members across the St. Lawrence River on boats (Mann, 2009; Martin, 2010). To address the border-crossing dilemma, the Canadian Border Security Agency has since set up an official border-crossing corridor on the Canadian mainland, which has caused long delays for tribal members commuting on a daily basis across the border (Coyne, 2012).

While the Mohawks continue to confront and cope with their trans-border dilemmas, the Tohono O'odham Nation, which straddles the U.S.-Mexico border, has its own set of challenges. The Tohono O'odham reservation lands, consisting of 2.8 million acres, are located in southern Arizona and northern Sonora, Mexico. Currently, there are approximately 25,000 Tohono O'odham, most of whom live on the U.S. side of the international border. Approximately 1,500 tribal members live in Mexico, but traditional O'odham lands there are not formally recognized by the Mexican government (Villanueva, 2008). The tribe's biggest employers are its three casinos. Proceeds generated there have helped fund some basic infrastructure and public facilities on the reservation, but the unemployment rate remains high and 40% of the O'odham live below the poverty level (Dougherty, 2007).

The Tohono O'odham are descendants of the Hohokam, who were semi-nomadic farmers. The O'odham were well-established on their lands for centuries before contact with the Spanish in the 1680s. Although some Tohono O'odham adopted the Roman Catholic faith and adopted European livestock and farming patterns, they strived to maintain their traditions and culture as well (Jose, 2009). In 1821, Mexico gained independence from Spain and proceeded to close the Spanish missions throughout the Tohono O'odham homeland. Mexican citizens began encroaching on areas traditionally occupied by the O'odham, leading to increased conflict. Following the Gadsden Purchase of 1853, Tohono O'odham lands were split by the demarcation of the current U.S.-Mexico border. Neither the U.S. nor Mexico consulted with the O'odham when they drew the borderline (Jose, 2009).

With increased migration to the Southwest, disputes over land and water use between the Tohono O'odham and non-Indian ranchers and farmers forced the O'odham to move farther from traditional irrigation sources (Jose, 2009). In 1874, an executive order established a reservation of 71,000 acres for the Tohono O'odham (Dougherty, 2007). In 1916, the federal government set aside more than 2 million additional acres for the reservation. More parcels of land were added over the next 30 years, making it the second-largest reservation in the United States.

The traditional decentralized government of the O'odham focused on the family and clan in each village where there was a headman who helped settle disputes. However, that dramatically changed with the Indian Reorganization Act of 1934, which created centralized tribal governments with a Western-style legislative council. Many tribal members continued to employ their traditional governance system, yet the new system gradually increased its power, as it held the authority to manage tribal funds and interact with other governments.

Currently, the Tohono O'odham control 75 miles of the border between the United States and Mexico. Until recently, the international border had little effect on the O'odham traversing it (Tohono O'odham Nation, 2014). But with the more recent inundation of unauthorized human and drug trafficking and stricter border-crossing laws, the borderline has come to affect the O'odham in many ways.

Border enforcement in other urban areas, such as San Diego and El Paso, has pushed drug smuggling and illegal immigration to more remote areas such as O'odham lands. Indeed, the Tohono O'odham reservation is the second-largest corridor for such illicit activity, which has become increasingly more sophisticated and violent (Dougherty, 2007). While it is part of O'odham culture to help those in need, tribal members must now lock up their homes and exercise caution when traversing their lands (Jose, 2009).

The influx of Mexican immigrants and smugglers on Tohono O'odham land has exhausted the resources of tribal medical facilities, tribal police, and even the tribal trash-removal system. Additionally, smugglers offer as much as $1,500 per person to drive illegal immigrants from the reservation to the Phoenix metropolitan area. With the prospect of quickly earning large sums of money, this can be an attractive if dangerous opportunity for a poverty-stricken tribal member (Jose, 2009).

While the Tohono O'odham would like to put an end to the influx of unauthorized immigrants and drug smuggling on their lands, many are unhappy with enforcement activities and, like the Mohawks, see it as an invasion of a foreign culture on their lands (Dougherty, 2007). The O'odham are now prevented from crossing the border freely, which makes it difficult to collect and transport traditional foods and materials, and to visit family members and sacred sites. The Tohono O'odham Nation must now produce passports and border identification cards for its citizens to enter into the United States. Border agents have been known to detain and deport members of the tribe (Tohono O'odham Nation, 2014). The Homeland Security Department's decision to construct a wall along the reservation border is also controversial with many residents. Tohono O'odham tribal chairman Ned Norris Jr. has formally and repeatedly objected to the construction of the wall, noting threats to wildlife and damage to ancestral burial sites and sacred places (Norris, 2008).

In an effort to study the effects of the fortification of the U.S.-Mexico border, Tohono O'odham Community College is proactively creating a new borderlands studies program which will look at the many issues Indigenous communities who live on international frontiers face, including land use policies and the sociopolitical and cultural ramifications of the borderline. Those who enroll in this program will undoubtedly contribute to the international dialogue and help policy makers address these evolving and complicated issues (Quijada et al., 2015).

CONCLUSION

Although information on past and present U.S. immigration policy and enforcement is readily available, there are few mentions of tribal nations or Native people and how they are affected by these policies. Tribally controlled borderlands, however, are arguably the most vulnerable areas when it comes to the U.S. government's enactment of stricter border control measures. As evidenced by the passage of the Homeland Security Act and the establishment of the WHTI, involving tribes in the decision process was an afterthought. Additionally, states are enacting immigration laws and policies that fail to consider tribal sovereignty or the general concerns of Native people. When a tribal member is outside of reservation lands in states such as Arizona, he or she could potentially be detained or arrested as an illegal immigrant if a police officer makes a misjudgment. It is possible for an Indian person to be "undocumented" because birth certificates were not always issued for home births on reservations until more recently. Moreover, English may be a second language for many traditional O'odham, which could also mislead a police officer or border patrol agent.

Tribes have begun creating WHTI-compliant identification cards which will make entering the United States from neighboring countries easier, but the information required for these cards raises privacy and tribal sovereignty issues. In the current climate, travelling internationally could be a precarious endeavor unless tribal members possess a U.S. passport. Additionally, since tribal borderlands are often located in remote areas, more illegal immigrant traffic and smuggling activity funnels through tribal lands. Yet tribes generally do not have the resources to control such an influx. Allowing states and the federal government to intervene could provide much-needed assistance, but it also raises issues of tribal sovereignty.

The Tohono O'odham and Mohawk nations' circumstances vary greatly. Although they are both tribal nations with the same innate Indigenous rights, the American Indian policies of the U.S., Mexico, and Canada differ greatly. The Tohono O'odham are not legally protected to travel freely in their homelands, whereas the Mohawks' rights to cross the international border are protected by treaty.

The Tohono O'odham are generally poor by Western standards, but perhaps due to their remote geographic location and the vast lands they control, they have largely maintained their cultural identity. In their view this makes them wealthy. These cultural values are in danger of being compromised. Since they do not have the resources to control their borders, they allow U.S. and state agents onto their lands. Although the various law enforcement agencies, officials, and entities try to cooperate, many residents resent their presence.

The Mohawk, on the other hand, have a much smaller border area to control and fewer problems with unauthorized immigration. They have more economic power because they

have used their sovereign status and proximity to large, off-reservation cities to start businesses and seek employment. Additionally, historical and current examples illustrate that the Mohawks have shown that they are willing to strategically take political and even military action to defend their interests.

Just like most developing nations in our global society, tribes need assistance. As evidenced by the Tohono O'odham Nation, managing tribal borders may be preferable, but not feasible. Partnerships that are beneficial to all involved and respectful of Native cultures and sovereignty are necessary to sustain a healthy future. The proposed borderlands studies program at Tohono O'odham Community College could help increase academic discourse on the subject and influence international policy for the O'odham and other Indigenous peoples situated along the international frontier.

It is important for policy makers and citizens alike to continue to educate themselves about Indigenous peoples and tribal issues. With the many problems facing our planet today, perhaps the Western problem-solving approach to the border may not the best answer, since it is Western thinking that arguably created the transborder problems in the first place.

Rachael Marchbanks is publisher of Tribal College Journal.

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http://inthesetimes.com/features/native_american_police_killings_native_lives_matter.html

Tohono O'odham along the US-Mexico Border (Timeline)
http://america.aljazeera.com/multimedia/timeline/2014/5/tohono-o-odham-timeline.html

Caught in the Crossfire: U.S.-Mexico Border Militarization Threatens Way of Life for Native Tribe (Democracy Now!)
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Imaginary Lines, Real Consequences: The Effect of the Militarization of the United States-Mexico Border on Indigenous Peoples (Joseph Kowalski, American Indian Law Journal)
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"Over my dead body': tribe aims to block Trump's border wall on Arizona land (Sam Levin, the guardian)
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Not our borders: Indigenous people and the struggle to maintain shared lives and cultures in post-9/11 North America (Sara Singleton, Ph.D., Border Policy Research Institute Western Washington University)
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