

COMMENT: Land Rights of the Tohono O’odham Nation

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An article from the newspaper *Indian Country Today* highlights how the Trump administration has ignored previous agreements made between Indigenous peoples and the United States federal government. In the article “Consultation? No. Blasting a monument on route to tribal lands,” MacKinley Lutes-Adlhoch (2020) explains how the construction of the border wall will inevitably cut through the Tohono O’odham Nation’s reservation and destroy sacred land. The federal government has policies in place which require them to consult with tribes before using Indigenous lands that are sovereign or deemed sacred. The Trump administration is looking to bypass these policies and has already begun to construct the border on 43 of the 62 miles that belong to the reservation without the Tohono O’odham Nation’s consent.

The Tohono O’odham Nation is a sovereign tribe, as they have their own independent government and laws that do not have any affiliation with the United States federal government (see Tohono O’odham Nation, n.d.). The United States and the Tohono O’odham Nation had an agreement so that if the United States were to do anything on their territory, the tribe must be consulted. For example, the United States should ask the Tohono O’odham before they start blasting on sacred sites, yet President Trump is working to bypass this requirement. Section 102, which the United States government has exercised, gives the government the power to no longer follow previous regulations requiring consultation with tribes and abiding by environmental rules if they would get in the way of the

construction of the border wall. This is one of the many times that the United States government has not honored its policies and treaties with Indigenous tribes. Because of Section 102, the Tohono O'odham Nation stands to lose their territory and sacred sites. This is a violation of several articles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Article 26 of the UNDRIP, for instance, states that "Indigenous Peoples have the right to the lands, territories, and resources which they traditionally owned or occupied" (United Nations, 2007). In this case, the Tohono O'odham have the right to their sacred lands and their lands that intersect the United States-Mexico border. If the Trump administration wants to build the wall, the U.S. government should be required to consult the Tohono O'odham Nation before construction.

According to the Customs and Border Patrol, construction on the border wall that passes through the Tohono O'odham Nation has not completely begun yet. However, the government has started blasting areas to begin the construction. Among the areas that were blasted was a sacred site known as the Organ Pipe Cactus National Monument. This monument and the area around it is sacred to the Tohono O'odham people, as it also includes a burial ground for Apache warriors. Human remains were found during construction, as well as artifacts. The area, which archaeologists confirmed to be significant to the Tohono O'odham's history (as villages, including ceremonial and burial grounds), had dated back around ten thousand years. According to Lutes-Adlhoch (2020), "at least one area where artifacts were discovered has been bulldozed to build a road for wall construction crews." The erasure of cultural and sacred artifacts and the movement of the burial grounds violates Article 11 of the UNDRIP, which gives Indigenous peoples the right "to maintain, protect, and develop" their cultures, including the right to protect their artifacts and historical sites (United Nations, 2007). The Organ Pipe Cactus National Monument should be protected under this article because it is a historical site that serves as a burial ground for the tribe, and because it holds artifacts that date back thousands of years.

The construction of the border wall is not only damaging to the United States' relationship to Mexico, but it is also causing damage to the Indigenous communities located in between the two countries. The Tohono O'odham Nation could lose the most, since the wall is going to cut through their sovereign territory and destroy their sacred monuments and lands. Several articles in the UNDRIP call for Indigenous tribes to be able to protect their sovereign land, historical artifacts, and their sacred land (United Nations, 2007). The United States federal government is repeating the history of not honoring their treaties towards Indigenous tribes and respecting their sovereign territory. By enacting Section 102, the Trump administration is knowingly disregarding the Tohono O'odham's concerns about the construction of the border wall and is taking part in the erasure of their history. The United Nations and rights activists should ally with the Tohono O'odham so their land, history, and identity are not taken from them.

References

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