

Agenda

Civil Society Consultation for the U.S. Universal Periodic Review: El Paso, Texas

March 8, 2010

Welcome and Introduction of Participants

Fernando Garcia, Border Network for Human Rights; Ruthie Epstein, Human Rights First

Panel I: Border Enforcement and Immigrants

Dr. Josiah Heyman, University of Texas at El Paso and Border Network for Human Rights; Vicky Gaubeca, ACLU New Mexico; Robin Hoover, Humane Borders; Dr. Cristina Morales, University of Texas at El Paso; Jennifer Allen, Border Action Network

Panel II: Detention and Removal

Ruthie Epstein, Human Rights First; Annie Sovcik, Human Rights First; Emily Carey, ACLU New Mexico; Leslie Velez, Lutheran Immigration and Refugee Service

Panel III: Border Enforcement and Border Communities

Christian Ramirez, American Friends Service Committee; Fernando Garcia, Border Network for Human Rights; Andrea Guerrero, ACLU; El Paso Sheriff Richard Wiles; Celestino Gallegos, Texas Rio Grande Legal Aid

Panel IV: Colonias

Betty Tercero, Border Network for Human Rights; Veronica Carmona, Colonias Development Council; Gloria Melendez, A.Y.U.D.A.

Panel V: Environmental Protection

Louie Gilot, Border Network for Human Rights; Jay Johnson-Castro, Sierra Club and No Border Wall; Bill Addington, Sierra Club; Mariana Chew, Sierra Club

Panel VI: Economic Justice

Chris Benoit, Paso Del Norte Civil Rights Project; Salvador Reza, Tonatierra/National Day Labor Organizing Network; Tory Gavito, Centro de los Derechos del Migrante; Lorena Andrade, Mujer Obrera; Carmen Rodriguez, Texas Rio Grande Legal Aid

Closing Remarks

Site Visit: March 9, 2010

- **Visit to Colonias East of El Paso**
- **Tour of Port of Entry with U.S. Customs and Border Protection**

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Seven federal agencies participated in this UPR Session: the Department of State, the Department of Homeland Security, the Department of Justice, the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Labor, and the Department of Health and Human Services were represented.

- **Panel I: Border Enforcement and Immigrants**

The moderator of this panel began the discussion by expressing concern about the effects of increased border enforcement on migration trends and migrant deaths. He explained that increased enforcement has allegedly resulted in the funneling of migrants to riskier desert crossing areas. The next participant spoke about labor trafficking, including bonded labor, and the high cost of crossing the border. Other participants discussed the high number of migrants found dead in the border area every year as well as the perceived "militarization" of the border. One participant stated that illegal border crossings are not emergencies as per normal interpretation of national emergencies or national disasters and suggested that the military be removed from the process entirely.

The next panelist discussed what she described as Operation Streamline, which she perceived to criminalize non-violent immigrants who seek work and better opportunities in the United States. She stated that the particulars of cases are often overlooked, for example, if a migrant is a victim of human trafficking. She recommended that Operation Streamline be suspended until there is a full review that addresses its human and civil rights impact.

The last panelist spoke of alleged misconduct by Customs and Border Protection (CBP) agents and vigilantism against migrants by private citizens. The panelist stated that there is a tremendous amount of power in individual officers' hands and recommended strengthening the border patrol hiring process, bolstering training and community relations, and investigating more than just the most egregious civil rights violations. Additional recommendations included a zero-tolerance policy for vigilantism, the appointment of a special investigator to look into abuses, the creation of a database to track incidents and patterns, and the training of law enforcement on the illegality of vigilantism.

Open discussion and oral testimony followed. The criminalization of unauthorized immigrants, smuggler-employer relationships, the use of the military for border patrol activities, and violence and discrimination against immigrants in Maricopa County, Arizona were discussed.

- **Panel II: Detention and Removal**

The panel began with a participant expressing sympathy for residents of neighboring Ciudad Juarez, Mexico, because of its high murder rate, and noting the impact on El Paso. A civil society representative expressed concerns about what she described as the privatization of immigration detention, arbitrary detention of immigrants, arbitrary segregation of immigrants, and the lack of access to consular services in immigration detention. The next participant discussed mandatory detention, opining that the system lacks due process safeguards to prevent undue or prolonged detention for asylum seekers. She recommended that mandatory detention policies be reviewed by the Department of Homeland Security and reformed by Congress.

The last panelist focused on Immigration and Custom Enforcement (ICE) and activities perceived to deprive others of their liberty. She discussed the prolonged mandatory detention of certain immigrants without any judicial or administrative finding that such individuals are a danger to society or a flight risk that would warrant their detention instead of releasing them pending completion of their removal proceedings. She also discussed the challenges faced by immigrants who lack counsel and have to advocate for their release pro se. After mentioning that there are no alternatives to mandatory detention, she recommended that ICE: detain immigrants in the least-restrictive conditions, ensure that it prioritizes risk-assessments to ensure proper classification of immigrants in detention, and increase partnerships between local organizations and the federal government to develop creative solutions to what she described as the problem of mandatory detention.

Next, there was a discussion period and a session where individuals could share their testimonies. First, participants discussed positive progress made concerning the new ICE risk assessment tool. Participants also discussed issues and challenges with conducting removal hearings over video conference. During the testimonial section, one individual mentioned Mexican asylum seekers and the challenges they face.

- **Panel III: Border Enforcement and Border Communities**

The moderator of this panel began the discussion by expressing concerns regarding checkpoints, what she described as arbitrary searches and seizures, and the impact of enforcement on border communities. Next, a panelist described how the Department of Homeland Security's complaint process is not uniform across agencies and the difficulties that are created in filing complaints against immigration agents. She then recommended standardizing a complaint form and process across agencies, designating a community liaison to help with the process, publishing a bill of rights for border residents, publicizing internal agencies' standards, and increasing protections against retaliation for complainants.

A representative from civil society discussed the "border wall" (border security fencing) and how heritage and social and cultural preservation concerns were largely ignored when the wall was built. He also stated that federal statutory authority allowed the Secretary of Homeland Security to waive several environmental procedures. Next, the El Paso County Sheriff discussed

the excellent partnership he has fostered among local, county, state and federal law enforcement agencies. He stressed that local officials do not engage in immigration enforcement, because that is the job of the federal government. He explained that, in his view, local police engaging in immigration enforcement undermines community policing and community. He stated that without that trust and cooperation of immigrant victims and witnesses of crimes, the safety of the community suffers. He also stated that only those who engage in criminal activity and who happen to be undocumented are turned over to ICE. The sheriff noted that the close cooperation with immigrant communities had resulted in significant decreases in crime in El Paso in recent years.

The last panelist shared personal accounts of individuals who have been victims of discrimination by CBP and ICE. Despite this, he claimed that there was an unprecedented level of communication with CBP in the last year, and that the Obama Administration seems to be genuinely concerned about border issues and border communities. The following Question and Answer Period covered issues ranging from racial and ethnic profiling, human trafficking, DHS's 287(g) and Secure Communities programs, to the due process rights of immigrants in immigration proceedings and detention.

- **Panel IV: Colonias**

A civil society participant started the panel by defining *colonias* (neighborhoods near the border with low income and inadequate access to services such as water) and by highlighting several challenges that confront those living in border areas, such as problems with infrastructure, lack of access to potable water, and a lack of adequate housing. She also mentioned the lack of access to materials and information in English. Public meetings, outreach, and code violations are all in English.

The next participant explained the mission of fair housing organizations and how they work in partnership with the Department of Housing and Urban Development. In addition to assessing housing discrimination, the organizations focus on two main areas: civil rights and a lack of adequate assistance funding. The next speaker discussed the working group on *colonias* that is currently conducting activities at the state level. Additionally, he related that the majority of individuals living in *colonias* were underrepresented and underemployed. He supported the previous speaker's argument that a lack of access to water was the most significant challenge facing community members. Another challenge he discussed was the isolation that many individuals face in *colonias*, as well as difficulties in accessing emergency services, grocery stores, and fellow community members.

A testimony and discussion session followed. One participant stressed the need for social and physical infrastructure, jobs and training. The next individual stated that youth need to have a greater voice because decisions made about adults also affect children. The discussion period focused on water issues.

- **Panel V: Environmental Protection**

The moderator of this panel began the discussion by stating that environmental degradation has negative impacts on the life, health, property, and security of community members, especially minorities. The first panelist, a State Senator, discussed the bankruptcy of the ASARCO company, and what he believed was its role in causing severe environmental degradation due to incinerating hazardous waste and its disproportionate impact on the Mexican-American population. He also highlighted an acute lack of healthcare professionals in the area, noting that the shortage will be exacerbated by the expansion of Fort Bliss.

The next panelist mentioned complications regarding “border wall” infrastructure, including alleged subsequent flooding and negative impacts where animals and the environment are vulnerable and therefore endangered. Next, a participant discussed water as a human right and how community members are either not receiving enough water or receiving contaminated water. He also mentioned ASARCO. The final panelist discussed issues such as for-profit prisons, the North American Free Trade Agreement (NAFTA), the war on drugs, nuclear waste, and the need for more hospitals in the area.

The following testimony and discussion sessions covered topics such as criminal prosecution, negative impacts on sacred sites along the border, and local healthcare needs.

- **Panel VI: Economic Justice**

The moderator began the discussion by noting an increase in wage and hour violations. He also mentioned the increase in employer intimidation, threats, and other violations. The next speaker discussed the perceived increase in the racial profiling of day laborers and stated that local police have begun to take it upon themselves to implement the immigration laws. He concluded his statement by recommending ending enforcement-only practices and family separation, and by calling on the U.S. Government to support the UN Declaration on the Rights of Indigenous Peoples.

The next speaker called on the U.S. Government and employers to focus on and promote guest-worker visas. She also identified three flaws in the guest-worker visa programs: recruitment fraud, workers being tied to a single employer, and what she described as the disruptive manner in which guest workers often must return to their home countries. She recommended enforcing H2B (temporary worker visa) visas via contracts, providing workers with the ability to seek redress and to stay in the country even once visas have run out, and allowing workers to receive another visa following their return to their home countries.

The next issue covered the challenges faced by migrant women, such as poor factory conditions in the *maquilas*. Participants said that after NAFTA, many factory jobs were transferred outside of the country and thousands of migrants lost their jobs, most of whom were women and heads-of-household. Some interlocutors mentioned that because of a language

barrier, educational and training opportunities through community colleges often do not reach economically displaced populations. Finally, the last panelist stated that the economic needs of the border are often ignored and argued that the government has a bias toward interior populations rather than border populations.

The concluding discussion session covered possible upcoming changes to the H2B visa program and complications regarding the U visa (for immigrants who are victims of crimes).

- **Site Visits**

The federal delegation visited three *colonia* locations, and learned that many *colonias* arise out of illegal subdivision of the land by landowners. While the land transaction itself is legal in Arizona, Texas, and New Mexico, the subdivision is not. This often results in landowners failing to obtain the requisite building permits and therefore cannot get city or county water, sewer, or gas services to their homes. This also means that the homes are usually uninsured. In the first *colonia*, the delegation heard how women who reside there often meet with a local civil society organization in order to learn more about their rights. Some of the challenges they face include lack of access to water, transportation, stores, and recreational areas for their children.

The delegation heard specific examples of obstacles that result from poor transportation. For example, school buses often do not reach the children. Additionally, the nearest public hospital is 15 miles from the *colonia*, and since it is the only public facility in El Paso, it is the only hospital that does not ask for insurance or information regarding the immigration status of patients. However, this also means that there are longer waits for service. Regarding water, *colonia* residents must carry it in containers sometimes up to five miles. It is often unclean, and the monthly cost for the containers is significant. Concerning housing, some individuals buy trailer homes while others build one room and add on. The location visited by the delegation was a cinderblock home without running water or a sewer or septic system. Residents in this particular *colonia* do see the police, but not CBP officers.

The second *colonia* the delegation visited consisted of homes that appeared well kept, but were likely not built to code, were uninsured, and without access to water, gas, and sewer. The third *colonia* included a high school and community center for the estimated 15,000 residents, of whom it was estimated that approximately 50% are undocumented. While this site does have water and electricity, a group of approximately 60 community members meets weekly with a local organization to discuss human rights and to monitor the activities of the CBP and ICE.

Later that afternoon, CBP provided a tour of the border and the Border Patrol and port of entry facilities at Paso del Norte, one of the four border crossings in El Paso. El Paso has had border fences since the 1960s. During the tour, Border Patrol agents explained how a combination of fencing, personnel and technology is used to achieve their main goal of gaining

control over the borders. The border tour included an area where cross-border crime used to occur regularly prior to installation of fencing.

At the El Paso Processing Center, men, women, and youth are held separately, while families are kept together. CBP works so that individuals are held at the facility for 24 hours or less. Additionally, the station has a new child coordinator that screens individuals for victims of trafficking. The CBP officer who led the tour ended the visit by discussing her close working relationship with a local organization, and stressed that close CBP and civil society cooperation was a theme for the El Paso sector.