



Native Nations and U.S. Borders

Challenges to Indigenous Culture,
Citizenship, and Security

Rachel Rose Starks ▪ Jen McCormack ▪ Stephen Cornell

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Porcupine caribou herd, a vital resource for the Gwich'in people, near the Alaska-Canada border (see Spotlight, pp. 74–75; photo courtesy U.S. Fish and Wildlife Service)

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Native Nations Institute for Leadership, Management, and Policy
at the
Udall Center for Studies in Public Policy, The University of Arizona

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by Rachel Rose Starks, Jen McCormack, and Stephen Cornell

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Udall Center for Studies in Public Policy

The University of Arizona

803 E. First St., Tucson, AZ 85719

(520) 626-4393

udallcenter.arizona.edu

About the Authors



photos by Chrysantha Gakopoulos

Rachel Rose Starks

Rachel Rose Starks is research coordinator and senior researcher with the Native Nations Institute at the University of Arizona. Raised in the Pueblo of Zuni, N.M., she learned at an early age the importance of a strong education within a capable instructional system. She has a B.A. in sociology from Wheaton College, Illinois, and an M.A. in sociology from the UA.



Jen McCormack

Jen McCormack is a research analyst at the Native Nations Institute at the University of Arizona. She earned a B.A. in geography and photography from the UA, an M.A. in Middle Eastern studies from the University of Texas at Austin, and is a Ph.D. candidate in the School of Geography and Development and in the American Indian Studies Program at the UA.

Stephen Cornell is director of the Udall Center for Studies in Public Policy at the University of Arizona, where he also is a professor of sociology and a faculty associate with the Native Nations Institute. He has spent much of the last 25 years working with Indigenous nations and organizations—mostly in the United States but also in Canada, Australia, and New Zealand—on governance, economic development, and tribal policy issues. He also is co-founder and co-director of the Harvard Project on American Indian Economic Development.

About the Native Nations Institute

The Native Nations Institute for Leadership, Management, and Policy, housed at the University of Arizona's Udall Center for Studies in Public Policy, serves as a self-determination, governance, and development resource for Indigenous nations in the United States, Canada, and elsewhere. NNI was founded in 2001 by the Morris K. Udall Foundation (now Morris K. Udall and Stewart L. Udall Foundation) and the UA.

Contact the Authors

Native Nations Institute for Leadership, Management, and Policy
The University of Arizona
803 E. First St., Tucson, AZ 85719
(520) 626-0664
nni.arizona.edu



Stephen Cornell

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Ian Record

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ALONG THE YUKON RIVER, A TRANSBOUNDARY WATERWAY

In a border region, the links across the boundary are often as important as the boundary itself.

Introduction

Native Nations and U.S. Borders

International borders are complex places.

In emphatic fashion, they often mark separations: political, legal, cultural, and social, sometimes economic. But borders also are sites of convergence, places where nations, peoples, environments, languages, legal codes, militaries, and so on meet and connect. And often, overshadowed by separation and convergence, there are continuities as well: ecosystems, relationships, and human communities struggling to sustain themselves despite the complications that borders impose upon them.

"We feel we are one family. We have no borders."

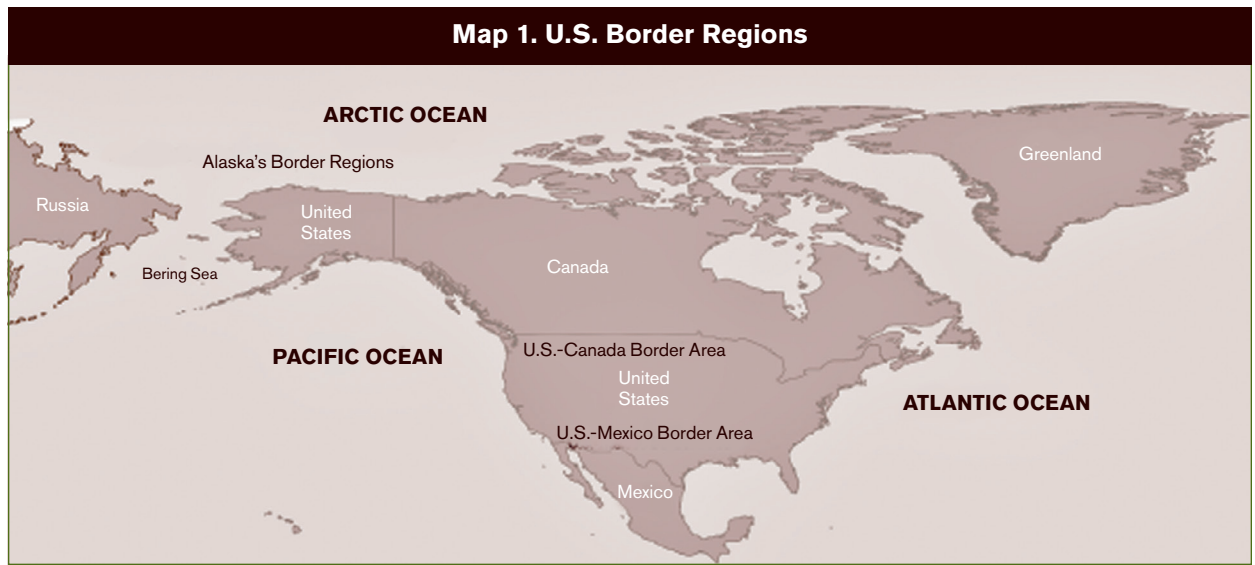
- Fidelia Suarez,
Pascua Yaqui Tribe¹

What borders often fail to be, ironically, is definitive. They mean different things to different people. Much of the population of the United States, for example, may see U.S. borders as critical dividing lines that mark the boundary between "here" and "there," that signify compelling differences between what is familiar and essentially "ours" and another territory that is, in every sense, foreign.

But people who have lived for a long time in a border area may be more likely to focus on critical continuities that the border only partly upsets or obscures. The world that matters most to them is often a local or regional world, where "local" and "regional" embrace both sides of the border. In a border region, the links across the boundary are often as important as the boundary itself.

This is especially the case for Indigenous peoples living near U.S. borders. For them, the two sides of an international boundary may compose a single contiguous space: a homeland, or a network of relationships reaching far back to a distant past, or a set of natural and cultural resources that are used in common and need to be protected and sustained, or perhaps the piece of earth out of which they—the people themselves—originally came.

Such contrasting perceptions are likely to be found wherever Native nations' ancestral and present geographies collide with the contemporary boundaries that separate the United States from Canada, Mexico, and Russia (see Map 1, p. 2). In these regions, Indigenous ideas and practices—many of them multiple centuries old—meet U.S. border policies head-on, raising challenges both for the governments of the countries involved and for Native nations themselves.



Larry Cassen with Jahan Kariyeva

Since September 11, 2001, and with growing political polarization on U.S. immigration issues, these challenges have become more difficult to address. Security is increasingly the focus of U.S. border policy. But policy discussions of security and immigration seldom include Native voices and seldom take Native views into account. And they rarely address how policies designed to protect international borders drastically affect Native nations that live near those borders or are divided by them.

Native Nations and U.S. Borders provides an overview of the historical and contemporary effects of international borders on the Indigenous nations of the United States. We review some of the ways those nations have responded to border-related challenges and discuss policy issues raised by the intersection of U.S. borders and Indigenous peoples.²

This book seeks to inform discussions of border policy at all levels of government—tribal, local, state, and federal—and is intended to be a resource to Indigenous leaders; federal, state, and municipal policy-makers and authorities; researchers; and nongovernmental organizations whose jurisdictions or work involve border regions.

Organization of the Book

The book is divided into the following chapters:

Border Nations: On the Margins, In the Middle describes the scope of the book and introduces the terminology we use. It also outlines five policy areas with which most border nations are particularly concerned: (1) citizenship, (2) crossing rights and border security, (3) cultural concerns, (4) environment and natural resources, and (5) public health and safety. While not all these concerns are addressed in each chapter, they organize much of the material in the book.

U.S. Borders and Indigenous Peoples: A History reviews the history of U.S. borders, summarizes some of the laws and treaties that have shaped the Indigenous border experience, discusses border developments since September 11, 2001, and touches briefly on the treatment of borders in the international discussion of Indigenous rights.

U.S. Border Regions



Gary M. Stolz (courtesy USFWS)

South: U.S. - Mexico border region



Zargon Design at iStock

North: U.S. - Canada border region



U.S. Fish and Wildlife Service

Far North: Alaska's border regions

South: The U.S.-Mexico Border Region is the first of three chapters that examine specific regional issues and the approaches Native peoples have taken to border challenges. We focus particularly on the environment, immigration and security concerns, and on how Indigenous peoples work within an increasingly militarized border zone.

North: The U.S.-Canada Border Region uses a format similar to that of the previous chapter to discuss policy concerns along the U.S.-Canada border and, in particular, the responses to border-crossing issues and the legal and cultural meanings of citizenship.

Far North: Alaska's Border Regions discusses issues facing Native peoples along Alaska's borders with Canada and Russia and in the circumpolar region. These peoples are trying to address not only border crossing and cultural concerns but also the impacts of global climate change, and are reaching across borders in the process.

Conclusion: A Seat at the Table considers current policy issues, possible steps for governments—including the governments of Native nations—to take, and potential forums for discussion and implementation.

The **Bibliography** offers many more sources of border-related material.

Notes

¹ Suarez is from the village of Bacum, Mexico, and represents the Traditional Council of Indigenous Nations in the northwest state of Sonora (Norell, "From the Village.").

² North America is not the only place where contemporary international boundaries cut through Indigenous lands and communities. While policy and legal regimes vary from place to place, many of the border issues found in North America and discussed in this book arise elsewhere as well.



Prescott Vandervoet

PEDESTRIAN WALL ALONG THE ARIZONA-SONORA BORDER

For the most part ... Native nations have been excluded from border policy processes – from nineteenth-century border-making to twenty-first-century border fencing.

Border Nations: On the Margins, In the Middle

1

"It is somebody's border, but not ours."

— Kenneth Hansen,
Samish Indian Nation¹

"Shortly after I stepped off the plane in Russia, a native man came up to me and said in Yup'ik, 'I'm from the Kivak clan. Which clan are you from?' I was speechless. Here was a man from a different country, speaking my native language, telling me he was from the same clan I was!"

— Darele Orr, Yup'ik²

Introduction

Like other American Indian nations, those Native nations situated on or near U.S. borders are not only on the margins of U.S. society—high poverty rates, low employment, poor health, substandard housing, and other socioeconomic indicators place them there³—but are often on the margins of policy-making as well.

Yet these nations find themselves right in the middle of border-related processes: marginally involved in decisions, centrally involved in effects. In a concrete sense, they are on the margins and in the middle. But they remain nearly invisible in both, and their voices on border issues are seldom heard beyond their own communities.

These Native nations and the issues that they face are the focus of this book. In this chapter, we identify and locate what we refer to as “border nations.” We then consider the particular issues of common concern to them.

Scope and Definitions

We consider here those Native nations whose lands and peoples are directly affected by the current international boundaries between the United States and Canada, Mexico, and Russia. We use the terms *American Indian*, *Native American*, and *Indigenous* more or less interchangeably throughout the book to identify or describe Indigenous persons or peoples from the North American continent.

WHAT IS A “BORDER NATION”?

We define an Indigenous border nation as one whose lands or people straddle an international U.S. boundary or are located adjacent to or near such a boundary, or for whom U.S. border policy and activities raise significant challenges.

Admittedly, this conception is imprecise. What does “near” mean? How close to the border? How significant a challenge is required? There are no obvious answers to these questions, and we are aware that what happens along U.S. borders can have powerful effects on distant communities—and vice-versa. In lieu of precision, we have asked ourselves a more general question: does the U.S. international border matter, on a regular basis and in a readily apparent way, in the lives of these nations’ citizens?

This means that our “list” of border nations includes not only those nations whose lands approach or straddle an international boundary but also those that have cultural links or shared histories across those borders or whose sense of peoplehood embraces communities on both sides.

Examples include the Confederated Tribes of Colville, Washington, and the Okanagan communities in British Columbia, Canada. Some of these communities are quite far from the U.S.-Canada border, but they share a great deal, including a Salish language “spoken in present-day British Columbia and Washington, in an area that extends north-south along the Okanagan Valley from what is now Enderby, B.C., through Vernon, Kelowna, Penticton, Oliver, Osoyoos; Oroville, Omak, and Okanogan, Wash.; also north-south along the Sanpoil and Kettle River valleys; and in the area west of the Columbia River as far west as Grand Coulee Dam.”⁴ Not all the citizens of these nations see themselves as one people, but many of them do.

Our definition of a border nation thus includes location and other kinds of connections: culture, language, law, and history.⁵

LOCATIONS OF BORDER NATIONS

In the United States, more than 70 Indigenous nations have reserved or traditional lands that span contemporary international borders with Mexico and Canada, while the Inupiat, Yupik, Aleut, and others occupy territory spreading from eastern Russia through Alaska and into Canada. Of the 40 or so Indigenous nations whose people now live on both sides of an international U.S. border, about a dozen have reservations that either touch or are within a mile of the Canadian or Mexican border. Many more have relationships—including kinship ties—that straddle these borders.

Maps in subsequent chapters identify and locate the border nations whose situations are the sub-

ject of this book. Even here, however, Indigenous conceptions of their lands receive only partial recognition. These maps show Indigenous lands according to current boundaries generally recognized by the United States and other countries. But these boundaries fail to include traditional territories over which some Native nations—particularly in Canada—still assert certain rights.⁶

Policy Issues

Political boundaries, regardless of the proximity of Indigenous peoples, present policy challenges of their own. They automatically create at least two jurisdictions, complicating regional policy-making. They often disregard the contours of natural systems, such as watersheds, raising a host of environmental and resource management challenges. They also create political separations between those areas where problems are most acutely felt—where toxics accumulate, for example—and those areas where solutions might be most efficiently implemented—where those same toxics, for example, are produced.⁷ This last effect has been especially acute for Indigenous peoples.

International borders and the policies that govern them have altered drastically numerous aspects of life for Native nations in border regions, from how they perceive citizenship in their own nations to matters of security, culture, collective identity, language, public health, the natural environment, and the management of resources such as water, lands, and wildlife. For the most part, however, Native nations have been excluded from border policy processes—from nineteenth-century border-making to twenty-first-century border fencing.

But those nations have not been simply passive recipients of border effects. In various ways and to varying degrees, they have responded to these effects, trying to overcome the impacts that imposed boundaries have imposed on them, rebuilding kinship, cultural, and economic links across

Native Nations and Great Lakes Ecosystem Management



NASA

Decisions about the waters, fish, and environment of the Great Lakes (pictured above) are inherently multi-jurisdictional. The **United Indian Nations of the Great Lakes**, an association of Indigenous nations in two Canadian provinces and eight U.S. states, is trying to address this neglect.



Ariel Mack

According to **Frank Ettawageshik** (above), chair of the 2005 meeting of the United Indian Nations and also, at the time, chairman of the Little Traverse Bay Bands of Odawa Indians, “Tribes on both sides of the border are united in developing our own parallel process and ensuring our participation in decision-making involving the management of the Great Lakes.”^a

Note

a. Great Lakes Directory, “Indian Nations Unite.”

borders and forming cross-border coalitions—tribal, inter-tribal, and international—to address border concerns.

One such group, for example, is the United Indian Nations of the Great Lakes, an association of Indigenous nations in two Canadian provinces and eight U.S. states (see sidebar at left). All the nations in the organization are located in or directly affected by the Great Lakes basin, which straddles the U.S.-Canada border.

The message in many such responses is that international borders may have political and legal force, but border nations will continue to see themselves, and attempt to act, as single or allied peoples, sustaining their own conceptions of who they are and exercising rights to manage their own affairs, including those affairs whose scope extends across these boundaries.

Indigenous efforts to address border concerns tend to revolve around recurring issues, some of which are more prominent in one region than another. While the issues are often interconnected, we’ve grouped them into five categories: citizenship, crossing rights and border security, cultural concerns, environment and natural resources, and public health and safety.

CITIZENSHIP

When the United States—in interaction with European powers and later Canada, Mexico, and Russia—established contemporary U.S. boundaries, it seldom took Indigenous nations into account. As a consequence, citizenship has become a prominent and sometimes contentious issue for many Indigenous peoples in the borderlands, particularly where borders cut through their communities and land bases, turning some community members into citizens of one country, some into citizens of another.

The most extreme case is perhaps the northernmost one, where, as Eben Hopson of the Inuit Circumpolar Conference said, “[W]e Inupiat live under four of the five flags of the Arctic coast.”⁸ But this is not only a problem in the far north; no U.S. border has taken the geographies of Indigenous communities into account. In combination with immigration laws and border security practices, the effect has been to undermine and complicate the ways in which community is defined. The result is a citizenship conundrum.

Citizenship and sovereignty

American Indian nations have the right to determine citizenship within their own nations,⁹ a right that finds support also in international understandings of human rights.¹⁰ But while American Indian nations can determine who their own citizens are, their decisions have no necessary implications for American citizenship, which is determined by the U.S. government.

This leads to situations in which some Native nations view relatives living outside the United States as fellow citizens of their own nations, entitled to participate in governance processes and to receive services that their nations provide. But the United States refuses to recognize those same persons as U.S. citizens and prevents them from moving freely within what a Native nation may consider its own lands.¹¹ Indigenous decisions about citizenship, in other words, have minimal force beyond the U.S. border, despite the fact that the border runs through social and political structures that pre-existed the United States and its adjacent international neighbors, Mexico, Canada, and Russia.

This raises a host of questions. Must Indigenous persons maintain only one form of citizenship? Does Mexican citizenship, for example, preclude citizenship in the Cocopah Tribe, located in southwestern Arizona? Does Cocopah citizenship preclude Mexican citizenship? Who decides? How does a person establish or prove citizenship? And how does an Indigenous nation deal with individuals whom it views as citizens but who may lack citizenship in the larger country of which that nation is a part?

Documentation of citizenship

Documentation challenges further complicate the situation. Indigenous persons with proof of U.S. citizenship or immigrant visas can travel across U.S. borders relatively unimpeded. Unfortunately, proving citizenship is often difficult for those without birth certificates—a common situation in some Indigenous communities, particularly isolated ones where births may happen at home. As a re-



Matthew B. Bisanz

In an expression of sovereignty, the Haudenosaunee, also known as the Iroquois Confederacy, have produced their own passports for use in international travel.

sult, obtaining visas is becoming increasingly difficult for Indigenous citizens in Canada and Mexico. Furthermore, some Indigenous people wonder why they would need proof of American citizenship to move freely within traditional homelands where their people long preceded the establishment of the United States.

Some Indigenous nations, determined to act as sovereign peoples, have produced their own passports for use in international travel. The Haudenosaunee, also known as the Iroquois Confederacy (comprising the Mohawk, Oneida, Onondaga, Cayuga, Seneca, and Tuscarora Nations) have their own national passport.¹² The Iroquois National Lacrosse Team has traveled internationally on these documents that read: “You may lose your *Haudenosaunee* nationality by being naturalized in, or taking an oath or making a declaration of allegiance to, a foreign state.”¹³

The Western Shoshone Nation has a passport that Joe Kennedy, one of the Nation’s councilors, used in his travels from North America to Guatemala for the Third Continental Summit of Indigenous Nations and Pueblos of Abya Yala in March 2007. Kennedy remarked, “I feel good and I feel honored

CROSSING THE U.S.-CANADA BORDER Ktunaxa Nation

In addition to passports, there are other options for Indigenous people traveling across borders. For example, the Ktunaxa people include communities in British Columbia, on the Canadian side of the border, and in Idaho and Washington, on the U.S. side.^b

The Ktunaxa Nation Council (KNC) in British Columbia has developed memoranda of understanding (MOUs) with federal agencies to ease crossings for Ktunaxa citizens during ceremonies and special events, with specific attention paid to broader interpretations of citizenship and the handling of sacred objects.^c

Among other provisions, border agents have agreed to participate in cultural training and minimize examination of Ktunaxa citizens, while the KNC notifies border agents of increased traffic connected to special events across the border.

The MOUs provide a practical arrangement between the Ktunaxa people and border officials. Unlike the passport option, an MOU is an “episodic” document but is also an exercise in everyday sovereignty. By preemptively negotiating with border agencies, the Ktunaxa Nation provides protection for its citizens and is represented as an independent entity to both U.S. and Canadian governments.



courtesy Ktunaxa Nation

Ktunaxa dancer

CROSSING THE U.S.-MEXICO BORDER Kumeyaay Tribes

The Kumeyaay people, made up of several groups in present-day California and Baja California, have created their own border crossing procedures, including documenting all Kumeyaay citizens north and south of the border in a Kumeyaay census. This census is available to agencies that regulate passage across the border.

Additionally, the nation has selected Tecate, a historically significant gathering place for its people and a current border crossing point, as its official Kumeyaay port of entry. Interested primarily in relatively brief gatherings, visits, and cultural activities, the Kumeyaay have adopted a “Pass-Repas” program that provides border-crossing cards valid for 72 hours and for travel up to 25 miles north of the border.^d

Through practical experience and the educational efforts of the Kumeyaay tribes, border agents become familiar with these procedures and with tribal citizens. For the Kumeyaay, these procedures, while not ideal, address at least some of the difficulties of maintaining their own community, split as it is between two countries.



Edward Gohlich (courtesy Library of Congress)

U.S. inspection station at the border between Tecate, California and Baja California, the official Kumeyaay port of entry

Notes

- b. Ktunaxa Nation, “Who Are We.”
- c. Ktunaxa Nation Council, “Memorandum.”
- d. Guassac, “Presentation.”

that the Guatemalan authorities welcomed me into their country, recognizing me as a Western Shoshone national.”¹⁴

Again, however, with new travel restrictions in effect, this passport, nor those issued by other Indigenous nations, might not be accepted for international travel.

CROSSING RIGHTS AND BORDER SECURITY

The core of the citizenship issue is the right of an Indigenous nation to decide who is and is not a citizen of that nation—and the status of such citizenship within encompassing states—and therefore able to enjoy the other rights that the nation possesses.

The issue of crossing rights has to do with one of those other rights: the right of free passage of Indigenous persons across certain international boundaries. This right is established in treaties such as the Jay Treaty of 1794 (ratified in 1795) between the United States and Great Britain that promised Indians free passage between the United States and Canada.

Obviously the two issues—citizenship and crossing rights—are related. The Tohono O’odham Nation, for example, whose people and lands are divided by the U.S.-Mexico border, views its own citizens’ relatives south of the border as citizens of the Nation. In their view, all their citizens should be able to move freely among their communities on both sides of the line. But to the United States, those living south of the border are citizens of Mexico and may not enter the United States at will. The issues are related, but they are not the same.

Heightened concerns about immigration and, since 9/11, about security have complicated crossing rights. Both the United States and Canada are paying much greater attention to who crosses their borders and for what purposes. The measures they have put in place to control border crossing have made

passage for Indigenous citizens much more difficult. Particularly along the U.S.-Mexico border, security issues are accompanied by immigration issues.

Concerns about illegal immigration from Mexico have reinforced the effort to strengthen U.S. control of that border. Native Americans, partly because some have lands along the border and partly because they often look Mexican to border officials, are directly affected by these security measures.

Answering questions about citizenship at border crossings can be a political moment for Indigenous people. As Eileen Luna-Firebaugh stated, “A declaration of citizenship in the Tohono O’odham, Mohawk, Blackfeet, Yaqui, Kickapoo, Cocopah, Kumeyaay, or other Indigenous nations ... often results in extended delay and intensive interrogation. Thus, all but the most committed Indigenous activists are forced to simply respond ‘U.S.,’ ‘Mexico,’ or ‘Canada.’”¹⁵

There are security issues along these borders as well, issues that Indigenous nations fully understand. As Joe Garcia, former president of the National Congress of American Indians, has put it, “The Indigenous nations living near and adjacent to the present-day borders are the first to feel the impacts upon their territory from those who seek to do us harm.”¹⁶

Drug-smuggling, other crimes, and potential terrorist activities are all aspects of border security that have direct impacts on Indigenous communities. Large expanses of sparsely populated land (an accurate description of some Indigenous borderlands) often attract illegal activity, and all the more so as border fences and increased patrols show up in more populated places, redirecting criminal operations to less intensively monitored border areas. This in turn puts additional burdens on tribal law enforcement agencies, which are already stretched thin by the combination of inadequate funding and large territories to patrol (see also Spotlight, p. 28).

Pacific Northwest Canoe Journey

Tribal Journeys of the Pacific Northwest is an annual cultural event for the Coast Salish peoples of Washington and British Columbia (see Map 5, Inset A, p. 53) who travel by ocean-going canoes, usually across the international border, to the community of that year's designated host tribe.



photos by Denny Hurtado



CULTURAL CONCERNS

For many Indigenous people, borders also reorganize daily life, cutting across social relationships, cultural practices, and the resources on which both depend. As Louie Guassac, Kumeyaay citizen and official of the Kumeyaay Border Task Force in southern California, expressed it, “We are a broken vase. ... There are pieces of our lifestyle and ways on both sides of the border.”¹⁷

Culture is a theme that runs through most of the policy issues of critical concern to border nations. For many Indigenous nations, culture—loosely defined here as shared understandings and practices—is a core aspect of identity and sufficient grounds for citizenship. Yet the citizenship claims of border nations are often ignored.

Where the border divides Indigenous communities, restricted crossing rights shrink the scope of interaction among persons with shared understandings of the world, shared experience, and often shared language, putting culture itself at risk. Environmental change has had impacts on resources on which some cultural practices depend, destroying them in one area, preserving them in another. Sometimes these areas are on opposite sides of the boundary.

Land lies at the heart of this border-culture relationship. Many Indigenous cultures are rooted in an intimate connection with spe-

cific lands. For most Native nations, spirituality, cultural practices, collective identity, health, and security are interwoven with the land. Julian Burger, of the office of the UN High Commissioner for Human Rights, has argued that the most important distinction between Indigenous peoples and other groups is the land relationship.¹⁸ But Indigenous people often are frustrated that their land perspectives are neither shared nor fully understood by the dominant society.¹⁹ Particularly for those nations still located within their traditional territories, land is much more than physical geography or residential or economic space. It may be home to medicines, holy people, ceremonial sites, and connections to generations of ancestors.²⁰ It is an integral part of collective identity.

Certain spaces carry profound cultural meanings that are captured in stories and long-standing traditions, and are sources of wisdom and spiritual power. They also bear the imprint—often invisible to outsiders—of years and generations of Native experience. Curly, a Crow Indian who lived in what is now Montana in the latter part of the nineteenth century, once remarked of his people’s land that “the soil you see is not ordinary soil—it is the dust of the blood, the flesh, and bones of our ancestors. ... You will have to dig down through the surface

before you can find nature’s earth, as the upper portion is Crow.”²¹

Such perspectives are common among Indigenous peoples. For those nations affected by borders, sustaining these land relationships presents a particular set of obstacles. The creation of borders brought stark divisions—between different legal systems, between different degrees of recognition of Indigenous land rights and tenure, between land-based cultural resources, and between people whose own links to each other were embedded, in part, in a shared landscape that was no longer easily shared.

The border threatens ancient traditions when relatives cannot freely visit each other and when important ceremonies are curtailed or abandoned because the elders who are essential to them are not allowed to cross the border, or because their sacred instruments are mishandled or confiscated by border agents. To address such issues, border nations typically have to work with two very different legal systems and policy regimes—and sometimes two different languages—that are far more concerned with border enforcement than with the cultural and geographical cross-border links that commonly matter so much to Native nations.

Baboquivari Peak, shown here, is sacred to the Tohono O’odham people, some of whom live in the United States, some in Mexico. Caring for and protecting such sites are central activities in the maintenance of Indigenous culture, identity, and community. To do so properly requires access. (photo courtesy U.S. Fish and Wildlife Service)



ENVIRONMENT AND NATURAL RESOURCES

Political borders present inherent challenges for environmental management, including the management of natural resources. Many borders simply ignore the organization of the natural systems through which they run, including the mobility of some resources—air, water, wildlife—within those systems. The western portions of the U.S.-Canada and U.S.-Mexico borders, for example, follow straight lines that have no natural parallels in their regions. Meanwhile, the natural world continues to operate according to its own processes, moving air, water, or animals—or toxic contamination—across those lines as its physical logic determines.²²

In such conditions, effective environmental management requires inter-jurisdictional collaboration. But such collaboration is seldom easy, thanks to the peculiar juxtapositions and asymmetries that borders often produce. International borders in particular often mark important differences in languages, legal systems, political interests, environmental policies, and socioeconomic conditions, among other things.

These challenges and the efforts to address them have direct impacts on border nations, but those nations typically have little control over how such challenges are addressed. Neither do they have, in most cases, much control over the environmental processes that raise these management issues in the first place, from the impacts of migrant border-crossing in the Southwest to the consequences of climate change in Alaska.

Some of the environmental issues that border Native nations face are the same as those facing other border communities. Water scarcity in the Southwest, for example, exacerbated by burgeoning populations, places a premium on developing transboundary institutions that can coordinate sustainable resource use (see Sidebar, p. 43). While some Native nations in the region hold significant rights to water, both Native and non-Native populations

face growing shortages and depend increasingly on the success of these transboundary institutions.²³

There are other issues that distinctively affect border nations. In the Pacific Northwest, for example, U.S. and Canadian fisheries policies have immediate impacts on Native nations. Many of these nations not only have long-standing rights in the salmon fishery but depend on salmon for both cultural and nutritional purposes. Salmon survival—and the Native American relationship to the fish—is caught up in a complex set of tribal, state, national, and international governmental entities, often with conflicting interests (see also, sidebar, p.7).²⁴

The situations of Native nations are distinctive in another way as well. Poet and artist Carol Lee Sanchez has noted that the ancestors of contemporary Native Americans “observed the symbiotic interdependence among plants, creatures and humans. ... [A]s these earliest peoples incorporated this information into their daily lives, they noticed that they prospered more often ... when they ‘walked in harmony’ with each other and their environment. ... [T]hey ritually recited what they had observed. These recitations contained what they had come to believe regarding all the information about the environment.”²⁵

Border activities—legal and illegal—often threaten this “symbiotic interdependence.” Increased human traffic across borders, and fences designed to stop that traffic, alter the behavior of wildlife and affect migration patterns. Off-road U.S. Border Patrol vehicles drive through sacred sites that are unknown to patrol personnel. Thousands of border crossers eventually weave complex webs of beaten trails through lands that have known few human visitors other than tribal citizens, trampling riparian areas on which birds and animals depend, destroying fragile plant and animal life, and leaving mountains of trash behind.²⁶

Some of the affected resources are critical in Indigenous diets, material culture, art, and ceremonial practices. Fear of crime and smugglers along

the borders hinders traditional gathering activities, while the increase in human traffic in some border regions reduces resource availability. Increased pesticide and herbicide use is also of concern, especially as basket-making materials are contaminated.²⁷

In the Arctic north, the Porcupine caribou herd illustrates both the difficulty of managing natural resources in split jurisdictions and the enormous stake that Indigenous peoples often have in the outcome. This huge herd of caribou migrates across some 250,000 square kilometers of the northern Yukon and the Northwest Territories in Canada and a large portion of northeastern Alaska, including the Arctic National Wildlife Refuge. It has long been a primary nutritional and cultural resource for the Gwich'in people (see Spotlight, p. 74–75).

The Gwich'in—Athapaskan people who have occupied the region for many generations—today live in fifteen isolated villages in a vast area on both sides of the international boundary. They continue to depend on the caribou, but effective management of the Porcupine herd requires international agreements, active support for those agreements from the governments involved (which has not always been forthcoming), and an active voice for the Native people on both sides of the U.S.-Canada border. Their livelihood depends on the protection and free movement of the caribou, and they are the ones most intimately familiar with the herd.

In recent years, the threat of oil and gas development in the herd's calving grounds along the coastal plain of Alaska has put new pressures on the resource and on the Indigenous peoples who depend on it. Development may happen in one jurisdiction, but given the mobility of the resource and the critical role it plays in Indigenous lives, that same development can have powerful impacts hundreds of miles away on the other side of the international boundary.

PUBLIC HEALTH AND SAFETY

Closely linked to environmental concerns are concerns with public health. Again, multiple jurisdic-

tions—and other factors—complicate efforts to address these issues (see Spotlight, p. 15).

As Chapters 3–5 of this book show, the environmental–public health dynamics vary by border region. In the U.S.-Mexico border region, for example, the U.S. Environmental Protection Agency has characterized some persistent health problems—water-borne and respiratory diseases—as results of environmental degradation.²⁸ Along the U.S.-Canada border, transboundary air pollution and various marine issues are major concerns. In the Alaska border regions, climate change is leading to degradation of permafrost, rising sea-levels, and mudslides, directly impacting public health infrastructures and causing dietary problems associated with food-source scarcity.²⁹

Emergency management is also a source of concern. In and of themselves, borders cannot contain such possible events as infectious disease outbreaks, hazardous waste spills, floods, or bioterrorism incidents. Adequate public safety requires planning and response processes capable, in effect, of ignoring borders.

Some border nations are becoming involved with other border communities to coordinate emergency management planning and resources. Although these nascent partnerships are promising, they face the usual complexities of inter-jurisdictional collaboration, both between nations and other governmental entities in the United States and across international boundaries (see Spotlight, p. 28).

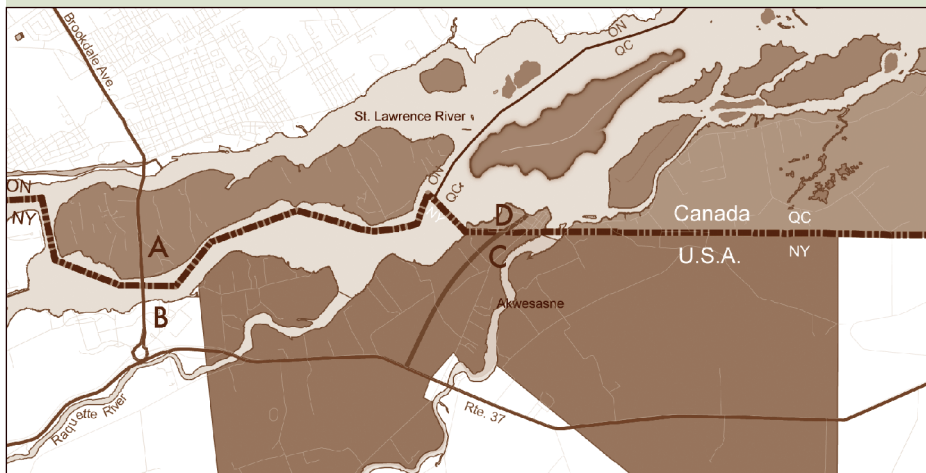
Another problem is that Native nations are peripheral to the U.S. Federal Emergency Management Agency funding process. FEMA funding goes to states and is then disbursed to municipalities. Under the current funding structure, despite their government-to-government relationship with other federal agencies and the fact that some tribal lands are in more than one state, Native nations are treated as municipalities and therefore are subject to the state funding process. Leaders of Native nations argue that it would be both more appropriate and more effective for funding to come to them directly from the federal government.

BORDERLINE HEALTHCARE Akwasasne Mohawk of New York, Ontario, and Quebec

Akwasasne Mohawk territory straddles the international boundary between the United States and Canada along the St. Lawrence River (dark gray areas on Map 2). Their lands in the United States are the St. Regis Indian Reservation in New York State; those in Canada, meanwhile, are divided by the provincial boundary between Ontario and Quebec. Many members of the Akwasasne community cross these boundaries several times a day as they move from one portion of their territory to another.

In fact, to move from the Ontario portion on the north bank of the St. Lawrence River to the Quebec portion further east on the south bank, community members must cross the international boundary from Ontario into New York (B), drive through the New York portion of their lands, and then cross the international boundary again from New York (C) into Quebec (D). The resulting jurisdictional complexities directly affect health care delivery in the Akwasasne community.

Community members often find themselves trying to navigate several different health care systems: Health Canada Ontario, Health Canada Quebec, private insurance in New York, and the U.S. Indian Health Service. Each system has its own idea of where community members can go for care and what kind of care they can receive.



Map 2. Akwasasne Mohawk Territory

Renee La Roi (courtesy Mohawk Council of Akwasasne)

New York, which is less than a mile away from the Quebec clinic. And a nurse certified in Ontario cannot perform duties in Quebec but can make house calls within the Ontario portion of Akwasasne's lands.

In an extreme situation, this jurisdictional maze could have especially serious consequences. If, in an emergency, the border were to close, nurses living in one part of the reservation but certified in another might be unable to get to work—a situation that could similarly affect other community members who live and work in different portions of Akwasasne's territory.

This change in funding would conform to an executive order that formalizes language concerning the government-to-government relationship between Native nations and the United States and requires consultation procedures with tribal governments whenever a federal policy has tribal impact.³⁰ Such consultation is consistent with legal precedent and, importantly, with the right of Native nations to self-determination and self-government.

There is a further issue in certain Native communities. Some Native traditions include a belief that planning for a disaster increases the likelihood that it will happen.³¹ A Mohawk leader explained, for example, that when the community prepares for the future, it invokes the spirits of the future to guide it. The fear, especially prevalent among more traditional elders, is that once the spirits of the disaster have been invoked, they are present and may go into action. Where such beliefs prevail, part of the challenge

of disaster planning is to create a dialogue within the community that can explore the necessary balance between practicality and spirituality and develop culturally appropriate ways of addressing this issue.³²

* * *

These five policy domains—citizenship, crossing rights and border security, cultural concerns, environment and natural resources, and public health and safety—vary in prominence from one border region to another and often within border regions as well. There are regional differences also in the strategies Native nations are using to address their concerns. In the following chapters, we look at both issues and strategies for Native nations in the U.S. border regions with Mexico, Canada, and Russia.

But first, in the next chapter, we provide some historical background on U.S. borders.

Okanagan Valley in British Columbia within the traditional homeland of the Interior Salish peoples (photo from iStock)



Notes

¹ Hansen, "First Nations Approaches."

² Orr is from the village of Gambell on St. Lawrence Island, Alaska. Quoted in Ford, "Thaw of the Ice," 45.

³ See Taylor and Kalt, *American Indians on Reservations*; Harvard Project, *State of the Native Nations*.

⁴ Mattina, *Colville-Okanagan Dictionary*, i.

⁵ Many Indigenous peoples in North America, some of them quite distant from international borders, have found that other political boundaries separate them from lands, resources, and people of great cultural and historical significance to them. Many of those separations were imposed under extreme conditions and against fierce Indigenous resistance; others were fraudulently established. Today, many of these separations raise jurisdictional, social, and cultural issues that are in some ways similar to those of what we are calling border nations. While our own focus, for a variety of reasons, is on the international borders of the United States, we realize that, in some sense at least, all Native nations in the United States are border nations.

⁶ Indigenous concepts of territory tend to be expansive and inclusive, embracing lands, the air above them, both surface and subsurface resources, coastal waters, and ice.

⁷ See Ingram, et. al., "Managing Transboundary."

⁸ Hopson, "Welcoming Address," 1.

⁹ Most Native nations maintain a list of citizens who have the right to participate in tribal politics and to use tribal services. See the discussions of tribal citizenship rights and criteria in Pevar, *Rights of Indians*, and Snipp, *American Indians*. In *Santa Clara Pueblo v. Martinez*, 436 U.S. (1978) at 72, the Supreme Court stated that "A tribe's right to define its own membership for tribal purposes has long been recognized as central to its existence as an independent political community." The criteria Native nations use to determine citizenship vary across nations. Many, following historical federal practices, use blood quanta as key criteria, tracing degrees of ancestry from tribal rolls established by the federal Bureau of Indian Affairs (BIA) in the late nineteenth and early twentieth centuries. (For example, the Crow Tribe requires a $\frac{1}{4}$ Crow blood quantum for citizenship, while the Grand Ronde Community requires a $\frac{1}{16}$ Indian blood quantum; the Citizen Potawatomi Nation determines citizenship simply by proof of descent from an original, federally established tribal roll with no specification of blood quanta).

¹⁰ United Nations, "Declaration on the Rights."

¹¹ See *Ibid.*, and International Labour Organisation, "Indigenous and Tribal Peoples."

¹² See Porter, "Two Rows, Two Peoples." Some nations have tried to assert sovereignty in other ways as well. In 1923, the Cayuga chief Deskaheh "sought justice from the actions of Canada in the League of Nations. ... Deskaheh, who had hoped the bilateral treaties signed between the Haudenosaunee and the British Empire would give him standing in the League, met with 'cruel indifference,' he stated. 'My appeal to the Society of Nations has not been heard.' While he was able to garner the support of the Netherlands and Japan, who sponsored him to address the League, Canada and Great Britain pressured the Secretariat to inform Deskaheh that he would not be allowed as a petitioner before the Plenary Session, and the Cayuga chief was denied a seat in the gallery—even as an observer." Quoted in *Indian Country Today*, "Feeding the Spirits," 2.

¹³ Harvard Project, "Honoring Nations: 2002 Honoree," 23.

¹⁴ Newcomb, "Indigenous Summit," 1.

¹⁵ Luna-Firebaugh, "Border Crossed Us," 2-3.

¹⁶ Quoted in Burns, "U.S. and Canadian Officials," 1.

¹⁷ Arietta, "Nation Divided," 8.

¹⁸ Burger, *Report from the Frontier*.

¹⁹ Bulbulian, "Dancing Around the Table."

²⁰ Taliman, "Borders and Native Peoples."

²¹ Quoted in Dixon, *Vanishing Race*, 141.

²² See Starks and Quijada-Mascareñas, "Convergence of Borders."

²³ See Liverman et al., "Environmental Issues."

²⁴ See Wilkinson, *Messages from Frank's Landing*; and Lichatowich, *Salmon Without Rivers*.

²⁵ Sanchez, "Animal, Vegetable, and Mineral," 210.

²⁶ See Starks and Quijada-Mascareñas, "Convergence of Borders."

²⁷ *Ibid.*, p.61.

²⁸ U.S. Environmental Protection Agency, "Background."

²⁹ Inuit Tapiriit Kanatami, "Background on the Environment."

³⁰ Clinton, "Executive Order 13175."

³¹ Holden, presented by NCAI Director of Emergency.

³² Interview by one of the authors, Akwesasne, ca. July 2006.



Ambroise Tardieu (courtesy Wikimedia Commons and Geographicus Rare Antique Maps)

MAP OF 1810 DEPICTING EARLY STATE OF U.S. BORDER-MAKING

Today, more than a century after the last significant steps in the making of U.S. borders, Native nations are trying once again to play a role in how those borders are conceived, governed, and experienced.

U.S. Borders and Indigenous Peoples: A History

2

"Long before the white man came over to our country, we passed freely over this land. Now since the coming of the Europeans, a border has been set up separating Canadians and Americans, but we never believed it was meant to separate Indians. Our people are one. It is an injustice to separate families and impose restrictions on us, the original North Americans, who once were a free people and wish to remain free."

– Clinton Rickard,
Tuscarora Nation¹

"It is simply wrong that our people, who have lived in our sacred desert since time immemorial, are treated like illegal aliens in our own land."

– Henry Ramon,
Tohono O'odham Nation²

Introduction

Europeans did not introduce the idea of geographical boundaries to North America. The idea was already there. But the spatial boundaries that many Indigenous peoples recognized were often far more fluid, changeable, and porous than the ones they deal with today. While some of those peoples had little sense of fixed or exclusive territories,³ others had powerful attachments to certain lands and guarded those lands against encroachment by others. Even within nations, there were sometimes boundaries that separated hunting or horticultural lands controlled by clans or other social units, or that distinguished common-use places from sacred space.⁴ Many Native nations continue those traditions today.⁵

While Europeans did not introduce boundaries into North America, they added an overlay of boundaries that, while taking little notice of the Indigenous organization or conception of space, eventually came to be imposed on Indigenous peoples and their lands. Furthermore, these new boundaries tended to be neither fluid nor porous but rigid, impervious, and essentially permanent.⁶

Among these new boundaries were today's international ones, specifically the U.S. borders with Mexico, Canada, and Russia. For some Native nations, located far from the contemporary borders of the United States, border impositions had relatively little direct impact (although state and local boundaries have had impacts of their own on American Indian nations). But for others, these new international boundaries—slashing across families, hunting territories, traplines, trade routes, cultural activities, and long-established connections between peoples and places—were hugely disruptive.

Today, as magnified security and immigration concerns dominate the public policy dialogue about borders and border regions, the disruption increases, placing border and inter-jurisdictional issues at the center of many Native nations' policy agendas.

This chapter presents a brief history of U.S. international borders as a preface to the regional chapters that follow. We also look briefly at key border-related developments since September 11, 2001, and at the treatment of borders in the international discussion of Indigenous rights.

U.S.-Mexico Border

The nearly 2,000-mile U.S.-Mexico border begins at the Gulf of Mexico in the east and follows a northwesterly course along the Rio Grande, marking the southern boundary of Texas. Shortly before the river's course turns north, the boundary line turns west and heads, with a jog or two, for the Pacific Ocean.

While much of the border region is sparsely populated desert, it is punctuated by mountains and rivers and by a series of border towns or cities, including two massive urban concentrations, El Paso-Ciudad Juárez and San Diego-Tijuana. About two dozen Indigenous nations straddle, share, or approach the

border (see Map 3, p. 34). This border has a substantial history of its own but, as in the north along the U.S.-Canada and U.S.-Russia borders, Native nations played no direct role in border negotiations.

Those negotiations began in 1819 with the Adams-Onís Treaty between the United States and Spain. This treaty established the western boundary of the Louisiana Purchase, leaving much of what today is the southwestern and Rocky Mountain region of the United States in Spanish hands.

In 1821, Mexico won its independence from Spain. Fifteen years later, Texas, with a substantial population of Americans, declared its own independence from Mexico, and in 1845, over Mexican protests,

U.S.-Mexico Border

The **Tohono O'odham Nation**, located in southern Arizona, shares a 75-mile border with Mexico. The U.S. Department of Homeland Security installed vehicle barriers in some places along the border through Tohono O'odham lands.^a According to the *Christian Science Monitor*, some families "have complained that the vehicle barrier being built on their land desecrates an ancient burial site. And the extra patrols disrupt their daily life."^b

Tribal chairman **Ned Norris, Jr.**, testified at a Congressional field hearing in 2008 that burial grounds already had been affected by barrier construction. "Imagine a bulldozer in your family graveyard," he said.^c

International boundaries have long caused difficulties for border tribes but "those problems ... are now joined with a new set as the government of the United States self-consciously cultivates a perception of a nation under siege"^d



Ned Norris, Jr., chairman of the Tohono O'odham Nation, at the border of the nation and Mexico (photo by Robert G. Varady)



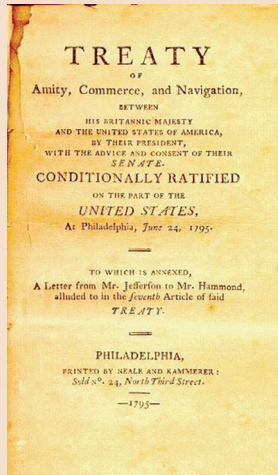
Pedestrian fence along the U.S.-Mexico border (photo courtesy U.S. Fish and Wildlife Service)

Notes

- a. Gaynor, "Indians Complain Graves Dug"; Haddal et al., "Border Security."
- b. Wood, "Where U.S.-Mexico Border," 4.
- c. Norrell, "Chairman Testifies."
- d. Miller, "Conceptual and Practical," 50.

U.S.-Canada Border

The **Jay Treaty**, or Treaty of Amity, Commerce, and Navigation between the United States and Great Britain, was ratified in 1795 and, among other things, recognized the rights of Native Americans residing on either side of the U.S.-Canada border to freely pass from one country to the other.



The Jay Treaty



Creating the swath of the U.S.-Canada border line

became a U.S. state. The subsequent war between Mexico and the United States ended in 1848 with the Treaty of Guadalupe-Hidalgo. In that treaty, Mexico ceded to the United States a huge portion of its territory, including present-day California, most of Arizona and New Mexico, and parts of other states.

This treaty is unusual in the attention it pays to Native Americans. Stating that much of the territory covered by the treaty “is now occupied by savage tribes,” it commits the U.S. government to restrain those tribes from incursions into Mexico and, when they cannot be restrained, to punish them.⁷ In this case, Indigenous peoples were not ignored, but were not directly engaged in the treaty process.⁸

Finally, in 1853, the Gadsden Purchase brought under U.S. control the remainder of present-day Arizona and New Mexico, including the area south of the Gila River from El Paso in the east to the Colorado River.⁹

Much of the land affected by these events was not actually under the effective control of either Spanish, Mexican, or American at the time the treaties and agreements were signed. Indigenous governments dominated the border region. Living and moving more or less freely, some in villages, some nomadically, they were largely unaware as new boundaries, imagined in distant capitals, were laid across their lands and trade routes.¹⁰

None of these treaties included the rights of free passage that the Jay Treaty guaranteed along the U.S.-Canada border (discussed below). With one major exception, Native people in the U.S.-Mexico region may not pass freely from one country to the other. The exception is the Kickapoos, straddling the border between Texas and Coahuila, known in the United States as the Kickapoo Traditional Tribe of Texas, who are able to cross the border at will (see Spotlight, p. 37).

U.S.-Canada Border

A 4,000-mile-long border—twice the length of the U.S.-Mexico border—separates the lower forty-eight states of the United States from Canada, stretching from Maine and New Brunswick on the Atlantic coast to Washington State and British Columbia on the Pacific (see Map 5 and Insets A–D, and Map 6, pp. 53–55).

Water dominates much of the eastern half of the border, including the St. Lawrence River between New York and Ontario, the Great Lakes, and Lake of the Woods where Minnesota meets Ontario and Manitoba. From Lake of the Woods, the border runs west along the 49th degree of latitude, commonly known as the 49th parallel, crossing sparsely populated plains and mountains, to the San Juan Islands and the Strait of Juan de Fuca, separating Vancouver Island in British Columbia from the Olympic Peninsula in Washington State.

This border is largely the result of negotiated treaties between the United States and Great Britain, beginning with the Treaty of Paris in 1783. Ending the Revolutionary War, the treaty established the boundary between the United States and British North America (present-day Canada). Writers of the treaty were ignorant of the geography west of the Great Lakes, making some of its provisions meaningless. The treaty did not address the subject of Native lands.

In 1794, the two countries signed the Jay Treaty (formally known as the Treaty of Amity, Commerce, and Navigation and ratified in 1795). Among other things, it recognized the rights of Native Americans residing on either side of the border to freely pass from one territory to another, to navigate all lakes, rivers, and waters, and to freely carry on trade with one another.¹¹ This provision has caused conflict to the present day.

Twenty years later, in 1814, the Treaty of Ghent ended the War of 1812. While the Treaty did not mention crossing rights, it committed both parties to restore to Native nations any rights and privileges they enjoyed prior to hostilities.¹² Both the Jay Treaty and the Treaty of Ghent also established commissions to resolve certain boundary disputes between the two countries. In doing so, however, it made no mention of Native claims or of Native boundary conceptions, although in subsequent years the United States had to negotiate with a number of nations, such as the Ojibwe (also known as Chippewa or Anishinaabek) in the central Great Lakes, before it could gain practical control of much of the region involved.¹³

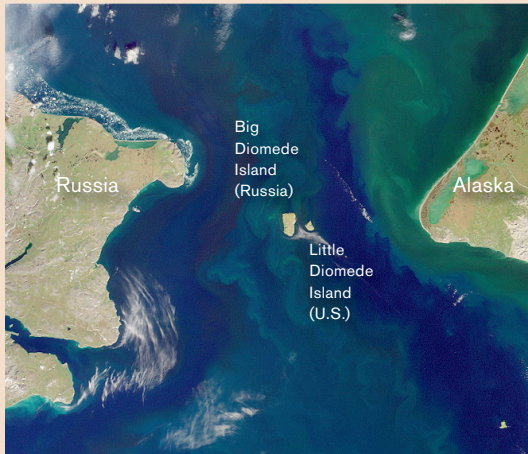
In 1818 yet another treaty sought to clarify remaining geographical confusion. The new treaty set the western boundary from Lake of the Woods to the Rocky Mountains, at the 49th parallel. Neither the United States or Great Britain, at the time, had either control or detailed knowledge of much of the space the treaty covered, largely the domain of Indigenous populations who were unaware that distant powers had drawn a line through their world that eventually would carry enormous legal force.

Finally, in 1846, in the Oregon Treaty, the United States and Great Britain agreed to extend the boundary between them from the Rocky Mountains west along the 49th parallel to the Pacific coast. Again, they largely ignored Native circumstances and interests.¹⁴

Alaska's Borders with Canada and Russia

The United States has not only 4,000 miles of border between its lower forty-eight states and Canada but a 1,500-mile border between Canada and Alaska. Starting at the southern tip of Alaska on the Pacific Ocean coast, the border runs north by northwest, separating Alaska from British Columbia, and then turns north, marking the boundary with Canada's Yukon Territory and following a straight line to the Beaufort Sea and the Arctic Ocean (see Map 8, p. 71).

Alaska's Border with Russia



Big Diomed Island (Russia) and Little Diomed Island (United States) in the Bering Strait (photo courtesy NASA)



A small Native village on Little Diomed Island (photo courtesy NOAA)

An 1867 treaty marking the U.S. purchase of Alaska placed the international boundary between two islands—**Big Diomed Island** (the easternmost point of Russia) and **Little Diomed Island** (part of the United States)—in the Bering Strait. At their closest point, these two islands are only two-and-a-half miles apart.

Great Britain and Russia established the original boundary in 1825. Russia was then the reigning colonial power in Alaska, although its presence was restricted largely to coastal regions. After the United States purchased Alaska from Russia in 1867, Canada (which had become a self-governing Dominion of Great Britain in 1867) and the United States argued over the southern portion of the boundary but reached a settlement in 1903. Once again, Native territorial histories and representations were not part of the negotiations.¹⁵

Nearly a thousand miles to the west, on the other side of Alaska, a narrow expanse of water separates the United States from Rus-

sia. The 1867 treaty marking the U.S. purchase of Alaska placed the international boundary between two islands—Big Diomedé (the easternmost point of Russia) and Little Diomedé (part of the United States)—in the Bering Strait. At their closest point, these two islands are only two-and-a-half miles apart.

Established at the time of purchase, this boundary cut across linguistic, trade, and other social relations that linked the Indigenous peoples of northwestern Alaska with those of far eastern Russia. In the twentieth century, as Cold War tensions between the United States and the Soviet Union mounted, this boundary—informally known as the “ice curtain”—became a major barrier to those relations.

* * *

These U.S. international borders differ not only in their histories but also in the ways they have been perceived over the years. The United States has pointed proudly to the Canadian border as a demonstration of prevailing peace and friendship between the two countries. The border has been unfenced and—until recently—mostly unguarded, and relatively easy to cross. In contrast, U.S. discussions of the border with Mexico tend to treat that border as a problem, reflecting in part the dramatic differences that the border represents.

The United States and Canada share a great deal politically and culturally as well as a similar standard of living. In contrast, the border with Mexico marks substantial differences between cultures, political heritages, and economic conditions. Long before 9/11, the United States invested substantial resources in controlling the border with Mexico and movement across it. Because of this history, when non-specific terms such as “border issues” or “immigration issues” surface in conversation, it is more than likely the U.S.-Mexico border that people are talking about.

The water boundary between the United States and Russia has received little public attention. Few

Americans are probably aware that in mid-winter it sometimes has been possible, though perhaps not advisable, to walk from the United States to Russia across the ice.¹⁶

Few of these perceptions embrace Indigenous peoples, and few of today’s discussions of border issues take Native nations into account. But this was not always the case. As the next section shows, while largely excluded from negotiations and ignored in treaties, Native nations often played a major role in border histories.

Indigenous Role in Border-making

These capsule summaries of the histories of U.S. borders may leave the impression that Native peoples were simply passive recipients of decisions made without their participation. While Native nations were not consulted, they were often a potent presence in events surrounding border-making, shaping border processes through their actions and their economic and political power.¹⁷

For example, powerful southeastern nations—the Creeks, Choctaws, Chickasaws, and others—were major players in the late eighteenth century politics of Spanish-U.S. negotiations over lands from Florida west to Louisiana. The 1783 Treaty of Paris had not specified a boundary between the United States and Spanish possessions in Florida. Much sought after as allies and trading partners, these Indian nations also had agendas of their own and understood how much was at stake as international borders took form. The 1795 Pinckney Treaty, which resolved the boundary issue, undermined the power of the nations by placing most of their lands within the United States. Nonetheless, neither Spain or the United States could ignore the nations. The treaty itself obliged country “to restrain by force all hostilities on the part of the Indian Nations,” and to share “the advantages of the Indian trade.”¹⁸

To the north, the nations of the Iroquois Confederacy (the Mohawk, Oneida, Onondaga, Cayuga, Sen-

eca, and Tuscarora nations) held much of the eighteenth-century balance of power as France, Britain, and an emerging United States struggled with each other for dominance. Colonial borders in the region were uncertain affairs, largely because the Iroquois made them so.

In the aftermath of the American Revolution and the Treaty of Paris, the United States assumed it could simply take lands conceded by Britain in western New York and the Ohio River Valley, thus making its treaty-based border a reality. But it discovered that the Iroquois, who were not parties to the Treaty of Paris, viewed those lands as theirs. The military power of the Iroquois Confederacy forced the United States, exhausted by its conflict with Britain, to change its strategy and try to purchase from the nations' lands it thought it already owned. The border was little more than an imaginary line until the United States dealt with the Iroquois.¹⁹

In the Treaty of 1818, Britain and the United States agreed to joint control of the Oregon Country—the area west of the Rockies. This was land rich with furs. In subsequent decades, the two countries struggled over control of these and other resources and over relations with the Indian nations there. In reality, Indian nations controlled the land and could choose their friends or trading partners, as the Nez Perce did in 1833.²⁰ This struggle formed

part of the background to the 1846 Oregon Treaty that extended the U.S.-Canada boundary from the Rockies to the Pacific coast, further clarifying British (eventually Canadian) and American spheres of influence.

Perhaps the most striking example of tribal influence on border-making comes from Texas and northern Mexico. In the eighteenth and early nineteenth centuries Apaches, Kiowas, Kickapoos, and particularly Comanches played important roles in redrawing the map of North America. During this period, it was not Europeans, Mexicans, or Americans but Indigenous peoples who dominated the Southwest. In particular, over the course of a century or so, an expansive Comanche nation moved out from the southern Rockies to take over control of much of the southern plains and northern Mexico.²¹

By late in the eighteenth century, the Comanches had built a trading and raiding empire on the southern plains whose impact reached far south of the Rio Grande and whose influence exceeded that of the United States or Spain. New Mexico, the northernmost colony of New Spain, was increasingly reorienting its economy away from its metropolitan home to the south and eastward toward the powerful Comanche trading system. Within a few decades, Comanche power would figure in the Texas revolt against Mexico, which was unable to protect

Iroquois Confederacy and Early U.S. Border-making

While Native nations may not have controlled border-making, in many cases they were much more than bystanders. For example, the nations of the Iroquois Confederacy (the Mohawk, Oneida, Onondaga, Cayuga, Seneca, and Tuscarora Nations) held much of the eighteenth-century balance of power as France, Britain, and an emerging United States struggled with each other for dominance. Colonial borders in the region were uncertain affairs, largely because the Iroquois made them so.



Iroquois Indians, ca. 1914 (photo by William A. Drennan, courtesy Library of Congress)

Texas from Comanche violence, and would depopulate much of northern Mexico itself.²²

These developments, according to one historian, “had a lasting hemispheric legacy” as Mexico, weakened by Comanche raiding across the Rio Grande and by Apache raids further west, gradually succumbed to American power.²³ When the United States went to war against Mexico in 1846, the Comanches already had demolished Mexico’s ability to defend its northernmost provinces. “The Native American expansion ... paved the way for the Anglo-American one. ... In each major stage of its expansion, the United States absorbed lands that had been made ripe for conquest by Comanches.”²⁴ The U.S.-Mexico border was a product, in part, of Indigenous actions.

Thus, while Native nations may not have controlled border-making, in many cases they were much more than bystanders. They actively defended their interests and pursued their own agendas in an evolving international system. In the long run, that system overwhelmed them, but initially it had to take them into account.

Once the United States had taken control on the ground over what it had drawn on the map, border-making was followed by state-building: legal systems, decision-making processes, administrative apparatuses, and border policy and enforcement. Along with those went identity construction as well. The message was: those on this side of the line are Americans; those on the other side are something else.

By then, Native nations in the U.S. border regions were no longer much of a factor, and they were excluded, for the most part, from these processes. In subsequent decades, their voices were largely unheard by policymakers. Occasionally they were able to force themselves into the policy process, as the Iroquois nations have done in their repeated efforts to enforce their Jay Treaty crossing rights (see Chapter 4). But such occasions were rare. Until now.

Today, more than a century after the last significant steps in the making of U.S. borders, Native nations are trying once again to play a role in how those borders are conceived, governed, and experienced. In recent decades, for example:

- The Iroquois have again led the defense of crossing rights in the northeast.
- The Tohono O’odham Nation has been in the forefront of the fight over citizenship, crossing rights, and environmental issues along the Mexican border in the southwest.
- The Gwich’in of Alaska and Canada have fought to protect the Porcupine caribou herd as it migrates back and forth through the Arctic National Wildlife Refuge and across the international boundary.
- The Inupiat have joined hands with Arctic peoples around the globe to protect their lands and ways of life from the growing impacts of climate change.
- In a similar manner to the Mohawk-Akwesasne (see Spotlight, p. 28), the Blackfeet Tribe in Montana is working with both the state and the Federal Emergency Management Agency on bioterrorism, avian flu, and other disaster plans.

Such partnerships—along with the intertribal partnerships of the sort illustrated by recent Coast Salish efforts—while largely local or regional in form, are forums for the discussion of policy. These and other Native nations living with international borders are trying to regain a voice in the policy dialogue and reclaim their place in deciding what happens on their lands.

Impact of September 11, 2001

The 9/11 terrorist attacks on the United States dramatically altered American thinking about borders. There was an immediate tightening of U.S. border security, disrupting crossing processes. Security concerns quickly rose to the forefront of border discussions, leading eventually to legislative and administrative actions that had further and significant practical effects.

Prominent among those actions were efforts to establish and require standardized, secure documentation at all ports of entry into the United States. In July 2004, the National Commission on Terrorist Attacks Upon the United States, also known as the 9/11 Commission,

recommended implementing passport or similar identifying documentation requirements for all travelers, including U.S. citizens, when entering the country, regardless of where they were coming from.²⁵

A few months later, the Intelligence Reform and Terrorism Prevention Act of 2004 and its corresponding Western Hemisphere Travel Initiative (WHTI) created comprehensive documentation requirements, including that anyone traveling to and from the United States within the Western Hemisphere must produce a passport or other approved document to cross the border.²⁶



Flags of the United States, Canada, and the Mohawk Council of Akwesasne fly side by side at this border crossing station situated on the Mohawk Akwesasne Nation. (photo by Mike Mitchell)

These new requirements, while seemingly modest, have consequences for Indigenous peoples. Those along the U.S.-Canada border, for example, are concerned that these developments violate their crossing rights under the Jay Treaty.²⁷

But that is not the only concern. Simply obtaining documentation can be a challenge. As mentioned earlier, obtaining a passport requires a birth certificate, something some Indigenous citizens, born at home and often in remote areas, don't have. The new requirements affect their ability to maintain familial and cultural relations with relatives on the other side of U.S. borders.

The late U.S. Senator Ted Stevens of Alaska, talking about WHTI requirements, pointed out that getting documentation into the hands of rural Alaskans—most of whom are Alaska Natives—will not be easy.

MULTI-LATERAL PARTNERSHIPS FOR BORDER SECURITY Akwesasne Mohawk

Some Indian nations have tried to address issues of overlapping jurisdictions through multi-lateral partnerships. The Mohawk Council of Akwesasne and the St. Regis Mohawk Tribe, for example, cooperate with other law enforcement agencies through the Central St. Lawrence Integrated Border Enforcement Team (IBET), pooling resources and working together on border security issues.^e

According to the Royal Canadian Mounted Police website, “IBET regularly conduct operations enabling the team to exercise their command, control and communication capabilities, while generating intelligence related to national security and organized crime as well as creating enforcement opportunities.”^f

The Mohawk Council of Akwesasne also has made agreements with the Emergency Management Office in Cornwall, Ontario, and the Canadian Red Cross to coordinate the care of Akwesasne people if the border were to close during an emergency (see Spotlight, p. 15). The Council also has agreed to assist officials in Cornwall if an emergency should affect other First Nations.

When citizens of the Kashechewan First Nation had to evacuate their flooded villages on James Bay in Ontario and were relocated to various cities, including Cornwall, Akwesasne helped handle health issues, ceremonial activities, and transportation for the evacuees.

These and other similar efforts build new histories of collaboration, and they may, in time, provide a foundation for a more visible national Indigenous presence in the ongoing discussion of border issues.

Notes

e. Participating IBET agencies include Akwesasne Mohawk Police Service, Royal Canadian Mounted Police, Ontario Provincial Police, Sureté du Québec, Canada Customs and Revenue Agency, Citizenship and Immigration Canada, National Law Enforcement and Correction Technology Centre, U.S. Border Patrol, U.S. Customs Service, U.S. Immigration & Naturalization Service, U.S. Attorney’s Office for the Northern District of New York, New York State Police, Community Police Service, and the St. Regis Mohawk Tribal Police.

f. Royal Canadian Mounted Police, “Canada-United States IBET” and “Central St-Lawrence Integrated Border.”

Roberta Lazore



The Akwesasne Mohawk Police are one of several law enforcement agencies that contribute to the St. Lawrence Integrated Border Enforcement Team (IBET).

“We’re going to have to find some way to get people from Holuchuk or Shishmaref or Nome down to Seattle to get a card to enable them to travel. ... I think you’re not waking up. ... The circumstances in rural Alaska are much different than anywhere else. They can’t get those cards.”²⁸

Joe Garcia, former President of the National Congress of American Indians, argued that such policy developments, made in Washington, ignore tribal realities. “The federal government ... has to realize that there are thirty U.S. tribes located right on an international border and there are tribal communities such as the Sault Ste. Marie Tribe of Chippewa Indians where people have many relatives on the other side of the [U.S.-Canada] border and most of the business customers flow back and forth across the line. Tribes must be a part of the decision-making process.”²⁹

Passage of the Secure Fence Act of 2006 raised a new set of issues. The Act authorized the construction of 700 miles of fence or other barriers along the U.S. border with Mexico. By the summer of 2008, construction had bogged down in some areas amid growing controversy over environmental effects, economics, private property rights, waivers of a host of environmental and other laws that hampered fence construction, and other issues, including opposition from some Indian nations.³⁰ By the start of 2011, with large portions of the proposed fence in place, its future was still unclear.

Internationally Recognized Rights of Indigenous Peoples

The international discussion of the rights of Indigenous peoples has long recognized the difficulties that contemporary international boundaries pose. The U.N. Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in September of 2007, states that “Indigenous Peoples have the right to ... be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. ... Indigenous Peoples have the right to maintain ... their distinctive spiritual and material relationships with the lands ... and other resources which they have traditionally owned ... occupied or used, and to uphold their responsibilities to future generations” (Articles 20 and 25).³¹

The World Commission on Environment and Development, in its 1987 report, *Our Common Future*, also devoted a portion of the text to acknowledging the right to promote sustainable development among Indigenous peoples who have been dispossessed but still hold traditional knowledge:

The starting point for a just and humane policy for such groups is the recognition and protection of their traditional rights to land and the other resources that sustain their way of life—rights they may define in terms that do not fit into standard legal systems. These groups' own institutions to regulate rights and obligations are crucial for maintaining the harmony with nature and the environmental awareness characteristic of the traditional way of life. Hence the recognition of traditional rights must go hand in hand with measures to protect the local institutions that enforce responsibility in resource use. And this recognition must also give local communities a decisive voice in the decisions about resource use in their area.³²

According to the International Labour Organization's Indigenous and Tribal Peoples Convention (No. 169), governments are to take measures to “safeguard the rights of the peoples concerned to use lands. ... to which they have traditionally had access for their subsistence and traditional activities. ... The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded” (Article 14, Section 1).³³

Such documents—and there are others³⁴—argue that contemporary governments have to take the situations of Indigenous peoples into account in their

border policies. For Indigenous peoples, the international bodies issuing these statements and reports represent possible forums for presenting their own case for border policies that recognize and accommodate their concerns.

Yet few—if any—American Indian nations argue simply for open borders. They recognize security concerns and take them seriously. Not only do many of them experience the problems of border security every day in their communities, but many have put their lives on the line to defend the United States, and they continue to do so. American Indians have served in disproportionately large numbers in the U.S. military, and have done so with distinction.³⁵

* * *

Having provided in these first chapters an overview of border Native nations and the issues that confront them, as well as a history of international border-making for the United States, we discuss in the following three chapters specific challenges to Indigenous culture, citizenship, and security along the U.S. borders with Mexico, Canada, and Russia. What distresses many Native nations is the invisibility of their concerns in ongoing policy discussions and the fact that border policies typically have been implemented without meaningful consultation with them. For that, they pay a very high price.

Ninastiko (Chief) Mountain, located just south of the U.S.-Canada border, is a revered site of the Blackfoot people. The four nations of the Blackfoot Confederacy (Niitsitapi) are situated on both sides of the border. (photo by Wild Rose Images at iStock)



Notes

¹ Rickard, *Fighting Tuscarora*, 67.

² Carroll, "O'odham Citizenship Bid."

³ See, for example, Helm, *People of Denedeh*, chap. 1.

⁴ See, for example, Trigger, *Children of Aataentsic*, on the Great Lakes region; Sterritt et al., *Tribal Boundaries*, on parts of British Columbia; and Hämäläinen, *Comanche Empire*, 44, on Comanche and Osage boundaries.

⁵ Deloria, *God is Red*; Basso, *Wisdom Sits in Places*.

⁶ Such impositions also had precedents in North America. Indigenous nations sometimes competed with each other for resources and sometimes displaced each other from traditional lands, imposing boundaries upon each other and the landscape. Part of what was different about European and U.S. boundary-making was its extent, its more systematic nature, and the resultant confinement of Indigenous peoples on a catastrophically reduced land base.

⁷ See "Treaty of Guadalupe Hidalgo," Article 11 at http://avalon.law.yale.edu/19th_century/guadhida.asp#art11.

⁸ DeLay, *War of Thousand Deserts*, xiii-xv.

⁹ "The Gadsden Purchase." U.S. Department of State, Official Website. <http://www.state.gov/r/pa/ho/time/dwe/87721.htm>

¹⁰ See, among others, Luna-Firebaugh, "Border Crossed Us."

¹¹ See Jay Treaty, 8 Stat 116, 117-118 (1794), Article III.

¹² Spruhan, "Canadian Indian Free Passage," 301.

¹³ See Bellfy, *Three Fires Unity*.

¹⁴ Harris, "How Did Colonialism."

¹⁵ Treaty of March 30, 1867, 15 Stat. 539; Alaska Department of Community and Economic Development, <http://gov.state.ak.us/trade/2003/tad/russia/timeline.htm>; and Lundberg, "Alaska-Canada Boundary Dispute."

¹⁶ Walsh, "Around the World."

¹⁷ This was partly the product of intercolonial rivalries. As France, Britain, Spain, and eventually the United States struggled for hegemony in the various regions of North America and for access to Native lands, peltry, and alliance, some Native nations were able to play these forces against each other, preserving a degree of autonomy in the process. And in some cases, they did more, imposing their own will on

the colonial powers.

¹⁸ On these relations and developments, see Weber, *Spanish Frontier*; the treaty can be read at http://avalon.law.yale.edu/18th_century/sp1795.asp; the quotes are from Article 5.

¹⁹ See Horsman, *Expansion and American Indian Policy*; White, *Middle Ground*; and Adelman and Aron, "From Borderlands."

²⁰ Josephy, *Nez Perce Indians*, 105.

²¹ See Hämäläinen, *Comanche Empire*.

²² *Ibid.*; See also DeLay, *War; and* Weber, *Spanish Frontier*.

²³ Hämäläinen, *Comanche Empire*, 232.

²⁴ *Ibid.*, 232-33.

²⁵ Gorton, "Western Hemisphere."

²⁶ See list of WHTI-compliant documents at <http://www.dhs.gov/files/crossingborders/travelers.shtm>.

²⁷ National Congress of American Indians, "First International Indigenous."

²⁸ "Stevens Seeks Easier Way," KTVF Fairbanks.

²⁹ National Congress of American Indians, "NCAI and Tribal Leaders."

³⁰ To speed fence construction, the 2005 REAL ID Act (H.R. 418) gave the Secretary of Homeland Security the power to waive any laws that would impede activities undertaken on behalf of national security.

³¹ United Nations, "Declaration on the Rights."

³² Brundtland, *Our Common Future*, 115-16.

³³ The ILO Convention No. 169 was ratified by Mexico on May 5, 1990. It has not been ratified by the United States or Canada.

³⁴ See "International Covenant on Economic, Social and Cultural Rights"; "International Covenant on Civil and Political Rights"; United Nations "Declaration on the Rights" Articles 1,2, 7,10, 21, 25, 27, and 30; "Rio Declaration," Principle 22, and Agenda 21, Chapter 26 and "Convention on the Elimination of All Forms of Racial Discrimination," Article 5.

³⁵ See "20th century warriors: Native American Participation in the United States Military," <http://www.defense.gov/specials/nativeamerican01/warrior.html>.



MEMBERS OF THE TOHONO O'ODHAM BASKET WEAVERS ASSOCIATION

Maintaining the health of the natural environment is vital to borderland nations for a host of reasons: spirituality, collective memory, and natural resources for subsistence, medicinal plants, and basketry.

South: The U.S.-Mexico Border Region

3

Introduction

While Native nations along the U.S. international borders face difficult challenges, the situation is most difficult for Native peoples with land along the U.S. border with Mexico (see Map 3, p.34). This is partly because the U.S.-Mexican border, unlike the border with Canada (see Chapter 4), has long been a region of stark differences and recurrent conflict.

“That border wasn’t our idea; we didn’t put it there. In the old days, people from the different tribes here would go by foot or horseback to a place called Wakuatay—nowadays, I think they call it Campo, California—taking items like suede, antlers, and pine nuts to trade for flour, sugar, and other provisions. They would also go and visit their relatives, maybe work for awhile, or just visit for a few days. ... Nobody needed a passport.”

– Benito Peralta, Paipai¹

“As we see it, we’re one tribe, and we want to service all our people. But the U.S. government doesn’t see it that way.”

– Will Ortega,
Cocopah Indian Tribe²

As mentioned in the previous chapter, most of the course of today’s U.S.-Mexico border was decided in two mid-nineteenth-century treaties. The first and more significant was the Treaty of Guadalupe Hidalgo in 1848 that ended the Mexican War—a war precipitated by the U.S. annexation of Texas—and transferred approximately 40 percent of the Mexican land base to the United States. The second, five years later, was the Treaty of La Mesilla, also known as the Gadsden Purchase. With this treaty, the United States bought from Mexico, for \$10 million, an additional 30,000 square miles of what is now southern Arizona and New Mexico.

The Mexican War and its aftermath left a broad legacy of bitterness and resentment in Mexico, a legacy sometimes deepened by the very different patterns of subsequent development on each side of the international boundary and the growing economic power of the United States.

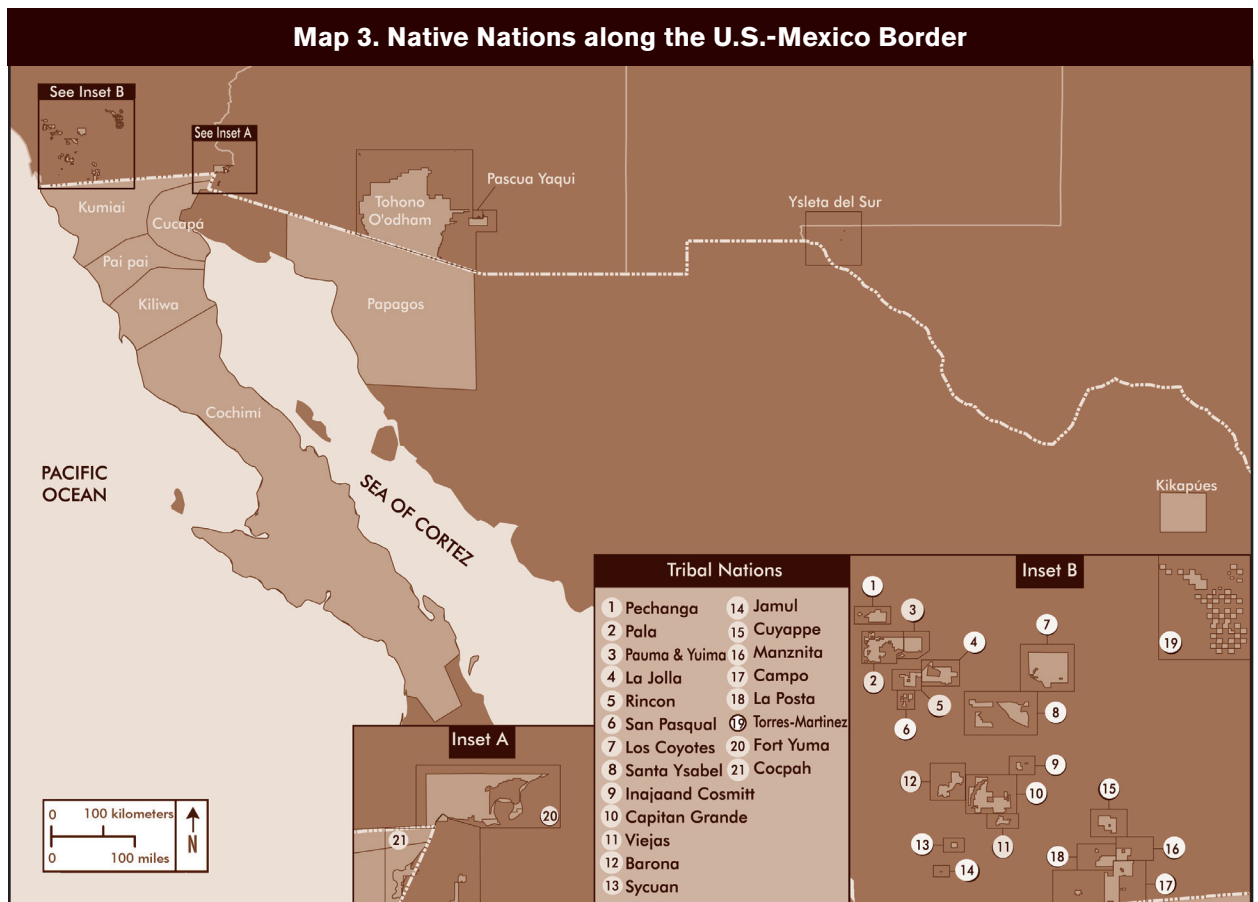
Conflict did not end with the war. In the second half of the nineteenth century, for example, Apache raiders were able to make masterful use of the border to frustrate both U.S. and Mexican militaries during Indian conflicts ranging from west Texas through New Mexico and into Arizona, leading to tensions between the two countries. And in 1910, the start of the Mexican Revolution led to further tensions as conflict between Mexican rebels and the Mexican government moved north toward the United States, leading the U.S. government to send troops to the border. During the late teens and the early 1920s, the United States built a series of military posts along the border to protect U.S. economic interests, and there was discussion of a 1,200-mile-long border fence. A 1919 article in the Bisbee [Arizona] *Daily Review* claimed that “Uncle Sam is building a giant fence along the Mexican border ... while its posts are of wood and other building materials, its rails will be American soldiers.”³

There have been other sources of conflict in the region. The advent of Prohibition in 1920 led to alcohol smuggling across both northern and southern borders of the United States. The Immigration Acts of 1921 and 1924 established immigration quotas, making the passage of certain individuals into the United States illegal, and in 1924, Congress established the U.S. Border Patrol as part of its effort to stem undocumented immigration across U.S. borders.⁴

In recent decades, the U.S.-Mexico border has become the site of vehicle and pedestrian barriers, intensive armed patrolling, National Guard postings, and high-tech surveillance on a scale rarely seen along the U.S.-Canada border and seldom before 9/11. These developments have been accompanied by a shrill debate about border se-

curity that seems muted along the northern U.S. borders.

Another difference between the southern and northern borders is that while First Nations in Canada have significant collective rights to lands and self-governance, the collective rights of Native peoples in Mexico are much more limited, and the services directed to those people by the Mexican government are more limited as well. Among the reasons for this is that government's long-standing emphasis on a cohesive *mestizo* identity—a mixture of European and Indigenous biological and cultural heritages. While that identity honors the historical influence of the Aztec and other Native peoples, it in large part ignores the existence of contemporary Indigenous populations.⁵



Larry Cassen with Jahan Kariyeva

Those who determined the southern boundary of the United States simply ignored the contours of the human societies in its path, drawing their line through the midst of related and often flourishing communities.

The southern border is further distinguished by differences in land-tenure. Rather than a reservation system, Indigenous land tenure in Mexico is largely based in *ejidos*. A departure from the Spanish colonial *encomienda* system, the ejido system includes parcels of land shared by the people of a community (Indigenous or mestizo).⁶ These communal holdings do not translate into formal jurisdiction over Indigenous territory, and the local administration is often shared with mestizo populations.⁷

Despite recent advances in Indigenous political participation in Mexico, participation remains limited by structures that provide Indigenous peoples with little more—and often less—than consultative roles in decisions that affect the lands on which they live. As a result some of the key players in discussions of border issues—Native peoples on the Mexican side—generally go unheard.

Finally, the sun-soaked, semi-arid, and desert environments that dominate this border are vastly different from the U.S.-Canadian and the Alaskan border regions. Water is scarce, the land is fragile, and seemingly modest border activities—people walking north through the desert, a vehicle patrolling off-road—tend to have long-lasting environmental impacts.⁸

Map 3 shows Indigenous lands along or near the U.S.-Mexico border. On the U.S. side, we show reserved lands—Indian reservations. On the Mexican side, where Native peoples lack the kind of jurisdiction over land that American Indian nations hold, we show lands that Native peoples have long inhabited and used but over which they have only limited control.

Citizenship and Crossing Rights

As we have stated earlier, those who determined the southern boundary of the United States simply ignored the contours of the human societies in its path, drawing their line through the midst of related and often flourishing communities. In southern California and southwestern Arizona, for example, border-making left some communities of Tipai-Ipai peoples on one side of the boundary, some on the other. Today, Kumeyaay Indians in southern California have relatives south of the border (the Kumiai), while further east, where the Colorado River crosses into Mexico, the Cocopah (on the Arizona side) and the Cuapá (on the Mexican side), were forced, in the words of the Cocopah themselves, “to end tribal unity.”⁹ Still further east, border-making similarly ignored the fact that the O’odham people lived in villages on both sides of the line, and it cut through Apache territories that straddled the border in present-day Arizona, New Mexico, and west Texas.

ONE PEOPLE, TWO COUNTRIES Tohono O'odham Nation (Arizona and Sonora)

With its lengthy border with Mexico, the Tohono O'odham Nation, located in south-central Arizona, has been at the center of the citizenship issue. While exact numbers are hard to come by, well over a thousand O'odham—and perhaps twice that number—live in Mexico.^a This leads to two issues. One is recognition; the O'odham believe that citizenship in the Tohono O'odham Nation should be sufficient not only for passage across the border—after all, they consider the land on both sides to be, first and foremost, O'odham land—but for U.S. citizenship as well.



Fence stretching across the Tohono O'odham Nation delineating the Arizona-Sonora border, 2006 (photo by Robert G. Varady)

The second issue has to do with documentation. Even for those born and living on the U.S. side, proving U.S. citizenship can be a challenge. Many O'odham citizens are without birth certificates, largely because the reservation is large, many communities are remote, and many citizens are born at home using traditional birth practices. This lack of documentation affects work status, Social Security access, and other benefits, and it makes crossing the border to visit family or take part in ceremonies difficult.^b

While the Nation extends tribal citizenship to O'odham living in nine traditional O'odham communities in Mexico, residents there face the same problem: obtaining the documentation required for crossing the border is often impossible. Furthermore, being considered Mexican citizens by U.S. border authorities but often lacking documentation, they are at risk of arrest and deportation when they go to the Tohono O'odham Nation's capital at Sells to use tribal services such as health care, or to vote in the nation's elections. Even if O'odham were to obtain the proper documents, these would only be accepted at official border crossings, sometimes hundreds of miles away from traditional crossing points much closer to their homes.^c

Notes

a. See Castillo and Cowan, *It's Not Our Fault*; and the discussions in Meeks, *Border Citizens*.

b. Duarte, "Nation Divided"; Carroll, "Border Issues"; and Norris, personal communication, 2008.

c. *Ibid.*

d. Arietta, "Nation Divided"; also Hendricks, "On the Border."

e. Arietta, "Nation Divided," 4.

Between November 2000 and January 2001, a special provision of U.S. immigration law allowed O'odham living south of the border to receive visas for travel to O'odham lands to the north. However, to receive these visas, O'odham first had to obtain Mexican passports, something many simply could not do. Some chose not to try. Margo Cowan, legal counsel for the Nation at the time, explained that some O'odham in Mexico refused to apply for a Mexican passport because "to do so was to deny their own nation."^d

In 2001 and 2003, members of the Arizona delegation in the U.S. Congress introduced bills to make all citizens of the Tohono O'odham Nation citizens of the United States, regardless of residence. So far, these legislative initiatives have failed.

ONE PEOPLE, TWO COUNTRIES

Kickapoo Tribe (Oklahoma, Texas, and Coahuila)

The Kickapoo—Kikapú in Mexico—whose reservation in west Texas is just a few miles from the Mexican border, are the only southern Native nation to secure legislation that grants U.S. citizenship to tribal members on the Mexican side of the border. This is a status that the Kickapoo began negotiating in 1979 to maintain their tradition of living in both Mexico and the United States and to ensure smooth cross-border passage for their citizens.

The Kickapoo migrated south from the Great Lakes region in the seventeenth and eighteenth centuries in the face of pressure from the Iroquois and the French. In subsequent years, some Kickapoo settled in Kansas, the Indian Territory (now Oklahoma), and Texas while others went as far as northern Mexico, hoping to maintain their autonomy and traditions.^f

In 1852, in gratitude for Kickapoo support in the Mexican War, the government of Mexico granted the Kickapoo more than 17,000 acres of land around the present-day town of El Nacimiento in the state of Coahuila, but there was movement among the Kickapoo settlements, north and south of the new border, for years. In the 1870s, U.S. Army troops crossed into Mexico and destroyed the main Kickapoo village there, forcing most of its inhabitants to move to the Indian Territory. But as their lands were broken up and pressure to assimilate increased, many returned to their Mexican lands, viewed by most of them as having become the center of Kickapoo culture.^g



Kickapoo wickiup (above, courtesy Fernando Rosales; right, courtesy US National Archives)

Notes

f. See "Handbook of Texas Online."

g. Pritzker, *Native American Encyclopedia*; Wilken-Robertson, "Indigenous Groups"; and "Handbook of Texas Online."

h. See Texas Band of Kickapoo Act (Public Law 97-429); U.S. Economic Development Administration website, http://www.eda.gov/ImageCache/EDAPublic/documents/pdfdocs/39texas_2epdf/v1/39texas.pdf; Osburn, "Problems and Solutions"; Taliman, "Borders and Native Peoples."

i. See "Handbook of Texas Online."



Cyclical movement across the border continued. Over the years, Kickapoo working as migrant laborers established a significant presence at the border crossing at Eagle Pass, Texas. In 1983, with support from other Kickapoo bands and help from the Native American Rights Fund, the Kickapoo succeeded in obtaining U.S. legislation—the Texas Band of Kickapoo Act—that granted them reservation lands near Eagle Pass and gave them federal recognition. Importantly, it also acknowledged their right to pass freely back and forth across the U.S.-Mexico border.^h

Most of the Texas Kickapoo, however, continue to view Mexico as their primary residence, even as many of them spend May to October or November as migrant laborers in the United States before returning to Mexico, where they spend winter and spring engaged in agriculture, hunting, and ceremony. Today, they work to preserve Kickapoo language, culture, kinship relations, and communal responsibilities as they move back and forth across the international boundary.ⁱ

For some of these groups, as for some of those along the northern boundary, one prominent border legacy is a citizenship conundrum. They see themselves as one people, but their own citizens are divided between two countries. To be part of the Kumeyaay Nation, for example, is not necessarily to be a citizen of the United States, for the border left some Kumeyaay south of the line.

Such Indigenous nations end up with two classes of citizens: those who also are recognized as citizens of the United States and those who are not. The difference is not trivial. It means that some citizens of American Indian nations, living on lands that in some cases are contiguous with reservation lands and were theirs long before the United States came into being, are excluded from significant portions of their own homelands and resources; may be denied services to which their kinspeople are entitled by treaty, court decision, legislative action, or federal policy; and cannot visit freely with some of their fellow tribal citizens without negotiating an international boundary. This complicates Indigenous efforts to sustain long-standing identities, cultures, and social relationships.

In the case of the U.S.-Mexico border, it also complicates the efforts of some nations on the U.S. side to serve the needs of their relatives to the south, including needs for such basic services as health care, infrastructure, clean water, and so on. While often problematic even on the U.S. side, such services may be less available to Indigenous communities south of the border. Divergent U.S. government and Native views of tribal citizens in Mexico can make such service provision a daunting task.

WESTERN HEMISPHERE TRAVEL INITIATIVE: ENHANCED TRIBAL CARDS

As noted in Chapter 2, in June 2009, the U.S. government's Western Hemisphere Travel Initiative (WHTI) changed the documentation requirements for entering the United States. The requirements for more secure documents, and in particular for passports, raised concerns for Native nations along

U.S. borders, where border crossing often involves frequent or recurrent movement within traditional homelands or between closely related communities divided by the international boundary.

The most common document now accepted at border crossing points is a passport that provides electronic security of identification (i.e., using a small, embedded integrated circuit, or "chip"). Some U.S. states (and Canadian provinces) also have developed enhanced driver's licenses that meet the technical security requirements for border crossing.¹⁰

Enhanced security documents are being developed for Native nations through the Enhanced Tribal Card initiative. Beginning in 2009, the Department of Homeland Security and various Native nations agreed to create tribal identification cards with technological security measures that will be accepted for international border crossing.

The first American Indian nation to issue an enhanced tribal ID card that met U.S. federal specifications was the Pascua Yaqui Tribe, whose land is adjacent to Tucson, Arizona. The card facilitates movement by Pascua Yaqui citizens between southern Arizona and Yaqui communities as far south as the Río Yaqui in Mexico (see Spotlight, p. 47)¹¹

As of mid-2010, Homeland Security had made such agreements with five Native nations—Coquille Indian Tribe, Kootenai Tribe of Idaho, Pascua Yaqui Tribe, Tohono O'odham Nation, and Seneca Nation of Indians—and was working on agreements with about 15 other Native nations.¹²

Border Security

For both the United States and Mexico, border security and movement across the international boundary have been issues from the time the boundary was created. But their original concerns were very different from the concerns of today.

Border Solid-waste Cleanup



photos by U.S. BLM

Each day, as dozens, perhaps hundreds, of undocumented migrants move across the **Tohono O'odham Nation**, they leave large quantities of solid waste behind them—by one estimate amounting to 6 tons per day.^j In 2004-05 the Nation undertook a waste characterization project that sorted several tons of solid waste into categories. For the most part, only the most recently discarded material was usable, but the Nation also found 956 bicycles and 120 vehicles—presumably abandoned by migrants—that might be refurbished and used or sold.^k The Tohono O'odham Nation also has applied for federal funding for clean-up operations. Such funds would allow them to increase personnel, expand clean-up efforts into remote areas, develop aerial inspections to better locate waste on their expansive reservation, remove and recycle all abandoned vehicles, and donate repaired bicycles to community members.

Notes

j. Good Neighbor Environmental Board, "U.S.-Mexico Border Environment."

k. Ibid.; Tohono O'odham Nation Cultural Affairs Office, "Tohono O'odham Complain."

In 1848, the primary challenge identified by U.S. and Mexican governments was not human movement from south to north but movement in the other direction, and their focus was on Indigenous peoples—particularly Comanches and Apaches—raiding into Mexico. According to Article XI of the Treaty of Guadalupe Hidalgo, ending the war between the two countries: "Considering that a great part of the territories, which, by the present treaty, are to be comprehended for the future within the limits of the United States, is now occupied by savage tribes, who will hereafter be under the exclusive control of the Government of the United States, and whose incursions within the territory of Mexico would be prejudicial in the extreme¹¹ It is solemnly agreed that all such incursions shall be forcibly restrained by the Government of the United States whensoever this may be necessary; and that when they cannot be prevented, they shall be punished by the said Government."¹³

Today, contemporary Native nations find themselves being punished by developments that have little to do with them: the intensifying U.S. effort to block passage north of undocumented migrants traveling from Mexico, and to control the booming illegal drug trade. The punishment consists, among other things, of restrictions on their own freedom of movement, racial profiling, the militarization of their lands, increased exposure to violence, the degradation of cultural and natural resources, and challenges to their rights of self-rule.

In the 1990s, the U.S. Immigration and Naturalization Service began to tighten border security in heavily trafficked corridors, particularly near urban areas, through a series of initiatives: Operation Hold the Line in El Paso (1993), Operation Gatekeeper in the vicinity of San Diego (1994), Operation Safeguard in the Tucson area (1995), and Operation Rio Grande in the South Rio Grande Valley of Texas (1997). These operations included such security measures as concrete walls, 24-hour video surveillance, and increased patrolling by law enforcement.¹⁴ While the number of undocumented migrants crossing in these urban areas dropped off significantly, the number passing across the border through more remote and often rugged border-region deserts and mountain regions, where security is more difficult to maintain, dramatically increased.¹⁵ This has meant growing traffic across Native lands.

The Tohono O'odham Nation, for example, has become increasingly visible in the political conflict over undocumented migration from Mexico. As mentioned in the Spotlight (p. 36), citizens of the nation, including O'odham living in Mexico, can participate in tribal elections and are entitled to use tribal health facilities and other services in Sells, Arizona, the nation's capital. For generations, O'odham have

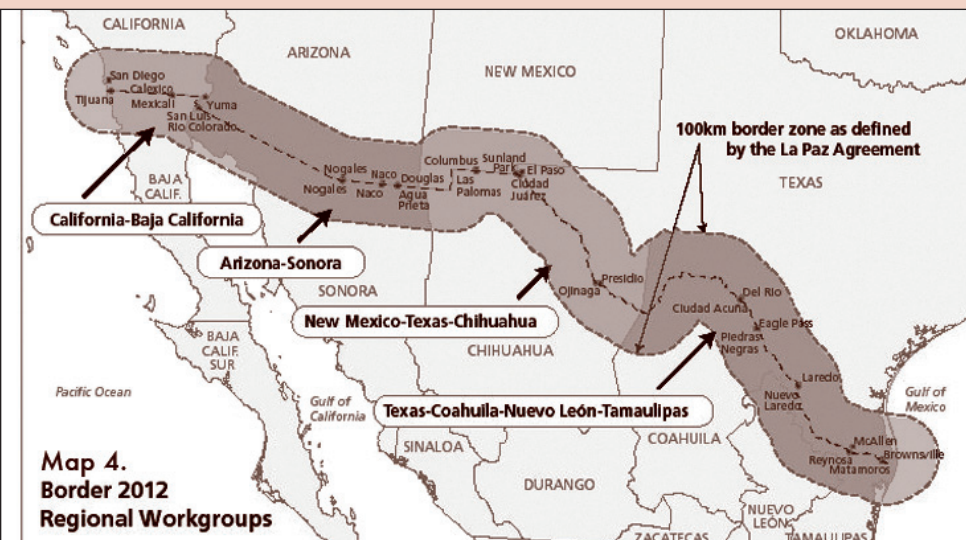
THE BORDER 2012 PROGRAM AND BORDER NATIVE NATIONS

Managing border environmental resources, especially water, has been an issue for both countries. A number of treaties have attempted to adjudicate water rights, including a 1944 treaty to share the Rio Grande, co-supervised by the International Boundary and Water Commission (IBWC) in the United States and the Comisión Internacional de Límites y Agua (CILA) in Mexico.¹ These agencies are based within their countries but meet regularly to analyze water levels and supervise overall distribution.

Expanding the co-management of environmental resources, the federal governments of the United States and Mexico adopted the La Paz Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area in 1983. This agreement empowers federal environmental authorities in the two countries to implement binational environmental programs. The U.S. Environmental Protection Agency (EPA) and Mexico's Secretariat of Environment and Natural Resources (SEMARNAT) serve as national coordinators, working in partnership with each other and with the U.S. Department of Health and Human Services (HHS), the Mexican Secretariat of Health (SS), and other federal, state, local, and tribal governments.^m

The La Paz Agreement formed the legal basis for the binational Border 2012 Program, created in 2001 to address border environmental issues over the following ten years. Border 2012's mission is "to protect the environment and public health in the U.S.-Mexico border region, consistent with the principles of sustainable development."ⁿ

Border 2012 focuses on water and land contamination, environmental health, emergency preparedness and response, and environmental stewardship, emphasizing a "bottom-up, regional approach, anticipating that local decision making, priority-setting, and project implementation will best address environmental issues in the border region."^o



U.S. Environmental Protection Agency

Notes

l. See “Interim News,” April 30, 2002. House Research Organization, Texas House of Representatives, No. 77-7. <http://www.hro.house.state.tx.us/interim/int77-7.pdf>.

m. See U.S. Environmental Protection Agency website, <http://www.epa.gov/usmexicoborder/framework/index.html>.

n. See U.S. Environmental Protection Agency, “What is Border 2012,” <http://www.epa.gov/usmexicoborder/framework/background.html>.

o. Ibid.

p. U.S.-Border Tribes and Mexican Indigenous Communities, “Background” and “Border 2012”; U.S. Environmental Protection Agency, “U.S.-Mexico Border Environment Report.”

q. U.S. Environmental Protection Agency, “U.S.-Mexico Border Environment Report.”

r. Ibid.

s. U.S. Border Tribes and Mexican Indigenous Communities, “Communique.”

t. Weinburg, “Indigenous Peoples.”

Among other things, the Border 2012 Program provides funding to local governments, community organizations, and other entities to address key environmental issues in the border region. EPA has identified twenty-six Native nations that are eligible to receive such help through the program.ⁿ Among the projects funded in recent years are these: ^p

- On the California border with Mexico, the La Jolla Band of Luiseño Indians used EPA funding to build a replacement wastewater treatment facility and drinking water improvement project.
- The Quitovac O’odham Community in Sonora, Mexico—with eighteen homes and a small boarding school—received Border 2012 funding to improve its water supply, replace contaminated, manually dig wells, upgrade water storage, and install a system to distribute water to homes.
- Ysleta del Sur Pueblo, which sits within urban El Paso, has used Border 2012 funding to create an air toxics monitoring program, develop a bio-diesel demonstration project, produce a community awareness video about the proper use and disposal of household hazardous waste and automotive chemicals, and establish a tribal recycling program.
- With the help of Border 2012 funding, the Cocopah Tribe completed a Colorado River restoration project through which they removed invasive salt cedar trees from over 200 acres bordering the river.

While the Border 2012 Program has created many demonstrable accomplishments, Native nations also contend that more funding is needed to create safe drinking water and basic sanitation.^q

Many Native nations are concerned about how pesticide use in Mexico affects air quality in both Mexico and the United States and how off-reservation air polluters—such as the *maquiladoras* in Tecate that are only 26 miles from one Kumeyaay reservation—affect on-reservation air, land, and water quality.^r Native nations also have concerns about receiving sufficient and timely notification about the transport of hazardous waste materials across their lands.

Participation by Native nations in the Border 2012 Program has been complex and not entirely satisfactory, leading to expressions of disappointment with the level of representation and some decisions of the Border 2012 administration.^s Native representatives issued a joint communiqué about issues of concern to them that they felt were sidelined in a 2005 binational declaration on the border environment. In fact, 2005 was the first time Indigenous populations participated in the U.S.-Mexico Border 2012 National Coordinators Meeting.^t

Despite the complications, Native communities have expressed a desire to continue working with Border 2012 toward meeting the shared goals of improved air quality, safe water, and pollution control.

moved north and south across the border to take advantage of these opportunities, to participate in festivals and other events, to visit family members, to work, and to sustain the social and cultural relationships that are the daily fabric of tribal life. They have done so, for the most part, at long-established crossing sites. Although these are not official entry points into either the United States or Mexico, officialdom tended to pay little attention to this continuing, back-and-forth movement.

In recent years, however, as both immigration and security issues along the border have heated up and as migrant routes have shifted from urban areas to more remote regions, bringing thousands more border crossers onto O’odham lands, the O’odham have run into increasing difficulty. U.S. border agents have begun to require proof of citizenship from O’odham travelers and to try to deflect traffic from traditional crossings to official points of entry. This deflection can create significant hardship, turning a ten-or-twenty-mile journey to buy groceries or visit with family into a 100-mile-or-more challenge, much of it on dirt roads.¹⁶ As National Guard troops have been deployed to assist the Border Patrol and local law enforcement, the O’odham communities on both sides of the U.S.-Mexico border find themselves in what feels to many like a militarized zone.¹⁷

The Nation has made its own view of these developments clear. It, too, is concerned about migrant crossing, security, the drug trade, and other border activities. After all, its police force shoulders much of the enforcement burden, exhausting its limited resources on smuggling; its residents experience the threats and sometimes violence from drug and human smugglers; and its land bears the environmental impacts of increasing off-road vehicle and pedestrian traffic.

A seventy-five-mile wall across the middle of O’odham land, said Tohono O’odham chairman, Ned Norris, Jr., would happen over his “dead body.”¹⁹

For these and other reasons, the Nation has cooperated with the Department of Homeland Security on vehicle barriers and surveillance.¹⁸ By 2007, vehicle barriers and high-tech surveillance equipment were appearing along the Tohono O’odham Nation’s border with Mexico, and there was growing federal talk of installing a barrier fence the full length of the boundary.

Yet the nation feels trapped. It is being affected by migrants and smugglers and their related effects, but it cannot simply cut itself off from its own people and lands. “The Tohono O’odham Nation is just as concerned about the security of the United States as any ... American citizen is,” Norris said. But, “We have members of our Nation that traverse back and forth regularly, some on a daily basis. Our members in Mexico are entitled to services our Nation has to offer. ... We didn’t ask for this fence. We didn’t ask for the border. We weren’t asked ... our opinion ... when the border was put there.”²⁰

Environment, Public Health, and Emergency Management

Environmental phenomena and public health issues have in common a tendency to ignore political boundaries: they spread indiscriminately across landscapes and populations. In border regions, addressing these issues effectively almost always requires what borders themselves—and international borders in particular—make difficult: trans-jurisdictional cooperation.

This has been a challenge along the U.S.-Mexico border. In the public health arena, for example, a 2003 article in the *American Journal of Public Health* claimed that over a number of decades, the United States and Mexico have tried to coordinate health policies in the border region, “with little success.”²¹

A number of transboundary institutions have emerged over the years designed to improve international communication and collaboration. These include the Border Environmental Cooperation

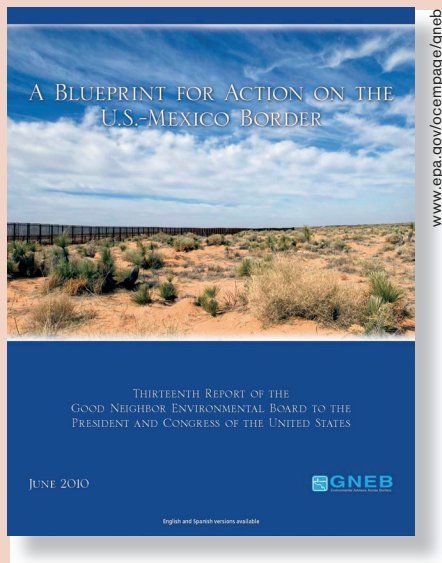
Commission, the Border 2012 Program (see Spotlight, pp. 38-39), the Good Neighbor Environmental Board (see sidebar below), the tri-lateral North American Commission for Environmental Cooperation, and the United States-Mexico Border Health Commission. In addition, emerging social networks that function largely outside of these formal institutions also have been having positive effects on some transboundary issues.²²

At the same time, two developments in recent years have further complicated the tasks facing these institutions and the various stakeholders in the region. In 1994, Canada, Mexico, and the United States adopted the North American Free Trade Agreement (NAFTA). This agreement has led to a dramatic increase in international trade across the U.S.-Mexico border, which in turn has contributed to already rapid growth in the border region. Border populations on both sides are increasing faster than in the rest of either country; the region's population is expected to double within the next two decades.

Border crossings have increased as well.²³ Growth in population, industry, and cross-border movement have led in turn to new or more acute environmental and public health concerns such as inadequate sanitation, limited water delivery infrastructures, declining water and air quality, pesticide and industrial waste contamination, and other ecosystem damage.²⁴

The second development is policy changes having to do with border security. Concerns with illegal immigration and other security issues led Congress to pass the REAL ID Act in 2005. Among other things, this legislation allows the Secretary of Homeland Security, at the secretary's sole discretion, to waive any and all laws—including environmental ones—that delay construction of border fences, barriers, and related roads. This has been controversial in some border communities that have been working to manage environmental problems and now find their own laws being set aside.

Good Neighbor Environmental Board



A number of transboundary institutions have emerged over the years designed to improve international communication and collaboration. These include the Good Neighbor Environmental Board, whose 2010 report to the President, *A Blueprint for Action on the U.S.-Mexico Border*, addresses the complications that arise for Native nations in the border region related to water quantity and quality, habitat and biodiversity conservation, solid and hazardous waste, emergency response, and other issues.

ENVIRONMENT AND NATURAL RESOURCES

Maintaining the health of the natural environment is vital to borderland nations' spirituality, collective memory, natural resource use, subsistence, and traditional medicine. For example, the Kumeyaay in southern California depend on indigenous plants for basketry, food, clothing, housing, and medicine, while the Tohono O'odham use natural bear grass, yucca, and devil's claw to weave baskets that they both use themselves and sell to outsiders.²⁵

The California Indian Basketweavers Association has begun negotiations with the U.S. Forest Service, the Bureau of Land Management, the National Park Service, and the California Department of Parks and Recreation to protect access to these vanishing materials.²⁶ But this is only a partial solution along the southwestern border, where positive steps taken in the United States must be mirrored in Mexico—and vice-versa. Because of the importance of these plants to many Native peoples, increased pesticide and herbicide use on either side of the border is of great concern, especially as basket-making materials are contaminated.

Industrialization and growing human populations in the border region raise additional issues. Industrial and agricultural wastes on both sides of the border affect transboundary aquifers—essential resources in this arid environment—while airborne contaminants such as pesticides, industrial pollutants, and dust from abandoned mines pose threats to community health and damage cultural resources. As these problems have grown, a number of Native nations either have launched efforts of their own to address them or have entered into collaborative relationships with other entities, including governments on both sides of the border, in search of solutions.

PUBLIC HEALTH

Residents along the U.S.-Mexico border face some distinctive health issues, including high rates of certain communicable diseases (for example, the United

States-Mexico Border Health Commission reported in 2003 that U.S. tuberculosis rates in the border region were nearly twice the national rate²⁷) and poor access to health care.²⁸

Health conditions on the Mexican side of the border are in many cases worse. This has led to a good deal of health-related cross-border movement. Some U.S. residents cross into Mexico in search of low-cost pharmaceuticals and other health services, including treatment, while some Mexican residents make the same crossings northward in search of services unavailable in Mexico.²⁹

Citizens of Native nations in the border region face these same problems, although some of them also have distinctive options. O'odham citizens living in Mexico often come to the Tohono O'odham Nation's capital in Sells, Arizona, to take advantage of tribal health services including dialysis, prenatal care, and urgent and routine clinic visits. But, as stated earlier, travel to Sells is increasingly difficult, particularly as border security activities have increased in recent years.³⁰ Some of the more accessible crossing points are no longer open; would-be crossers may be turned back; and such users are a burden on services that are already severely underfunded by the federal government.

A major challenge for the Tohono O'odham Nation is how to provide health care to all of its citizens, regardless of residence. Some Tohono O'odham health care workers transport citizens of the nation from their villages in Mexico to the nation's health center in Arizona. These workers regularly maneuver the dirt roads and interact with law enforcement and border agents as they cross over the border with patients.³¹ The Nation is acutely aware that this is not an effective health-care solution. Unfortunately, for their citizens who remain south of the boundary, it may be the best currently available option.

LOWER COLORADO RIVER RESTORATION Cocopah Indian Tribe

The traditional homelands of the Cocopah people included the Colorado River delta and portions of present-day Arizona, California, and Sonora, Mexico. When the U.S.-Mexico border sliced through these lands, it separated the people into two groups, the Cocopah in the United States and the Cucapá in Mexico. Today, the Cocopah occupy reservation lands along the lower Colorado River, bordering all three states: Arizona, California, and Sonora.^u

A major environmental concern for the Cocopah has been the deteriorating condition of the Colorado River, long a centerpiece of the Cocopah economy and culture. Dramatic reductions in river flows, invasive species of trees and plants, and growing pollution from agriculture, industry, and urban areas have transformed what was once a rich riparian area into a severely damaged ecosystem. The great river that once flowed through and replenished Cocopah lands has been reduced, in relative terms, to a trickle, and the fish and shrimp on which many Cocopah once depended are gone.

At a 2004 cross-border conference on environmental damage in the Colorado River delta, Cocopah leader Don Onésimo González Sáinz remembered the river that once was and said, “This river already died.” His reflection was based on years of fishing and shrimping in the Colorado and watching the steady degradation of the waterway. “The only solution is ... to let the water flow down the river as it once did,” he said.^v



Lower Colorado River ecosystem near the U.S.-Mexico border (photo by Rachel Starks)

Notes

aa. See Cocopah Indian Tribe website, <http://www.cocopah.com>.

bb. Angulo, “Crossborder Organizing,” 1.

cc. See U.S. Environmental Protection Agency, Region 9: Tribal Program website <http://epa.gov/region09/indian/features/cocopah/index>.

dd. *Ibid.*; see also the website of the Cocopah Indian Tribe environmental protection office, <http://www.cocopah.com/environmental.html>.

With funding from the Border 2012 Program and an assortment of federal agencies, the Cocopah Tribe has taken a lead role in an effort to restore what is called the Lower Colorado River limitrophe (an area where different governmental jurisdictions intersect; in this case, “the segment of the Lower Colorado River that serves as the international boundary between the United States and Mexico”).^w On the U.S. side of the border, the limitrophe covers 23 miles of river, 12 of them on Cocopah land.

The project has focused on the removal of invasive species such as salt cedar, the expansion of native trees and plants, and the restoration of more than 350 acres of riparian habitat. In addition, the Cocopah and the National Wildlife Federation have formed the Colorado River International Conservation Area steering committee to develop a long-range environmental management strategy for the limitrophe, including increasing river flows and achieving permanent protection of cultural and biological resources in both the United States and Mexico.^x

EMERGENCY MANAGEMENT

Another issue that border nations face in addressing public health and environmental risk is a lack of information.

The Good Neighbor Environmental Board reported in 2007 that “many tribes in the United States have major transportation and trade corridors that cross through, or are adjacent to, their reservations; yet they do not have information about hazardous waste materials that are being transported along these corridors.”³² The Board pointed to the Torres Martinez Desert Cahuilla Indian Tribe as an example. The tribe’s lands, located by the Salton Sea in southern California, straddle a truck route that funnels hazardous materials between Mexicali and Los Angeles. But the tribe lacks access to truck manifest data that would tell them what these materials are.

This lack of information makes emergency management—disaster response planning, training for first responders, the organization of emergency services, and so forth—difficult. But information is not the only obstacle. Funding for tribal emergency management is scarce. And the border itself—with multiple agencies, governments, and jurisdictions—presents a problem.

Ideally, emergency response would behave the way environmental or public health problems themselves behave, ignoring political boundaries. Unfortunately, when border emergencies occur, border requirements such as crossing documentation, insurance needs, liability concerns, or permission to spend public funds outside the United States can quickly become part of the problem, slowing response times

and deflecting time and energy away from the emergency itself.

Some positive steps are being taken. The Border 2012 Program has established emergency preparedness task forces in Arizona and California in which tribes participate. Some tribes have established cooperative relationships with neighboring, non-Native jurisdictions to coordinate emergency planning and training. A number of the tribes in San Diego County, for example, participate in a Joint Powers Authority that works with county departments on hazardous materials response.³³

Cultural Concerns

When the U.S.-Mexico border crossed through Indigenous communities, it not only separated people whose lives had been deeply intertwined; it left them subject to two very different policy regimes. Native people on the U.S. side of the border were made targets of organized, focused, assimilationist campaigns that devalued their cultures and suppressed Indigenous language use. On the Mexican side of the border, government policy assumed that Indigenous peoples would simply become part of a fundamentally mestizo Mexican population, and for the most part it put fewer resources into targeted programs of cultural change.

As a result, in some cases more traditional cultural practices are to be found south of the border than north of it. The Kumeyaay in Mexico (the Kumiai) who were better able to maintain their language and some of their activities (such as basketry and pottery) than were many of their relatives in southern California, where U.S. policies intentionally ex-



CEREMONIES BEYOND BORDERS

Pascua Yaqui Tribe

Just as languages can be lost when peoples are divided, so can ceremonies and the traditions they embody. For a long time, tribes along the U.S.-Mexico border were able to moderate such losses to some degree because passage across the border, while not always legal, was at least feasible.

For example, the Yaqui Indians once traveled, traded, and lived through much of what is now northwestern Mexico and the southwestern United States, with much of their population concentrated on the Río Yaqui in Mexico. Over time, subject to repeated attacks from the Spanish and then the Mexican government, significant numbers of Yaquis fled the Río Yaqui region, some of them joining Yaquis already living in small settlements in Arizona. Today, despite these separations, Yaquis in Arizona and Mexico share a common identity and, to some extent, a common culture.^y

Notes

ee. See Pascua Yaqui Tribe, “Yaqui History.”

ff. Hays, “Cross-Border Indigenous Nations.”

gg. Medrano, “Pilgrimage to Sonora.” Citizens of the Tohono O’odham Nation also participate in the annual pilgrimage to the Magdalena festival.

hh. Norrell, “Unwanted Patrols Add to Uncertainty.”

ii. McCarthy, “Tribal Summit”; Norrell, “United Nations Rep.”

jj. Tlahtokan Aztlán “Declaration.”

For the Yaquis, maintaining these distant connections remains as important today as it was in the past, when Yaquis moved freely over a vast space.^z Ceremonies and rituals are key elements in those connections. The Deer Dance, for example, brings Sonoran Yaquis north, while the Magdalena Festival becomes a southern pilgrimage for Arizona Yaquis heading into Mexico, creating one of the busiest border crossing days of the year in southern Arizona.^{aa}

While this movement back and forth is a critical element in Yaqui cultural survival, increased border security activities make it harder and harder to maintain. Ceremonial leaders and Yaqui citizens are regularly stopped and sometimes denied passage over the border, and ceremonial materials may be confiscated or handled by persons without the cultural authority to do so.^{bb}

The international boundary also impedes access to sacred sites. In order for Yaqui citizens and those of other border tribes to fully celebrate and sustain their identity as a people, crossing the border is essential (see also Spotlight, p. 9).

In 2003, more than 100 Indigenous leaders met to support the United Nations Permanent Forum on Indigenous Issues and compose their “Plan of Action to Assure the Sacred Birth Right of Indigenous Children and Youth.”^{cc} This declaration asserts their sovereignty over specific sacred sites and supports the protection of people’s rights to revere these spaces and maintain their cultures. The declaration states:

Indigenous Peoples whose nations and territories have been bisected by international borders such as Mexico and the United States (Yaqui, O’odham, Kickapoo, and many other Indigenous Nations) assert the sovereign right to uninhibited ingress and egress across international borders. We demand that the world community of nations respect these inherent rights of Indigenous Peoples and take necessary actions to assure full compliance. This adherence is particularly significant for Indigenous Peoples’ fulfillment of responsibilities for governance, cultural, spiritual, economic, and other meaningful engagement.^{dd}

Sonoran Desert landscape (photo by Chrysantha Gakopoulos)



tinguished some of what was once shared cultural knowledge.³⁴ Today, the maintenance of language and tradition by Kumeyaay in Mexico provides a way for northern Kumeyaay to reincorporate some of their traditions into contemporary life.

Similarly, the Kickapoos in Mexico provide a fund of cultural knowledge for Kickapoos in Texas, Oklahoma, and Kansas. (See Spotlight, p. 37)³⁵

The situation is reversed in the case of the O'odham people. One citizen of the Tohono O'odham Nation has pointed out that O'odham citizens in Mexico not only lack formal legal status as Indigenous people, but "they also lack laws that prevent digging in cultural sites without prior consultation with the community."³⁶ Furthermore, the much larger numbers of O'odham in the United States and the size of the Tohono O'odham reservation mean that the language is more likely to be preserved north of the border than south of it. In Mexico, the numbers are smaller to begin with, and many O'odham have moved away from farming villages to larger towns as they lost their lands to mestizo farmers, losing as well their interactions with other O'odham speakers. Today, it is estimated that only between 100 and 200 of the O'odham in Mexico speak their own language.³⁷ They look to the north for the cultural knowledge many of them have lost.

These facts not only emphasize the importance of exchange and connection for those border Nations—on both sides—seeking to keep cultural knowledge alive today; they also draw attention to the border as an obstacle to such efforts. Language maintenance and revitalization have become pressing concerns in many Native communities as fewer members of the younger generations are likely to be fluent in their Native tongues. But language revitalization becomes problematic when most Native speakers are on the other side of an international boundary. As border crossing becomes more dif-

ficult, these cultural resources are tantalizingly close—but hard to reach.

Summary

The border between the U.S. and Mexico has been the subject of a public rhetoric that is often volatile and violent, with the separate issues of immigration and security fused into one. Native nations along or near this border face a militarization of their homelands unequaled in the north. U.S. border policy has increased patrolling and construction of fences, and has led to, at best, inconvenience and disruption in the daily lives of many Native people and, at worst, to harassment and what Native citizens perceive to be an assault on their sovereignty. With the border fence has come deterioration and destruction of sacred sites and other important cultural and natural resources.

Crossing rights for Native people in the U.S.-Mexico border region take on a different character than along other borders. Without the framework of treaty rights, such as the Jay Treaty that established the U.S.-Canada border, Native nations must seek other methods for legal crossing. For some (the Kickapoos) it has come through a treaty; for others (the Kumeyaay), a negotiated pass/re-pass system with border authorities; still for others (the Pascua Yaqui), adopting the U.S. government's Enhanced Tribal Card.

For Native nations whose lands now reside in the U.S.-Mexico borderlands, their frustration with the hardships created by an imposed boundary is palpable. Yet there is a marked degree of resilience and adaptability, and the determination to maintain their integrity as a people, despite the division of their homelands.

Notes

1. Quoted in Wilken-Robertson, "Yuman Indian Peoples."
2. Quoted in Hays, "Cross Border," 1.
3. Quoted in Swartzwelder "Camp Naco," 6.
4. See U.S. Customs and Border Protection, "U.S. Border Patrol."
5. Lopez, "The Construction of Mexican Identity," 10.
6. Flores-Rodriguez, "Suelo Ejidal en Mexico."
7. Lopez-Barcenas, *Legislacion y derechos indigenas*; Alvarado-Solis, *Papagos*.
8. Sharp and Gimblett, "Assessing Border-Related."
9. See "About the Cocopah Tribe of Arizona," <http://www.cocopah.com/about.html>, accessed August 4, 2008.
10. See U.S. Department of Homeland Security, "Western Hemisphere Travel Initiative," http://www.getyouhome.gov/html/EDL_map.html.
11. See U.S. Department of Homeland Security, "Department of Homeland Security and the Pascua Yaqui Tribe Announce a Historic Enhanced Tribal Card," Press Release, July 30, 2010, http://www.dhs.gov/ynews/releases/pr_1280517554936.shtm.
12. See U.S. Department of Homeland Security, "Secretary Napolitano Unveils DHS Tribal Consultation and Coordination Plan," Office of the Press Secretary, Department of Homeland Security, March 1, 2010, http://www.dhs.gov/ynews/releases/pr_1267461733008.shtm; also U.S. Department of Homeland Security, "Progress Report on the Plan of Action to Develop a Tribal Consultation and Coordination Policy Implementing Executive Order 13175," <http://www.dhs.gov/xlibrary/assets/tribal-plan-of-actionprogress-report-082010.pdf>.
13. See Article XI, Treaty of Guadalupe Hidalgo, <http://www.yale.edu/lawweb/avalon/diplomacy/mexico/guadhida.htm>.
14. U.S. Commission on Civil Rights, "Summary of Migrant Civil Rights."
15. Ibid.
16. Luna-Firebaugh, "Border Crossed Us"; Duarte, "Nation Divided"; and Hendricks, "On the Border."
17. Norrell, "Border Crisis."
18. Ibid.; Archibold, "Border Fence."
19. Quoted in McCombs, "O'odham Chair," B6.
20. Ibid.
21. Homedes and Ugalde, "Globalization and Health," 2016.
22. Laird-Benner and Ingram, "Sonoran Desert Network Weavers."
23. Ibid.; U.S.-Mexico Border Health Commission, "Healthy Border 2010"; and U.S.-Mexico Border Health Commission website, http://www.borderhealth.org/border_region.php.
24. Good Neighbor Environmental Board, "Environmental Protection"; United States-Mexico Border Health Commission, "Border Health 2010."
25. Good Neighbor Environmental Board, "U.S.-Mexico Border Environment."
26. Ibid.; and California Indian Basketweavers Association, "Our Ongoing Work."
27. U.S.-Mexico Border Health Commission, "Healthy Border 2010," 17.
28. Ibid., 21.
29. Ibid.
30. Arietta, "Nation Divided."
31. Ibid.
32. Good Neighbor Environmental Board, "Environmental Protection" 10.
33. Ibid.
34. Crum, "Border Crossings/Crossing Borders."
35. See "Handbook of Texas Online."
36. Laird-Benner and Ingram, "Sonoran Desert Network Weavers," 15.
37. Wilken-Robertson, "Indigenous Groups."



Bahman Mahmoudi

CANADIAN ABORIGINAL FESTIVAL

Native nations have fought to preserve not simply rights to cross a boundary but the integrity of lands that they consider theirs and their right to move among those lands as they see fit.

North: The U.S.-Canada Border Region

4

“We are no longer one family, one nation. We have these outsiders telling us we can’t go across this line.”

– Sophie Pierre, former Chief,
Ktunaxa Nation¹

“Our young people will marry someone from across the river in Akwesasne, only later do they find out that their children will be branded either Canadian or American. They just want to be citizens of the Mohawk Nation. The way the border affects us is that it segregates us from each other.”

– Michael Mitchell,
Akwesasne Mohawk²

Introduction

The Native nations along the 4,000 mile-long border between Canada and the forty-eight contiguous states of the United States are exceedingly diverse (see Map 5, Insets A–D, and Map 6). Their cultures, languages, and histories vary. But they have in common a need to deal, on a more or less daily basis, with an international boundary.

In this chapter we review some of the key issues facing Native nations along the U.S.-Canada border: crossing rights and security, cultural concerns, environment, and public health and safety. We discuss not only the effects of reorganization but also the ways Native nations are trying to address those effects.

Borders and Peoples

When the United States and Great Britain initially drew a line across the continent, separating their two domains, they were only partly aware of what they were doing. The Treaty of Paris (1783), which ended the Revolutionary War, specified that the northern boundary of the United States would extend from Lake of the Woods in northern Minnesota on a “due west course to the river Mississippi.”³ Eleven years later, the Jay Treaty admitted that “it is uncertain whether the River Mississippi extends so far to the Northward as to be intersected by a Line to be drawn due West from the Lake of the Woods,” and agreed that the two countries would undertake a survey of the river to see where it went.⁴

In other words, the western portions of the boundary set by the Treaty of Paris had been products largely of the imagination. It was years before either country knew just where the boundary lay, and it wasn’t until 1874 that joint Canadian and American teams nailed down some of the more remote parts of the line.⁵

The geographical confusion evident in the early border-making process was matched by an ignorance of the area’s peoples and political communities. The 49th degree of latitude, for example, established by the Treaty of 1818 as the northern U.S. boundary between Lake of the Woods and the Rocky Mountains, ran right through the lands of the Niitsitapi, or Blackfoot Confederacy—peoples sharing a common language and culture and a common understanding of the boundaries of their own territory, which stretched south from central Alberta into

Montana and east from the Rocky Mountains into Saskatchewan.

As historian and ethnologist John Ewers long ago pointed out, “For generations the Blackfoot tribes had crossed and recrossed the forty-ninth parallel on their hunting and war excursions. They were equally at home on both sides of the boundary.”⁶ The treaty ignored them. That far to the west, the border was just an idea—an assertion. Neither of the countries that signed the treaty had the capacity to enforce it.

Today the nations of the Blackfoot Confederacy—three in Canada (the Peigan First Nation, the Kainai Nation or Blood Tribe, and the Siksika Nation, all in Alberta) and one in the United States (the Blackfeet Nation in Montana)—occupy fragmented and much diminished lands and have to work to sustain their political and cultural connections. No longer is it so easy to move within their old territory. Said Peigan Chief Peter Strikes With a Gun in 2000, “We are segregated by a line. It has taken away our relationships.”⁷

All along the 49th parallel and further east, from the Great Lakes with its concentration of Anishinaabek peoples to the lands of the Mi'kmaq and others of the Wabanaki Confederacy in Maine and New Brunswick, Native nations found themselves largely on the sidelines as someone else carved up their lands and trade routes with invisible lines, divided their peoples, and presumed to tell them where they could and could not go.

But the border-makers of the early years did not completely ignore Indigenous populations. One treaty in particular—the Jay Treaty—took a slightly different view. It lies at the heart of one of the major issues troubling nations along the U.S.-Canada border today: crossing rights.

Crossing Rights and Security

In 1794, in Article III of the Treaty of Amity, Commerce, and Navigation—the Jay Treaty—the United States and Great Britain agreed “that it shall at all

Times be free to ... the Indians dwelling on either side of the said boundary line freely to pass and re-pass by land, or inland navigation, into the respective territories and countries of the two parties on the continent of America ... and to navigate all the lakes, rivers, and waters thereof, and freely to carry on trade and commerce with each other.” The treaty also guaranteed Native Americans the free passage of their “goods and effects.”⁸

Thus the border affects two distinct aspects of life for Indigenous nations: the passage of people and the passage of goods across the international boundary.

The treaty recognized that the international boundary had cut across the territories of Native nations—in particular, the lands of the Iroquois nations. It recognized further that the boundary was an obstacle to economic and political relations essential to those peoples, whose histories in those lands long preceded those of the United States and Great Britain. There were both economic and political considerations involved in this recognition; the Iroquois remained not only militarily powerful but economically powerful as well, playing key roles in the fur trade, which was itself an important factor in British and U.S. economies at the time. They could not simply be ignored.

In the 1814 Treaty of Ghent, ending the War of 1812, the United States and Britain agreed to restore to “all the Tribes or Nations of Indians” with whom either signatory had been at war “all the possessions, rights, and privileges which they may have enjoyed or been entitled to in one thousand eight hundred and eleven.” The Treaty of Ghent thus reconfirmed the crossing rights recognized in the Jay Treaty.⁹

Over the next century, Canada and the United States took somewhat different views of these rights. “Prior to 1924,” writes legal scholar Bryan Nickels, “despite the developing antagonism to aliens in U.S. immigration laws, Canadian Indians were allowed to travel into the United States, without being subjected to alien registration laws.” Meanwhile, Canadian courts “have interpreted the free movement concept

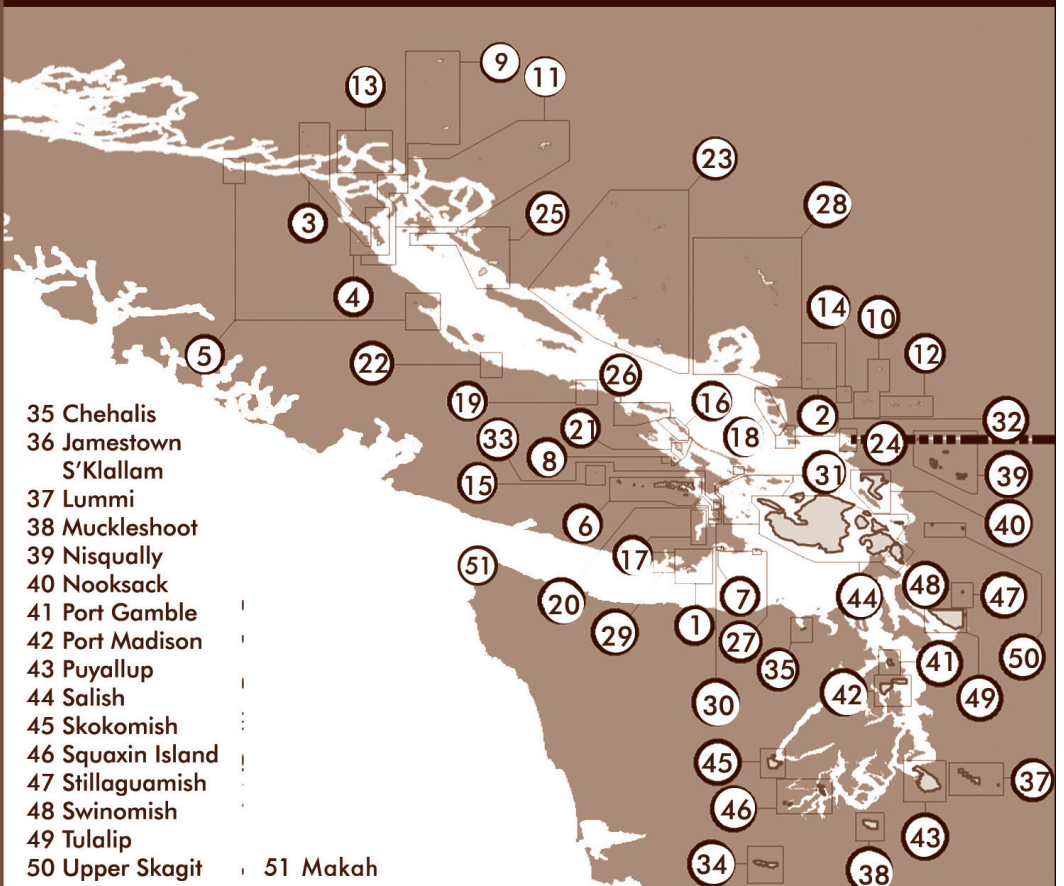
Map 5. Native Nations of the Canada-United States Border



maps by Larry Cassen with Jahan Kariyeva

Map 5. Inset A - Coast Salish Tribal Lands

- 1 Beecher Bay
- 2 Burrard
- 3 Campbell River
- 4 Cape Mudge
- 5 Chemainus
- 6 Comox
- 7 Esquimalt
- 9 Halalt
- 10 Hoalco
- 11 Katzie
- 12 Klahoose
- 13 Kwantlen
- 14 Kwiakah
- 15 Kwikwetlam
- 16 Lake Cowichan
- 17 Lyackson
- 18 Malahat
- 19 Musqueam
- 20 Manoose
- 21 Pauquachin
- 22 Penelakut
- 23 Qualikum
- 24 Sechelt
- 25 Semiahmoo
- 26 Siammon
- 27 Snuneymuxw
- 28 Songhees
- 29 Squamish
- 30 T'sou-ke
- 31 Tsawout
- 32 Tsawout
- 33 Tsawwsen
- 34 Cseycum



- 35 Chehalis
- 36 Jamestown S'Klallam
- 37 Lummi
- 38 Muckleshoot
- 39 Nisqually
- 40 Nooksack
- 41 Port Gamble
- 42 Port Madison
- 43 Puyallup
- 44 Salish
- 45 Skokomish
- 46 Squaxin Island
- 47 Stillaguamish
- 48 Swinomish
- 49 Tulalip
- 50 Upper Skagit
- 51 Makah

in a somewhat erratic light, sometimes narrowing interpretation ... to almost non-existence.”¹⁰ Crossing was possible, but much depended on who you were and where—Canada or the United States—you were coming from.

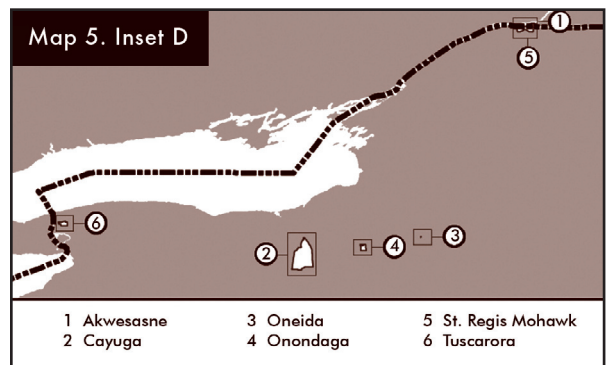
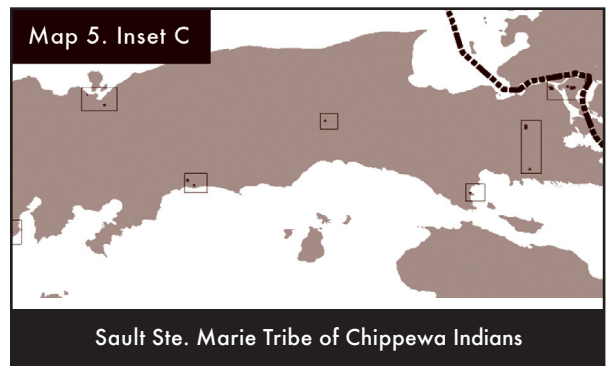
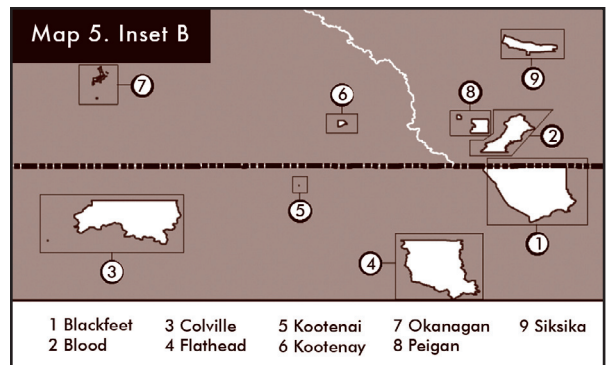
TWENTIETH CENTURY AND RECENT DEVELOPMENTS

In 1924 the U.S. Congress passed the Immigration Act.¹¹ While the central purpose of the Act was to limit Asian immigration, its provisions against the entry of persons ineligible for U.S. citizenship caught up Indigenous peoples as well, obstructing the passage of Canadian Indians into the United States.

A challenge to this interference in crossing rights came quickly when a Kahnawake Mohawk, Paul Diabo, whose home was in Canada, was arrested in Philadelphia for entering the United States without a passport and failure to comply with the 1924 Immigration Act. Diabo had been traveling back and forth between the two countries for years, pursuing his profession as an ironworker. But in 1925, in the aftermath of the Act, he was arrested after coming from his home near Montreal to Philadelphia to work on construction of the Delaware River Bridge. Diabo challenged his arrest in court, basing his challenge on the Jay Treaty.¹²

In 1927, U.S. District Court Judge Oliver Dickinson decided in Diabo’s favor. Among other things, wrote Dickinson, “The boundary line to establish the respective territory of the United States and

Great Britain later, Canada was clearly not intended to, and just as clearly did not, affect the Indians. It made no division of their country. ... From the Indian view-point, he crossed no boundary line. For him this does not exist. This fact the United States has always recognized, and there is nothing in this legislation to work a change in our attitude.”¹³ On appeal, the U.S. Third Circuit Court of Appeals upheld the lower court’s decision, finding that the Jay Treaty remained in force.¹⁴



Congress eventually addressed the situation as well as a result of a vigorous campaign led by Mohawks, Tuscaroras, and others from the Iroquois Confederacy. A 1928 bill held “that the Immigration Act of 1924 shall not be construed to apply to the right of American Indians born in Canada to pass the borders of the United States.”¹⁵

In 1952, Congress passed the Immigration and Nationality Act, also known as the McCarran-Walter Act, which consolidated, reorganized, and modified much of existing immigration law. In Section

"We're a border tribe and we're so used to crossing freely ... members are scared to be separated from families on the other side."

-Brenda Commander
Chief, Houlton Band of Maliseet
Indians

"The international border does have an impact on our tribal community, half of our aboriginal lands are located in Canada, sites where our old village communities were located, sites that have a spiritual meaning."

-Donald Soctomah,
Passamaquoddy
Historic Preservation Officer,
Tribal Representative to the State
Legislature

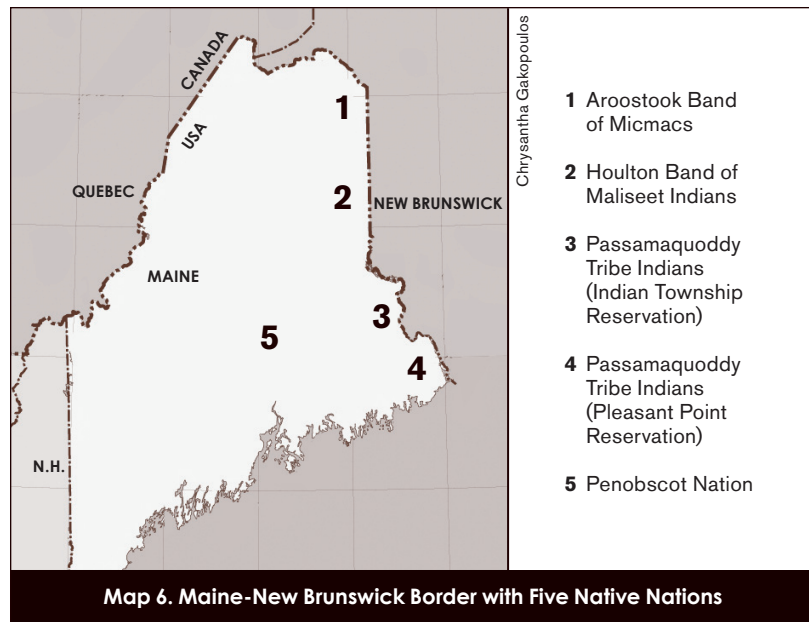
"Families are more reluctant to cross the border than they used to be because they feel they are profiled. Spiritual people have supplies with them, which may look like contraband and officials rifle through them and this is hard to watch - it's a sacrilege."

-Richard Dyer, Housing Director,
Aroostook Band of Micmacs

"The border does affect us, not as much as the other tribes in Maine, but it all boils down to Native rights and our ability to move freely in the territory we originally inhabited. We recognize that since September 11, 2001, things have changed and there are legitimate security concerns, so we're developing our own passports and government documents."

-Kirk Francis
Chief, Penobscot Indian Nation

From the Abbe Museum, "Border,"
[http://abbemuseum.org/downloads/
Borderforonline.pdf](http://abbemuseum.org/downloads/Borderforonline.pdf).



289 of the Act, Congress emphasized that none of the legislation's provisions "shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race."¹⁶ Subsequent amendments to this Act allow for passage with an identification card from a Canadian First Nation.¹⁷

According to Nickels, in the latter part of the twentieth century, U.S. and Canadian interpretations of treaty-based free passage rights continued to diverge. Both the U.S. courts and the Board of Immigration Appeals tended to treat Section 289, for example, "in a way generally beneficial to native groups." Canadian courts, on the other hand, gave only reluctant support to the free passage of persons and generally rejected the free passage of goods.¹⁸

Non-Native governments were not the only ones shaping crossing rights. Particularly in eastern North America, border nations themselves played a critical role. Throughout the twentieth century, the nations of the Iroquois Confederacy were frustrated by U.S. and Canadian interference with treaty-guaranteed crossing rights. Some Indians who spoke no English were stopped on the basis of a 1917 immigration law that barred illiterates from the United States. Others were stopped for failing to show evidence of U.S. citizenship. Still others were forced to pay duty on their goods, and so forth.

In 1926, repeated interference led Tuscarora and Mohawk leaders to organize the Six Nations Defense League—later renamed the Indi-

THE BORDER AND POST 9/11 REGULATIONS

Anishinaabek

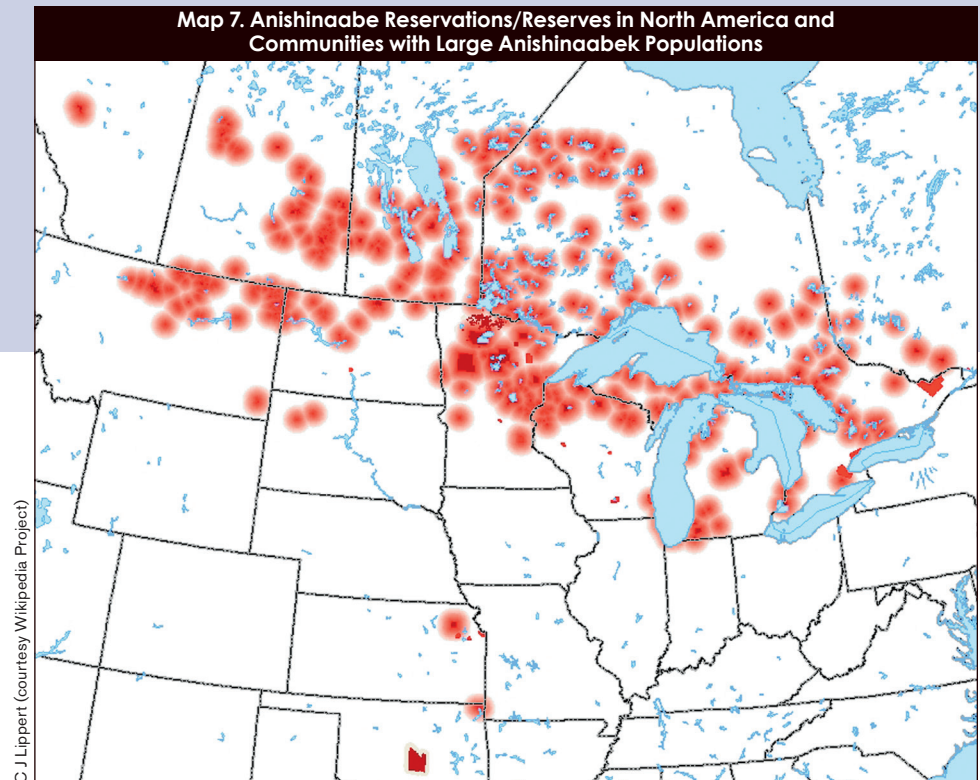
Today, the Anishinaabek (one of the plural forms of Anishinaabe) are widely distributed around the Great Lakes, as far west as Montana and Alberta, north toward the Hudson Bay, east into Quebec, and—a result of nineteenth-century removal policies of the U.S.—south into Kansas and Oklahoma. They include the Ojibwe, Chippewa (as the Ojibwe are known in much of the United States), Odawa, Potawatomi, and others. For many of these nations, the international border has been at least inconvenient and often a significant obstacle to the maintenance of culture, language, and kinship relations. Since 9/11, dealing with the border has become even more of a challenge.

Notes

a. See U.S. Department of Homeland Security “Notice of Proposed Rulemaking.”

b. See Sault Ste. Marie Tribe of Chippewa Indians, “Response to the Notice of Proposed Rulemaking.”

In 2006, as the U.S. began to implement its Western Hemisphere Travel Initiative, it issued a Notice of Proposed Rulemaking (NPRM) regarding “Documents Required for Travelers Departing from or Arriving in the United States ... from within the Western Hemisphere.”^a This notice produced immediate concerns among Native nations. On August 24, 2007, the Sault Ste. Marie Tribe of Chippewa Indians responded to the NPRM in the form of a letter to U.S. Customs and Border Protection.



Their letter touches on widespread concerns among border tribes. For instance, the letter says:

The Sault Tribe's connection to the First Nations communities [in Canada] continues to be social, political, cultural, and economic. In many real ways, we are the same people and participate as part of a larger Anishinaabek Nation ... that happens to be intersected by an international boundary. ... Garden River First Nation is only a couple hundred yards from our home on Sugar Island. Many of our families have relatives on the Canadian side of the St. Mary's River. The lack of direct government-to-government talks for this NPRM and the language limiting the movement of our people across the border makes this process appear arbitrary and pre-decided. We hope this is not the case. ... The future prosperity of tribal nations should not be sacrificed because of the horrible acts of terrorists.^b

Further, thirty-six tribes in the United States wrote similar letters criticizing the rules on several grounds:

- There had been little or no government-to-government consultation with tribes on this proposed rulemaking. Tribal leaders invoked Executive Order 13175, the mandate for consultation with tribes on any federal action that would affect tribes.
- There are sovereign Native nation governments. Their identification systems should be recognized for border crossing purposes. As argued in the official responses to the NPRM, the tribal enrollment process requires extensive proof of lineage. It is as (or more) reliable as state or federal identification systems.
- The requirement for tribal explanations of their citizens' purposes for crossing the border is unreasonable. In their official responses, tribal leaders argue that making ceremonial or traditional knowledge public would compromise the sacredness of traditional and ceremonial practice.
- Jay Treaty rights are violated by the proposed rules.

crest by Shandris (courtesy Wikimedia Commons)

an Defense League of America—which eventually established chapters in all the Iroquois communities and fought for border crossing rights through educational campaigns, lobbying, and demonstrations. Theirs and others' efforts led to the passage of the 1928 law affirming that the 1924 Immigration Act did not abrogate crossing rights.¹⁹

Despite this, the issue of crossing rights kept coming back. Whatever the law said, border policy and practice sometimes ignored it—and with it came further confrontations. In 1956, the Canadian Supreme Court denied Louis Francis's (Mohawk) right to transport goods from the United States to Canada without paying customs duties and sales

tax.¹⁹ More than a decade later, in December of 1968, approximately 100 Mohawk Indians blocked the Cornwall-Massena International Bridge between Canada and the United States—built on condemned Mohawk lands on Cornwall Island—in protest against customs duties they were being forced to pay when crossing the border. Using their bodies and their automobiles, the protesters shut down bridge traffic. More than forty were arrested by Royal Canadian Mounted Police and Ontario Provincial Police. Another blockade followed two months later. Eventually, after extended negotiations, the Canadian government capitulated, agreeing that local Mohawks could carry goods across the border duty-free.²⁰

But the Jay Treaty issue refuses to go away. In 2001, the Canadian Supreme Court, in *Minister of National Revenue v. Mitchell*, overturned a lower court ruling that Mitchell, a Mohawk citizen of Akwesasne (along the St. Lawrence River), had the right to bring goods intended for community use and trade across the border to British Columbia without paying tax and duty. The court ruled that the Haudenosaunee Aboriginal practice of movement and trade was mainly east-west, rather than north-south across the current international boundary, and that the Aboriginal rights to trade without regulation from a sovereign had not survived to the establishment of Canada's constitution in 1982.²¹

In 2001, the case moved to the Inter-American Commission on Human Rights with the argument that Canada had violated Aboriginal rights guaranteed by the Jay Treaty and other provisions when it charged tax and duty on goods transported across the border. In 2008, the Commission stated that taxation by a state is not an unreasonable action and that the state, in charging a tax did not unduly discriminate against Mitchell, did not prevent him from practicing his culture, and did not violate human rights law.²²

While nations of the Iroquois Confederacy have been at the center of much of the crossing-rights action, other nations have been involved as well. Far to the west, Salish peoples challenged Cana-

dian laws that prevent cross-border movement within their traditional territories, which straddle the boundary between Washington State and British Columbia, while the Blackfoot Confederacy has tried to create a Blackfoot-only border crossing to avoid repeated challenges at the border between Montana and Alberta.²³

In these and other actions, Native nations have fought to preserve not simply rights to cross a boundary but the integrity of lands that they consider theirs and their right to move among those lands as they see fit. The core issue is not crossing the boundary; it's the boundary's interference in a fundamental relationship between peoples and their lands.

CROSSING RIGHTS AND 9/11

The United States responded to the 9/11 terrorist attacks by drastically tightening control of its borders, including its border with Canada, in the name of national security. This had immediate effects on Native nations along the U.S.-Canada border. People who had become accustomed to moving across the border with relatively few problems found their problems multiplied.

Eventually, some Native nations chose to engage U.S. and Canadian governments in a dialogue about how to secure the border without violating Indigenous rights. In March 2006, the Mohawk Council of Akwesasne hosted an International Indigenous Cross Border Security Summit in Cornwall, Ontario. The meeting brought together not only border nations but U.S. and Canadian federal agencies to address issues of border crossing, security, and disaster preparedness. Among the issues discussed were the effects of increased border security on crossing rights, the impact on Native people of federal border crossing cards or passport requirements, criminal activity along and across the border, and the desecration of ceremonial objects during border crossings.

In his introduction to the summit, Mike Kanentakeron Mitchell, Grand Chief of the Mohawk Council

Native nations have fought to preserve not simply rights to cross a boundary but the integrity of lands that they consider theirs and their right to move among those lands as they see fit.

of Akwesasne (and defendant in the case, *Minister of National Revenue V. Mitchell*, cited earlier), noted, “Mohawk families pass through the international border daily for employment, education, health, cultural activities, and social family ties.” Mitchell pointed out that new measures intended to deal with terrorism would have profound effects on his people “who have fought hard to retain our treaty and aboriginal rights in border crossing.” The Mohawks, he said, “have something in common with other Nations on Turtle Island: the same belief that we are North American Indigenous Nations.”²⁴

At the Summit, James Ransom, Chief of the St. Regis Mohawk Tribe (the Akwesasne and St. Regis Mohawks are one people, separated by the international border and the political systems imposed on them by two countries), said that “Border security is a shared responsibility. ... Saying this, it is important ... not to forget that border security has to be balanced with our ability to exercise our right to cross the border. Border security must not become so onerous as to inhibit us from living our daily lives.”²⁵

One of the areas where tribal/federal collaboration looks promising is in documentation. As mentioned in the previous chapter, the U.S. government’s Western Hemisphere Travel Initiative imposed new documentation security requirements for crossing U.S. borders. Prior to implementation of the initiative, citizens of First Nations in Canada could cross the border with federally issued Indian Status Cards, while some citizens of the Haudenosaunee (the Iroquois Confederacy) have long used their own passports (see p. 8). Neither of these, however, provided the level of security required under the new initiative.

In the last couple of years, the U.S. government has tried to respond to some of the concerns of Native nations through the Enhanced Tribal Card program. This program can provide tribal citizens with identification cards that meet the security requirements of the WHTI and can be used, within limits, for travel across U.S. land and sea boundaries. However, those citizens also have to be citizens of the United States.²⁶

Several other versions of a crossing card have been developed or are in process. The Mohawk Council of Kahnawake has developed one; another has been developed by Indian and Northern Affairs Canada (INAC, Canada’s federal body with primary responsibility for Indigenous affairs) and the Treaty 7 Management Corporation, an Indigenous body that serves the seven First Nations of the Treaty 7 area of Alberta.²⁷ In a June 2007 presentation, Treaty 7 representatives reported that more than 50,000 Indigenous border crossing cards had been issued with no evidence of identity theft or fraud.²⁸ Finally, the *Native American Legal Update* reported in the spring of 2009 that the Tulalip Tribes were working on ID cards for some Native nations in the Pacific Northwest.²⁹

St. Regis Mohawk Chief Ransom remarked following the Cornwall meeting that U.S. officials “learned that we want to work with them on border security. They echoed our comments that one group or agency by itself cannot tackle the enormous responsibility of border security. Working together is a common interest of everyone who attended the Summit.”³⁰ Nonetheless, as documentation requirements become more stringent, there is an emerging concern that some Native people will not be able to afford the new passports and identification cards required by U.S. and Canadian governments.³¹

There also is concern that current federal regulations are developing one-size-fits-all requirements, implemented from the top down, and ignoring the diversity of situations in tribal communities along the border. Some crossings are linked to seasonal or ceremonial cycles; some have to do with maintaining family relationships; others are work-related; some communities have frequent—even daily—crossers while others have relatively few; and so forth.

“There needs to be some way to make it work for the community,” said one border resident, recognizing the security needs but expressing frustration with the reluctance of U.S. and Canadian governments to engage these issues in detail with border nations. Said another, “It doesn’t make sense for a border agent to continually question a local [resident whom] he knows, but this is what is happening as U.S. crossing regulations tighten.” Arguing for a more tailored approach, this community member urged that more input from local officials and Native leaders be incorporated in decisions about crossing processes.³²

In the meantime, in July 2010 the Iroquois Lacrosse team, after years of travel on Iroquois passports, ran into conspicuous trouble when they tried to use those passports to travel to a lacrosse tournament in the United Kingdom.³³

Increased security measures have had other effects as well. Anthropologist Bruce Miller notes private reports from Native nations’ attorneys that the deflection of FBI resources on border reservations from ma-

ior crimes to terrorism left some nations scrambling to deal with legal and enforcement issues for which the FBI had primary responsibility. Says Miller, “public policy shifts regarding American Indians after September 11 focused on recruiting tribal personnel into the war on terrorism.”³⁴ Crossing rights were low on the federal priority list.

Cultural and Environmental Concerns

Before Europeans arrived in North America, the Coast Salish peoples occupied a large territory in what is now Oregon, Washington, and British Columbia. Eventually broken up into a number of distinct political entities (see Map 5, Inset A, p. 53) on much diminished reservations and reserves, they remain linked today by kinship, cultural, and other social relationships apparent in marriages, economic activities, ceremonies, and festivals (see sidebar, p.11).

Individual relationships with spirit beings are an important part of Coast Salish culture, providing individuals with various kinds of power and connecting them to a ritual community with deep traditional roots. Individuals developing their relationships with these spirit beings can be initiated into a society of Spirit Dancers. Initiates travel among Salish communities in both Washington and British Columbia to participate in ceremonies and in the broader community of dancers.

Participation in this larger community helps to sustain links among Salish villages and, for many individuals, is an expression and affirmation of Salish identity.³⁵ Travel, however, often involves wearing dance regalia and carrying ritual items that themselves bear significant spiritual power. This can cause problems at the border.

Writes Bruce Miller: “The immediate problem for Spirit Dancers traveling between Coast Salish communities located across the border is the incompatibility of inspection procedures associated with customs regulations and their own spiritual beliefs.” For example, “Masks and other regalia cannot be handled by nondancers. ... Another difficulty facing Spirit Dancers is the cultural prohibition on the



A totem of the Lummi Nation, one of the Coast Salish peoples in the Pacific Northwest (photo by Denny Hurtado)

communication of specific information about Spirit Dancing. To reveal specifics could potentially place a dancer in spiritual danger and reduce the efficacy of their relationship with their spiritual helper. ... The new U.S. efforts at patrolling the border complicate the efforts to establish working agreements between the congregation of Spirit Dancers and border officials. The border staff is larger, and many officers, new to the area, are unaware of the practices of the local indigenous peoples. Detailed inspections heighten the risk of difficulty.”³⁶

Other cultural activities also are affected. A common ceremony among Indigenous nations in the Pacific Northwest is the potlatch. Among other things, the potlatch involves giving away large quantities of goods. People traveling to potlatches often are carrying goods for distribution, but getting such goods across the border can be tricky. “In one incident,” writes Miller, “a man’s car was seized by U.S. officials following accusations of smuggling as he attempted to bring two hundred blankets across the border to a relative’s potlatch.”³⁷

And then there are eagle feathers. Eagle feathers are significant in many Indigenous North American cultures. In 2002, Chief Chris Shade of the Blood (Kainai) Tribe, knowing that eagles are protected and that the transportation of eagle feathers is regulated, called Canadian authorities for permission to transport his sacred eagle-feather headdress into the United States for use at a ceremony during a Blackfoot Confederacy meeting in Great Falls, Montana. His request was denied.³⁸ While the Bald and Golden Eagle Regulation Act³⁹ provides for Native Americans of U.S. federally-recognized tribes, once they have the requisite permit, to carry eagle feathers throughout the United States and into Canada, there’s no similar provision for Canadian Indians traveling to the United States.

Leonard Antoine, a citizen of the Cowichan Band in British Columbia, carried loose eagle feathers across the border and traded them during a potlatch ceremony. In 2001, he was arrested by U.S. authorities, tried, convicted, and sentenced to a two-year

jail term for dealing in eagle parts. On appeal, the Ninth Circuit Court of Appeals found that because Antoine was not a citizen of a federally-recognized U.S. tribe, the lower court’s decision did not violate the Religious Freedom and Restoration Act; therefore, they let the decision stand.⁴⁰ But the Cowichan are Coast Salish, with kinship and cultural links up and down the coast in both countries.

Such problems illustrate the challenge the border poses not only to economic activity or the maintenance of family and community ties but to long-standing cultural practices.

Of course economy, social ties, and culture may be intimately linked. Such links are readily apparent in the case of salmon, long a source of both physical and spiritual sustenance for the peoples of the Pacific Northwest. Before the coming of the international boundary and the loss of much of their land base, the Coast Salish peoples fished in sites determined largely by the course of the rivers, the life cycles of the salmon, and long-standing kinship links.

For example, “Lummi Nation fishers of Washington traditionally fished salmon stocks that spawned on the Fraser River and its tributaries” in British Columbia. “In addition, fisheries around the Gulf Islands of British Columbia and the San Juan Islands of Washington formerly incorporated fishers from bands and tribes located now on both sides of the border.”⁴¹ The border ended such practices. Today, Salish fishers north and south of the border find themselves in separate camps, each pursuing its own strategy, “and commonalities of interest between Salish peoples are obstructed.”⁴²

On occasion, federal governments in both countries have tried to address some of these cultural concerns. The Canadian Border Services Agency, for example, has consulted with both the Mohawk Council of Akwesasne and the Ktunaxa Nation (which includes the Kootenai Tribe of Idaho and the Ksanka Band in Montana) in an effort to better understand the issues involved in handling and examining sacred objects at the border. They have altered

**For Native nations
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sustaining
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itself and the health
of the people.**

handling procedures; made arrangements for getting cultural training and for consulting with First Nations representatives when protocol issues are involved; and have asked for prior notification when large numbers of First Nations citizens will be crossing the border with sacred materials so that they can be sure border officials are adequately prepped.⁴³

Native nations are taking additional steps of their own. In the Pacific Northwest, for example, Coast Salish peoples on both sides of the international boundary are rebuilding some of the links among themselves that the border severed. Profoundly concerned by threats to the resources and ecosystems on which they have long depended, they are working to generate a common vision and cooperative action to preserve their natural resources, their rights to manage those resources in their own ways, and the traditional teachings that are their common heritage.⁴⁴

For Native nations in border regions, sustaining community involves not only maintaining cross-border connections and cultural practice; it also involves sustaining the land itself and the health of the people. The example in the following Spotlight, “Columbia River Pollution” (pp. 64-65), shows some of ways that borders affect these issues—and some of the solutions initiated by Native nations.

Summary

Along the U.S.-Canada border, crossing rights, rather than border violence, is the main concern of Indigenous nations. One reason is the relatively peaceful and friendly relationship between the United States and Canada. Border crossing between the United States and Canada has, until very recently, been very easy. The border has been unfenced and mostly unguarded, and government-issued ID, such as a driver’s license, usually was sufficient to cross to the next country. With the advent of the Western Hemisphere Travel Initiative, both Canada and the United States are updating old, and creating new, border crossing documents that will be accepted at each other’s borders. The two countries have been working fairly closely on border crossing regulations, and have met with First Nations in Canada and U.S. tribes to consider border impacts on tribes. This type of openness to collaboration, at least on security and crossing, is unique to this border. The history of treaties (such as the Jay Treaty and Treaty of Ghent) between the United States and Great Britain acknowledged the right of Indigenous peoples to cross the boundary freely, a right the citizens of border nations assert they continue to own.

COLUMBIA RIVER POLLUTION

Confederated Tribes of the Colville Reservation and Spokane Tribe

Two American Indian reservations—the home of the Confederated Tribes of the Colville Reservation and the home of the Spokane Tribe—border the Columbia River in northeastern Washington State, between thirty and seventy-five miles south of the Canadian line. Roughly ninety-three river miles form the eastern boundary of the Colville Reservation; about eight miles form the western boundary of the Spokane Reservation.

In 1999, the Colville Confederated Tribes petitioned the U.S. Environmental Protection Agency (EPA) for an assessment and investigation of potential contaminant sources in the Columbia River. The Tribes felt they had reason to be concerned about the effects of river contaminants on wildlife and human health on their lands, including airborne contaminants lifted from exposed river sediments during high winds. The Spokane Tribe, sharing these concerns, soon joined the petition.

In 2003, the EPA's regional office in Seattle completed an initial survey of the upper Columbia River and found elevated levels of arsenic, mercury, lead, other metals, and related contaminants in Roosevelt Lake, the long reservoir created in 1941 when Grand Coulee Dam was built on the Columbia River, flooding Colville lands and fishing sites. The contaminant levels found by EPA were high enough to qualify the area as a Superfund site. The EPA assessment also concluded that the primary source of these contaminants was approximately 20 million tons of industrial waste, or slag, that a Canadian smelter in British Columbia dumped into the Columbia River over a period of about 90 years. The river gradually moved these contaminants downstream, across the international boundary, and into Colville and Spokane territory.⁶



photos courtesy U.S. EPA

Black sand visible beneath surface of river (above); sediment sampling (right); Columbia River (far right, next page)

Teck Cominco, the parent company of the Canadian smelter, maintained that the slag is inert and that they even sell it as an ingredient for concrete. The EPA, however, asserted that these contaminants were potentially damaging to wildlife and to human visitors to Roosevelt Lake. In 2004, the Tribes and the state filed a lawsuit that accused the company of polluting the river: the first example of Americans suing a Canadian company under the U.S. Superfund law.

Here was the nub of the legal issue. Teck Cominco argued that the United States could not impose its rules on a Canadian company operating in Canada; the district court disputed this, arguing that Superfund laws are intended to address pollution inside the United States regardless of origin. After extended negotiations, the parties reached an agreement wherein Teck Cominco would pay for an EPA-monitored study of heavy-metal pollution in the Columbia River, a study expected to cost more than \$30 million.

But the agreement left the Tribes uneasy. It lacks a typical consent decree that can be legally enforced, requiring a polluter to clean up the contamination. D. R. Michel, a Colville tribal councilman and chair of the Tribes' natural resources committee pointed out that the agreement "gives Teck Cominco a tremendous amount of flexibility, and we have grave concerns that it won't protect the health and welfare of tribal resources, tribal members and other U.S. citizens."^d

In July 2006, the Ninth Circuit U.S. Court of Appeals upheld the district court's view, finding that the U.S. Superfund law does apply to pollution discharged by the Canadian smelter operator.^e The U.S. Supreme Court rejected Teck Cominco's appeal.^f

Notes

c. Walker, "News from Pacific Northwest."

d. Quoted in Wong, "Teck Cominco to Pay," p. 1; See also Heilprin, "Canadian Zinc Producer"; Geranios, "Appeals Court Allows."

e. Washington State Office of the Attorney General, "Upper Columbia Cleanup."

f. Aldous, "Supreme Court Says No."



Notes

1. Pierre, "Emerging Leaders Seminar," Native Nations Institute, Tucson, AZ, March 2008.
2. Mitchell, personal communication.
3. Treaty of Paris (1783), Article II.
4. Treaty of Amity, Commerce and Navigation (1794), Article IV.
5. See the discussion in LaDow, *Medicine Line*, 9-10.
6. Ewers, *Blackfeet*, 254.
7. Quoted in LaDow, *Medicine Line*, 218.
8. Treaty of Amity, Commerce and Navigation (1794), Article III.
9. Treaty of Peace and Amity between His Britannic Majesty and the United States of America (1814), Article IX.
10. Nickels, "Native American Free Passage Rights," 317, 327.
11. Immigration Act of 1924, Ch.190 s 13, 43 Stat. 153, 162.
12. See Nickels, "Native American Free Passage Rights"; Reid, "Illegal Alien?"; and Rickard, *Fighting Tuscarora*.
13. Quoted in Rickard, *Fighting Tuscarora*, 84-85.
14. *Diabo v. McCandless*, 18 F. 2d 282, 289 (E.D. Pa. 1927); Nickels, "Native American Free Passage Rights."
15. Act of April 2, 1928, 45 Stat. 401; see the discussion in Rickard, *Fighting Tuscarora*, chapter 5.
16. Immigration and Nationality Act of 1952, Title II, Chapter 9, Section 289.
17. Luna-Firebaugh, "Border Crossed Us."
18. Nickels, "Native American Free Passage Rights," 314; Wiwchar, "Crossing the Border"; and, more generally, Miller, "Conceptual and Practical Boundaries."
19. Rickard, *Fighting Tuscarora*; Hauptman, *Iroquois Struggle*.
20. Hauptman, *Iroquois Struggle*.
21. *Mitchell v. M.N.R.* 2001 SCC 33; Nickels, "Native American Free Passage Rights"; Inter-American Commission on Human Rights, *Grand Chief Michael Mitchell v. Canada*, Case 790/01, Report No. 74/03, Inter-Am. C.H.R., OEA/Ser.L/V/II.118 Doc. 70 rev. 2 at 160 (2003).
22. Inter-American Commission on Human Rights, <http://www.cidh.oas.org/annualrep/2008eng/Canada12435eng.htm>.
23. Miller, "Conceptual and Practical Boundaries; Narine, "Blackfoot-only Border Crossing Wanted."
24. Mitchell, "Why Akwesasne Hosted the Event," 7.
25. Ranson, "Tohono O'odham Tribe Helps," 13-14.
26. According to Department of Homeland Security regulations, as provided on the Pascua Yaqui Tribe's website, "An ETC is valid only for international travel by land or sea between the United States, Canada, Mexico, the Caribbean and Bermuda. It is not globally interoperable and is not valid for travel by air to or from any foreign destination."
27. International Indigenous Cross Border Security Summit (IICBSS) Report, 13-14.
28. National Congress of American Indians, "First International Indigenous."
29. Guedel, "Lack of Funding."
30. IICBSS Report, 29, 31-32, 35, 36.
31. A new passport costs \$105 for a child and \$135 for an adult, plus shipping. For expedited service, an extra fee of \$60 applies. U.S. Department of State, "First Time Passport Applications."
32. Native Nations Institute, personal communication, 2006.
33. Kaplan, "After False Hopes."
34. Miller, "Conceptual and Practical Boundaries," 54.
35. *Ibid.*; also Amoss, *Coast Salish Spirit Dancing*.
36. Miller, "Conceptual and Practical Boundaries," 59.
37. *Ibid.*, 60.
38. Perez, "Blackfoot Confederacy Gathers," 1A.

39. United States Fish and Wildlife Service, Office of Law Enforcement (1940, 1959, 1962, 1972, and 1978).

40. *United States v. Antoine*, 318 F. 3d 919; Jamieson (2004).

41. Miller, "Conceptual and Practical Boundaries," 61.

42. *Ibid.*

43. Canada Border Services Agency, "Articles."

44. Coast Salish Gathering, "A Gathering of Coast Salish Peoples," <http://www.coastsalishgathering.com>.



ARCTIC REGION OF ALASKA

For the Indigenous peoples of the Arctic, borders complicate their relationships with each other and their attempts to deal with an environmental crisis of unprecedented proportions.

Far North: Alaska's Border Regions

5

Introduction

Alaska has longer international boundaries than any other state in the United States, yet in much of the state, the direct effects of those boundaries are limited (see Map 8). Alaska is separated from the rest of the United States by Canada, meaning all its external land borders are international ones. But the sheer size of the state means that many interior communities are hundreds of miles from those borders.

Alaska's boundary regions are remote. There are few border towns in Alaska, and no border cities. Much of the border with Canada lies in wilderness, running through the Coast Mountains and the Saint Elias Mountains in the southeast and then across riverine flats, boreal forest, tundra, and smaller mountain ranges as it makes its way north to the Arctic Ocean.

Far to the west in the Bering Strait, the water boundary with Russia separates two islands with minimal habitation. The 2000 U.S. Census reported a Native population of only 146 people in a small village on Little Diomed Island, one of the most remote communities in the United States (see sidebar, p. 23). Russia long ago removed the Indigenous population from nearby Big Diomed Island, leaving an isolated population of mostly military personnel.

While these remote regions have low human densities, this does not mean they are not used by people or have no significance to human communities. For thousands of years, Indigenous peoples have treated these regions as homelands and as sources of sustenance and identity.

As elsewhere in the United States, the Indigenous peoples of Alaska have rich and diverse cultures, including eleven different language families: Athabascan, Yup'ik, Cup'ik, Inupiaq, St. Lawrence Yupik, Unansax, Alutiq, Eyak, Tlingit, Haida and Tsimshian.³ Within these larger groups, there are many regional dialects spoken by different nations and held preciously by elders, like former Chief Marie Smith Jones, the last fluent speaker of Eyak.⁴

While Alaska Native villages and corporations hold certain lands, Alaska lacks (with one exception, Annette Island in the Alexander Archipelago) the reservations common to the rest of the continental United States. In addition, most of the numerous Alaska Native villages are small, some of them extremely so. By conceptualizing Indigenous

"These lands are vital not only to our subsistence, but also our sense of being as Tlingit people."

– Gabriel George,
Tlingit¹

"Little more than a hundred years ago, the Porcupine Caribou Range knew no political boundaries.

To be sure, many First Nations utilized the herd but each operated independently as far as the caribou were concerned. In 1887 a border was surveyed between Alaska and the Yukon which effectively split the range of the Porcupine Caribou Herd in half. Thereafter, the herd was managed separately by Canada and the United States for the next 100 years."

– Albert Peter,
Gwich'in²

space in the Alaska region in terms of linguistic and kinship groups, we can better convey the connections that link Native nations both within Alaska and on both sides of its borders and illustrate the clash between cultural and border geographies. Borderlines crossing through culturally continuous space are a visual indicator of the fact that border negotiations ignored local economies, kinship, and peoplehood (see Map 8).

Many Indigenous people of this region have mobilized to deal with their changing environments, resource management, and community economies. In this collective action, they negotiate between councils and with national and international decision-making bodies, creating new linkages to address common problems and transcend legal and physical borders.

In this chapter we review the relationships between Alaska's Native peoples and international borders and discuss some of the issues involved. But in contrast to the last two chapters, we have organized this one around geographic regions instead of issues.

We take up the Alaska-Canada border region first, with a primary focus on Tlingit country in southeast Alaska and the territories of the Gwich'in peoples further to the north. We then turn to the Alaska-Russia border. In the final sections of the chapter, we discuss broader, circumpolar links among Arctic peoples, the environmental challenges those peoples face, particularly from climate change, and the organizational steps they are taking to address those and other challenges.

Alaska-Canada Border Region

The nearly 1,500-mile-long border between Alaska and Canada crosses the traditional territories of a number of peoples, from the Tlingits of southeast Alaska through the Athabaskan territories of the vast interior to the Inupiaq country of the northern coast.

The traditional territories of the Tlingits include much of southeastern Alaska and portions of

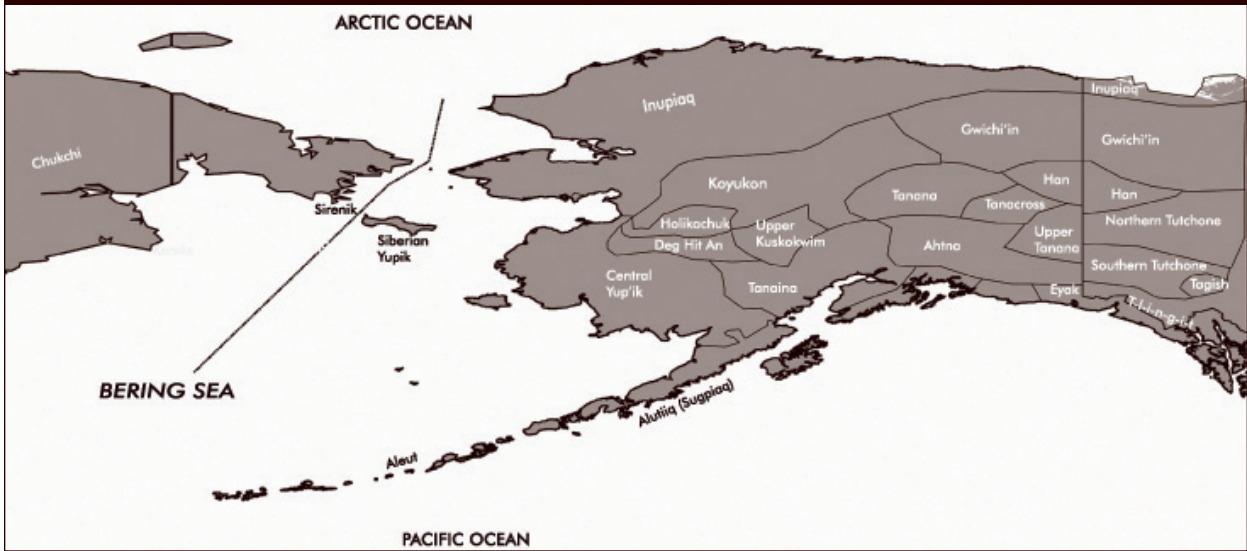
northwestern British Columbia, Canada. Much of the region is steeply mountainous, cut by river valleys, some of which lead from the coast to passes into the Canadian interior. Prior to establishment of the international boundary, Tlingit groups had camps and gathering sites along these river valleys and moved back and forth between coast and interior to hunt, fish, and trade. During the Russian period in Alaska, Tlingit traders obtained furs from Athabaskan groups in the interior, brought them over the passes, and traded them to the Russians.⁵ Even after the boundary was set in place, Tlingits long claimed fishing rights far up rivers such as the Stikine in British Columbia. Other nations also used these lands. Tahltans, Tutchones, and other Indigenous peoples in what is now British Columbia and the Yukon Territory traded with Tlingits and made their own journeys toward the coast.⁶

Tlingit peoples managed the lands and its resources by family and clan prior to the boundary-making efforts of Russia and then Great Britain early in the nineteenth century, and later the United States, Canada, at century's end.⁷ These kinship-based spatial-use rights, along with intermarriage, led to political relationships with interior Athabaskan groups such as the Tagish.

The international border undermined these land use patterns, relationships, and movements. The Klukwan Tlingits, for example, felt compelled to abandon parts of their territory that were now in Canada.⁸ The border forced some groups, such as the Taku Tlingits, to relocate villages or even split into dispersed units. By the 1940s, the Taku Tlingits had divided into two communities, "one living up stream on the shores of Lake Atlin [in Canada], and the other remaining on the coast [in Alaska]."⁹ As in so many other places, the border not only marked a political and legal division; it divided peoples.

Even so, some relationships survived. Northern Tutchones, for example, still assert their Jay Treaty crossing rights (see p. 52) to journey between Mayo in the Yukon Territory and Haines, Alaska, for relatives' funerals. Other groups also view their social

Map 8. Traditional Native Territories of Eastern Russia, Alaska, and Western Canada



Larry Cassen with Jahan Kanyeva

world as a transboundary one. But the border, especially since 9/11, has made such relationships more difficult to sustain.

The border between the United States and Canada on Tlingit and Athabaskan traditional lands is also shared today by a UNESCO designated World Heritage site comprising four parks: Kluane National Park and Reserve (Yukon), Tatshenshini-Alsek Provincial Park (British Columbia), Wrangell-St. Elias National Park and Preserve (Alaska), and Glacier Bay National Park and Preserve (Alaska).

State, provincial, and federal governments administer this region of mountains, glaciers, and rivers with the primary objectives of preserving the environment and supporting eco-tourism.¹⁰ But for Indigenous peoples, this has always been their land, and their oral traditions reflect how people have interacted with the glaciers, rivers, and each other.

The Yukon International Storytelling Festival began in the mid-1980s in honor of Angela Sidney, one of the last speakers of Tagish. The festival is a way for Indigenous peoples of this area and around the circumpolar region to share stories about the environment and their ancestors, and sustain their languages. The storytelling is one way to blur politi-

cal boundaries and reassert identity through shared histories and environmental relationships.¹¹ As the festival's website states, "Stories remind us we are all a part of making history. When we forget the past, we cannot see the future."¹²

Further to the north and east lies the Athabaskan heartland of North America: a vast, inland territory ranging from western Alaska nearly to Hudson Bay and from lower British Columbia to regions just south of the Arctic Ocean.¹³ Within this expanse are a number of related peoples and languages, among them the Gwich'in Athabaskans. Fifteen small Gwich'in villages with a total of about 9,000 residents are spread across northeastern Alaska as well as portions of the Yukon Territory and the Northwest Territories in Canada.

The international border divides the Gwich'in Nation, designating some of them as Canadians, others as Americans. For a long time, this had modest impacts on the daily lives of most Gwich'in people; the region is huge. A great deal of it appears to outsiders as wilderness, and the population is sparse. The international boundary was largely invisible to Gwich'in hunters or trappers moving through terrain that had been their home for many generations before the boundary was es-

tablished. The anthropologist Julie Cruikshank points out that in the early years after the boundary was established, Native people deep in the Yukon Territory, “to whom such boundaries were irrelevant,” regularly traded at posts in Alaska.¹⁴

Border crossings in the region were relatively casual affairs. Gwich’in who traveled up the Porcupine River from Alaska would stop at Old Crow, a Gwich’in village of about 300 people, located where the Crow River meets the Porcupine in the Yukon Territory. They would walk up to the office of the Royal Canadian Mounted Police, which served as a customs station; a policeman would come back down to the river with them to look at their boats. For a time, a schoolteacher in Fort Yukon, Alaska, served as the U.S. customs agent there, available between 12 noon and 1 pm to people coming downriver from Canada.¹⁵

Since 9/11, however, conditions gradually have changed. As security concerns have increased, so has the regulation of border crossing. Passports are now required for crossing the border, a challenge for some Gwich’in who lack birth certificates and an affront to those who see themselves as part of a single people moving within their own territory. Some requirements seem trivial, given the nature of the region. As one long-time observer of border issues told us, an Alaska Native hunter can’t wear his wolf-ruff parka—a standard piece of equipment—when he visits relatives in Old Crow and expect to bring it back home with him, because you can’t bring furs into the United States.¹⁶

In the late 1980s, planned oil exploration and development threatened the Porcupine caribou herd—the primary subsistence resource of the Gwich’in (see Spotlight on p. 74–75)—which migrates across the international boundary. Partly in response to such threats, the Gwich’in initiated a biennial Gwich’in Gathering (see sidebar, p. 81). This event, hosted by a different village every other year, brings together the Gwich’in Nation to discuss issues of common concern and to celebrate their culture and heritage. But as the difficulty of border crossing has increased, attendance at the gathering has dropped.¹⁷

Despite these difficulties, most Gwich’in continue to see themselves as a single people. The transborder Gwich’in Nation is composed of Gwich’in from northeastern Alaska, northern Yukon Territory, and the western Northwest Territories. For them, a primary objective is to continue to use this land as their ancestors did for so many generations, nurturing families, supporting the Gwich’in Nation, and sustaining the ways of the people. They have launched an effort to create a Gwich’in Nation identity card using contemporary security technology that would facilitate their movement across the international boundary. With such a card, the Gwich’in could more easily maintain their extensive networks of social relations and continue to use their traditional territory in their accustomed ways.¹⁸

In addition to traditional Tlingit and Gwich’in laws, international human rights and Indigenous rights law articulate parameters to protect traditional ways of life in the Alaska-Canada border region and throughout the world. Since the passage of the United Nations Declaration on the Rights of Indigenous Peoples, Indigenous communities around the world have been accessing this legal framework to express their nations’ rights to self-determined governance and sustainable economic and social systems, and to protect their traditional lands and life-ways. According to Article 20 of the declaration:

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.¹⁹

Preserving Traditional Ways of Life



photos courtesy U.S. Fish and Wildlife Service



Alaska Natives practicing traditional craft-making: working on dog sled harness (upper photo) and making moccasins (lower photo)

In addition to traditional Tlingit and Gwich'in laws, international human rights and Indigenous rights law articulate parameters to protect traditional ways of life in the Alaska-Canada border region and throughout the world.

Alaska-Russia Border Region

The Alaska-Russia border is very different from the border between Alaska and Canada. It is a water boundary in the maritime environment of the Bering Sea and the Arctic Ocean. While portions of other U.S. borders are water boundaries—the Rio Grande, for example, and the St. Lawrence River and parts of the Great Lakes—water dominates this space. U.S. and Russian lands never touch.

For those Arctic peoples who think of this region as home, intercontinental trade and kinship relations have been in place for many hundreds of years. An extensive network of trade in information and goods stretched along the northwestern coast of North America, across the Bering Strait, and down the northeastern shores of Asia.²⁰

Yup'ik Eskimos live on both the Russian and Alaskan coasts of the Bering Sea.²¹ They, the Chukchi (who eventually occupied much of Cape Dezhnev, the easternmost point of the Asian landmass), the Inupiat (who occupied much of northwestern Alaska), and other groups traded for generations across the Bering Strait. Chukchi reindeer skins from the interior of Russian Chukotka, for example, moved eastward while Alaskan sea mammal products moved west.²²

Such trade relations were often necessary not only to physical survival but also to cultural survival. Goods and services of various kinds, songs and dances, marriage partners, and even names were exchanged through these networks.²³

Trade was both part of daily living and a safety net. When the population of the western Arctic caribou herd, an essential resource for the Inupiat in northwestern Alaska, crashed in the latter decades of the nineteenth century, it precipitated “a clothing crisis”; one result was increased trade in reindeer skins with Siberian peoples.²⁴ There was conflict as well; oral traditions talk of late eighteenth and early nineteenth century war parties moving in both directions across the Bering Strait.

For a long time after the purchase of Alaska from Russia in 1867, the United States had only a minimal presence in the Bering Sea region, and the new border had little effect on this intercontinental network. Whaling ships were common off Alaska's northwestern shores in the latter part of the nineteenth century, but other than occasional visits by revenue cutters (ships of the U.S. Treasury Department that enforced maritime laws and tariffs), the U.S. government was virtually absent, and the border between the United States and Russia went largely unpatrolled.

SUSTAINING CARIBOU AND PEOPLE

Gwich'in Nation

Many of Alaska's Native peoples depend on one form or another of subsistence activities. Despite nearly two centuries of interactions with outside powers and an emerging world economy, these activities continue to play a central role in the economic, social, cultural, and spiritual life of many Alaska Native communities.^a

One key to survival in such communities is movement—movement of animals and movement of people. Richard Nelson points out that “under aboriginal conditions,” the Gwich'in Athabaskans of the Alaskan interior had to be able to move in response to changes in the resource base,^b and adds elsewhere that

“probably no other natural community is so characterized by radical population change as is the subarctic forest,” the homeland of the Gwich'in.^c

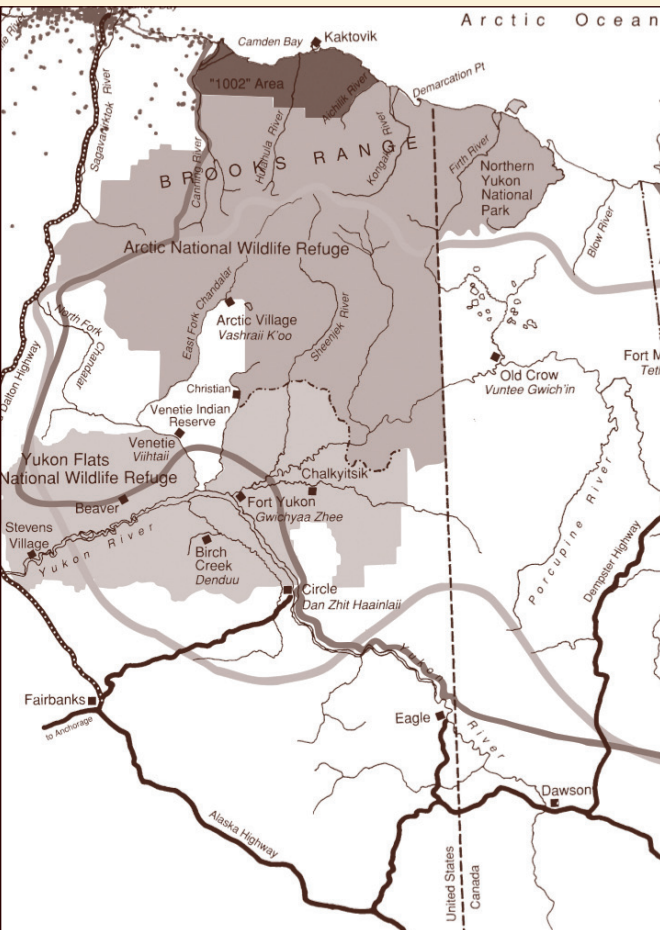
Many of the animals that people depended on for food either were migratory or, like many plants, were subject to other seasonal variations, or both. This variability in the resource base requires mobility on the part of the people as well. In a subsistence system, as the plant and animal resources come and go, so do the people.

International borders complicate this movement of both people and animals. A classic example is the Porcupine caribou herd, named for the Porcupine River, which flows through the herd's traditional range. Caribou are migratory animals. The Porcupine herd migrates yearly through a region of some 250,000 square kilometers (close to 100,000 square miles), an area that straddles the border between Alaska and Canada's Yukon and Northwest Territories.^d

Since 1972, the Porcupine herd has varied in population from a low of just over 100,000 animals to a high of nearly 180,000. Combined with border-related restrictions, this raises survival issues for the Gwich'in.

For them, caribou are the primary subsistence resource. Some Gwich'in communities today rely on caribou for a very substantial portion of their protein intake.^e

But the caribou are significant in other ways as well. The Gwich'in relationship to the caribou is comparable to the relationship Plains Indian peoples had to bison before the bison were destroyed as the resource base of Plains Indian life. Like the bison, the caribou holds more than economic significance.



Map 9. Porcupine Caribou Range

Map showing the primary habitat and range of the Porcupine caribou herd and the traditional homeland of the Gwich'in people (map courtesy Gwich'in Steering Committee)

Notes

See list on p. 85.

The annual caribou harvest is a critical moment when the community comes together, gathers food that is essential for the year to come, restores its relationships with the animals, and educates the young people. As one Gwich'in publication says, “This is the time when the life lessons are taught to the younger generation of the Gwich'in people.”^f Says a Gwich'in elder, “It is our belief that the future of the Gwich'in and the future of the caribou are the same.”^g

But the Porcupine herd faces major challenges. The Arctic National Wildlife Refuge in Alaska includes the primary calving grounds of the Porcupine herd. It

also holds substantial deposits of oil and gas. While there is drilling for these resources within the refuge, the caribou calving grounds—an area of the coastal plain known as the 1002 lands—for the most part have been protected.

But pressure for drilling within those grounds is intense. Evidence from other areas, elsewhere on the north coast of Alaska, shows adverse impacts of oil development on caribou resource use and calving activity, indicating that such drilling could threaten both the migratory behavior and the calving activities of the Porcupine herd.^h This in turn could have a dramatic impact on the Gwich'in people who depend upon the herd as a nutritional and cultural resource.

The committee has lobbied the U.S. Congress and the public and in building relationships not only among the Gwich'in villages in Alaska and Canada but with non-Native organizations and governments in an effort to preserve both the Porcupine herd and the traditional ways of the Gwich'in. Other organizations, such as the Arctic Athabaskan Council and the Gwich'in International Council, also are involved in efforts to protect the herd.

Jurisdictional issues present another challenge. The most obvious of these comes from the international boundary, which bisects both traditional Gwich'in lands and the herd's range and migration routes. On both sides of the border, Gwich'in villages—such as Arctic Village, Venetie, and Chalkytsik in Alaska and Old Crow in Canada—are within the herd's normal range.

While the caribou ignore the boundary, effective management of the herd requires international cooperation. This management is dependent on Native leadership, from the people who are the most knowledgeable about the animals and the land. They also are those with the most at stake in what happens to the caribou.

Northwest Territories, along with three Indigenous organizations, signed a formal agreement committing themselves to co-manage the Porcupine herd within Canada and establishing the Porcupine Caribou Management Board. The board's mission is to provide sustainable management of the herd. The United States was not a signatory to this agreement, and the board has no jurisdiction within Alaska, which means a single, mobile resource—the Porcupine herd—is subject to two different management regimes.

In 1987, partly to address this problem, Canada and the United States signed an agreement “to conserve the Porcupine caribou herd and its habitat.”ⁱ The agreement established an International Porcupine Caribou Board. However, the board has only advisory powers. It makes recommendations to other agencies but cannot determine policy or directly shape management practices.

The Gwich'in have their own set of rules, some formally codified, some not, for effective management of the Porcupine herd. These include limits on the number of animals taken, requirements for the proper treatment of the meat, and such principles as letting the first animals to appear each season migrate through without interference.^j

The question now is whether the system used by the Gwich'in and the relationship that they have built with the caribou over many generations can survive development pressures and the management challenges posed by the complexities of a border region.



Caribou on the Arctic National Wildlife Refuge (photos courtesy U.S. Fish and Wildlife Service)



While the U.S. government may not have been visible in the border region, other developments affected Native people there. For example, the discovery of gold in western Alaska at the end of the nineteenth century led Native people from King Island, Little Diomed Island, and other Bering Strait communities that were part of the United States to head for the goldrush town of Nome seeking temporary work.²⁵

Some residents of Big Diomed Island, in Russia, then moved to Little Diomed while Chukotkans from the Russian mainland filled in behind them on Big Diomed. In fact, “Up to the present day, many kinship links between Chukotka and Alaska stem from those population movements.”²⁶

These patterns of exchange began gradually to diminish in the twentieth century as both the Soviet Union and the United States began to assert control in the Arctic region. In 1938, the two countries established passport and permit requirements for travel across the Bering Strait, including Native travel. A decade later, in 1948, the “Ice Curtain” came down with a crash when the Soviet Union announced that passage across the Strait would no longer be allowed.

That year, an Inupiaq party who crossed from Little Diomed Island to Big Diomed in two walrus-skin boats, intending to visit their neighbors, found only Russian soldiers living there. The soldiers detained the group for 52 days before allowing them to return across the two-and-a-half miles of water to the United States.²⁷

For forty years afterward, the border remained closed. Once ignored by Native people, or considered little more than an inconvenience, it effectively shut down far-reaching networks of kinship and trade.

In 1988, with the *glasnost* thaw in the Soviet Union, the door to intercontinental relationships gradually began to reopen. On June 13 of that year, an Alaska Airlines “Friendship Flight” from Nome to Provideniya on the Chukotka Peninsula

marked “the first ... official opening of the border in four decades.”²⁸

Yup’ik Eskimos from Alaska were reunited briefly with Chukotkan Yup’ik relatives. Said Darlene Orr, a Yup’ik woman from St. Lawrence Island who was one of twenty Yup’ik passengers on the flight, “Shortly after I stepped off the plane, a Native man came up to me and said in Yupik, ‘I’m from the Kivak clan. Which clan are you from?’ I was speechless. Here was a man from a different country, speaking my Native language, telling me he was from the same clan I was!”²⁹

In 1989 a new agreement between the two countries allowed Native people with kinship or cultural links between Chukotka and Alaska to travel across the border visa-free, although travelers were required to notify the appropriate authorities on either side and provide identity information, evidence of an invitation from relatives, and detailed travel plans.³⁰ For a time at least, some of the old trade patterns that preceded the Cold War deep freeze began to reemerge, although the items being traded had changed.³¹

Other activities also began to appear. For example, in the early 2000s, a U.S. AID project administered through the University of Alaska supported collaboration in economic development and other areas between Inupiaq peoples of northwestern Alaska and Chukchi and Eskimo groups in the coastal villages of Chukotka.³²

But such newly restored relationships remain fragile. In the 1990s, argues Patty Gray, while *glasnost* “allowed Russia’s indigenous activists to begin to communicate more freely with their counterparts in the rest of the world,” post-Soviet bureaucrats in Chukotka feared an independent Indigenous movement. They claimed that the problems of the Russian north were the problems of northerners generally, not of Indigenous peoples. There was a “public denial by those in power that Indigenous Chukotkans had any sort of unique experience.”³³

Along with that denial went the rejection, by the Chukotkan government, of any hope of Indigenous solidarity carried by Alaskan and Canadian visitors from beyond the Bering Strait. After the opening of the Ice Curtain in the late 1980s, the decade of the nineties saw a gradual reclosing—or at least narrowing—as the Chukotkan government made such visits increasingly difficult.

One other Indigenous population links Alaska and Russia. In the early nineteenth century the Russian-American Company brought some Aleuts—the Indigenous people of the Aleutian Islands—to the Commander Islands, a hundred miles off the eastern shore of Russia’s Kamchatka Peninsula, to work in the sea otter and fur seal trade; a few others joined them in later years.

The Commanders are the westernmost islands in the Aleutian chain but are recognized as Russian territory, being separated from the rest of the Aleutian archipelago by hundreds of miles of ocean. Today, a small number of Aleuts still lives on the largest island in the Commander group, although the bulk

of the island’s population of about 1,000 persons is non-Indigenous Russian.³⁴

A late twentieth-century joint effort by Aleuts in Alaska and Kamchatka led to the founding of the Aleut International Association. The group now works to sustain connections among the Aleut populations, to improve their welfare, and to protect the natural resources and environment of their homeland in the Bering Sea’s Aleutian, Pribilof, and Commander Islands. Recent projects have addressed environmental impacts of climate change, Indigenous governance, and language revitalization, among other things. As the Association says on its website, “Russian and American Aleuts are separated by distance, borders, and the International Date Line, but united by the great Bering Sea and the North Pacific Ocean.”³⁵

Although the focus of this section is on the border as a dividing line, the Bering Sea region, like the Porcupine caribou range, is an ecosystem that transcends this border and unifies the peoples and animals of the region.

Aleut International Association



A late twentieth-century joint effort by Aleuts in Alaska and Kamchatka (Russia) led to the founding of the **Aleut International Association**, which works to sustain connections among the Aleut populations, to improve their welfare, and to protect the natural resources and environment of their homeland in the Bering Sea’s Aleutian, Pribilof, and Commander Islands.

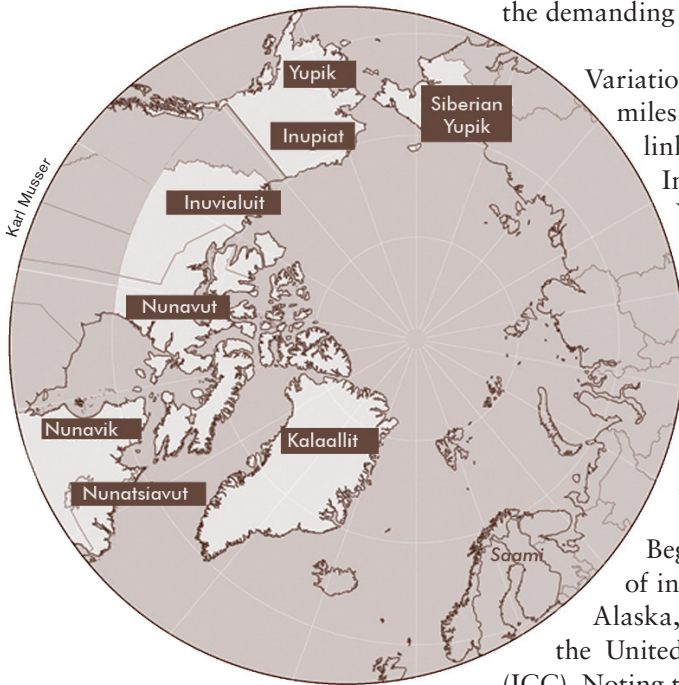


Attu Island, westernmost of the Alaskan Aleutian Islands (photo courtesy U.S. Fish and Wildlife Service)

Circumpolar Links

“We Eskimo are an international community sharing common language, culture, and a common land along the Arctic coast of Siberia, Alaska, Canada and Greenland. Although not a nation-state, as a people, we do constitute a nation.”³⁶

While the circumpolar region includes areas and countries far from U.S. borders, it is directly relevant to this discussion. For the northernmost Indigenous peoples of Alaska, peoplehood and nationhood reach beyond the Canadian and Russian frontiers. Powerful and long-standing ties of culture, language, kinship, and trade link the world’s Arctic peoples, along with the distinctive, shared experience of life in the demanding Arctic environment.



Variations of these ties circle the globe, reaching some 5,000 miles around the northernmost parts of the earth. They link, among others, the Inupiaq and Yup’ik in Alaska, the Inupiaq in Canada, the Kalaallit in Greenland, and the Yup’ik and Chukchi in Siberia, as well as the Saami of northern Norway, Sweden, Finland, and Russia.

These borderless conceptions of the circumpolar region are evident in language. Despite dialect differences, speakers of Inupiaq in Alaska, for example, can communicate with Inuit in eastern Canada and Greenland, where a similar language, Inuktitut, is spoken.

Beginning in the 1970s, these ties have become the basis of international political mobilization. In 1977 in Barrow, Alaska, Inuit from three countries—Greenland, Canada, and the United States—formed the Inuit Circumpolar Conference (ICC). Noting that no delegation had been able to come to the gathering from Chukotka (Russia), Eben Hopson, the founder of the ICC, commented, “We Inupiat live under four of the five flags of the Arctic coast. One of those four flags is badly missed here today.”³⁷

An empty seat remained at the table for the duration of the founding conference.³⁸ Some years later, with changes in the international situation, that seat eventually was filled by Russia, adding a fourth country to the ICC’s scope.

Map 10. Arctic Circumpolar Region

Over the years, the ICC has involved itself in a wide array of activities, ranging from environmental issues to language promotion to sustainable development. It has been an active voice in numerous international forums, in particular the Arctic Council, an intergovernmental forum established in 1996 to promote cooperation and coordination among eight Arctic states: Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and the United States.

The Arctic Council assures Indigenous participation and an Indigenous voice in all its proceedings and activities through its Permanent Participants, a category that allows Indigenous organizations to sit at the table (but not to vote) with member governments. In late 2007, this category included the ICC and five other organizations: the Aleut International Association, the Arctic Athabaskan Council, the Gwich'in Council International, the Saami Council, and the Russian Arctic Indigenous Peoples of the North.⁴⁰

These and other organizations have become prominent voices in Indigenous affairs in the Arctic, and nowhere has their voice been louder than in discussions of climate change. In late 2004, the Arctic Council and the International Arctic Science Committee released the *Arctic Climate Impact Assessment*.⁴¹

Among its findings: average Arctic temperatures were increasing at almost twice the rate of average temperatures in the rest of the world; continued, substantial warming is likely; the diversity and range of both vegetation and wildlife in Arctic regions are likely to change, affecting human populations; and rising sea levels and reduced sea ice will expose coastal communities to more intense storm effects. The report also found that these and other changes were likely to have—and in some cases already are having—substantial impacts on Indigenous peoples.

Taken together, these changes present “serious challenges to human health and food security, and even the survival of some cultures.”⁴²

In 2007, the Intergovernmental Panel on Climate Change came to similar conclusions. Noting

the high and amply apparent impacts of climate change in polar regions, it said “The resilience shown historically by Arctic indigenous peoples is now being severely tested.”⁴³

While much of the world has turned its attention to climate change and its effects in the last few years, these topics have a particular urgency for Arctic peoples. They are already seeing those effects firsthand in rising sea levels, shrinking sea ice, coastal erosion, and dramatic changes in the animals and, in some areas, plants on which they depend.

Such changes, as well as the pollution of rivers and the impacts of oil and gas development, are increasingly the focus of political mobilization by these and other organizations. More than the environment is at stake. An Inuit community member from Ivujivik, Nunavik, observed how the changes are affecting daily life: “Our lifestyle has changed because we are not out on the land as much.”⁴⁴

Another individual from Tuktoyaktuk, Inuit Settlement Region (ISR) noted that, “Long spits and points around the community are gone and it is predicted that the Hamlet office we are in now will be an island in 40 years.”⁴⁵ Former International Chair of the Inuit Circumpolar Council Sheila Watt-Cloutier synthesized the physical changes affecting northern Indigenous peoples: “We are not environmentalists. What people have to understand is that environment to us is all encompassing. It is about our health, our well-being, our cultural survival, our economy.”⁴⁶ It is about the survival of peoples.

Why do borders matter in the circumpolar region?

For the Indigenous peoples of the Arctic, borders complicate their relationships with each other and their attempts to deal with an environmental crisis of unprecedented proportions. Their organizations and politics try in every way to transcend borders and make them irrelevant, believing that what they are dealing with and what they are trying to do are far more important than matters of national sovereignty and jurisdiction.

Gwich'in Gathering

The biennial Gwich'in Gathering, hosted by a different village every other year, brings together members of the Gwich'in Nation from the United States and Canada to discuss issues of common concern and to celebrate their culture and heritage. But as the difficulty of border crossing has increased, attendance at the gathering has dropped.



photos by Jen McCormack



Gwich'in Gathering, 2010

And this is the point. They insist on seeing the world—and themselves—through different eyes. Their sense of shared peoplehood and shared concerns forms an overlay upon the international jurisdictional map—another layer, composed of deep connections among peoples, places, and ways of being. As in so many other cases, international borders crossed them, but their view of themselves did not necessarily change. Now, with their very survival at stake, they have turned to each other, reaching across borders toward more fundamental connections and shared understandings.

Summary

Alaska's border regions have been important to national governments because of their strategic position, to developers for natural resources, and to tourists for their wildlife and natural beauty. But for the Indigenous peoples of the area, these regions

are parts of extensive homelands whose histories, cultures, languages, family relationships, and contemporary lifeways often transcend the boundaries the latecomers created.

Today, in their own communities and through inter-tribal organizations and cross-border mobilization—such as the Aleut International Association, Inuit Circumpolar Council, Gwich'in Steering Committee, and Yukon River Intertribal Watershed Council (see Spotlight, pp. 82-83)—the Indigenous peoples of Alaska's border regions struggle to maintain connections with each other and with the lands that are undermined or threatened by jurisdictional impositions, national security concerns, resource development, and the rising impacts of environmental change. In the process, they have placed themselves at the forefront of efforts to address the profound local effects of global processes.

“The leaders wanted the [Yukon River Inter-Tribal Watershed Council] to act like an elder. They wanted it to draw on the collective wisdom of all the communities that depend on the Yukon River.”

YUKON RIVER INTER-TRIBAL WATERSHED COUNCIL

The Yukon River rises in far northeastern British Columbia, crosses the Yukon Territory, and then runs east to west across Alaska before it empties into the Bering Sea. It is more than 2,200 miles long and drains a watershed of 330,000 square miles in Canada and Alaska, a watershed that includes Denali (also known as Mt. McKinley, North America’s tallest mountain), glaciers, forests, and sea-level wetlands.

More than seventy Native communities rely on the river for drinking water, fish, and the animal resources that themselves depend on the river and its many tributaries or live within its vast watershed: moose, caribou, mountain sheep, and others.^m

While much of the Yukon flows through wilderness—only four vehicle-carrying bridges cross it—it has long suffered from pollution.

Modest in the early days, pollution has increased with expanded use and with various kinds of development in the watershed: mining operations, military installations, inadequate sewer systems in riverine settlements, diesel and chemical runoff from the Alaska-Canada Highway, recreational activity, and so forth. Alaska Native Peter Captain, Sr., remembered growing up in Galena, Alaska, when you could drink from the river. “But that was a long time ago. You can’t do that now without getting sick.”^o

Nearly a dozen federal, state, territorial, or provincial agencies carry some regulatory responsibility for the Yukon, but until 1997 no organization existed that treated the river and its watershed as a single entity and formulated policy and action plans in unitary terms. That year, in response to rising pollution and reflecting their desire once again “to drink clean water directly from the Yukon River,” Native nations within the watershed joined together to form the Yukon River Inter-Tribal Watershed Council (YRITWC).

Today, 70 Alaska Native villages and First Nations in Canada collaborate in “the protection and preservation of the Yukon River Watershed.” They form an international Indigenous coalition organized “to initiate and continue the clean up and preservation of the Yukon River for the protection of our own and future generations of our Tribes/First Nations and for the continuation of our traditional Native way of life.”^p

The founding document, signed by participating nations, is the Yukon River Watershed Inter-Tribal Accord. The Accord establishes the Council, specifies the structure of the organization, and commits the signatories to work for their common interests along the watershed, while respecting the autonomy of each nation.

Notes

See list on p. 85.



Jen McCormack

The Council organizes its work under four headings:

Understanding (an effort to fully understand the health of the watershed and changes within it through monitoring and measurement);

Education (an effort to provide environmental education to those who live in or depend upon the watershed);

Preservation, Restoration, and Stewardship (an effort to identify areas of most concern to watershed communities and to assure that Indigenous communities have a place at the tables where major decisions about the watershed are made);

Capacity Building (an effort to strengthen the abilities of both YRITWC itself and its member communities to achieve their goals through training, information-sharing, and collaboration).⁹

In its work, the Council combines first-class technical methods and expertise in measuring and monitoring conditions within the watershed with Indigenous knowledge about the river, the land, and their constituent animal, plant, and human communities.

The U.S. Geological Survey has turned over some of its monitoring tasks to the Council. A YRITWC EPA-approved Tribal Water Quality Assurance Plan produces water-testing results that are used to identify areas of environmental concern and are admissible in U.S. courts of law.



U.S. Geological Survey

Among other accomplishments:¹⁰

- The Council established a “backhauling” program through which barges headed downriver pick up hazardous waste from villages along the river; by 2008 more than 5,000 tons of waste had been removed from various communities for disposal or recycling. The program also trains community members in handling hazardous wastes. Another division assists tribal communities in the region with grant-writing, bookkeeping, and strategic processes.
- In its collaborative relationships with other governments, the Council has affected environmental policy and reporting practices in both the Yukon Territory and Alaska. Meanwhile, member tribes have launched initiatives of their own, from solid waste management to Youth Litter Patrols to environmental education in the schools.

The Yukon River Inter-Tribal Watershed Council demonstrates that international boundaries need not inhibit collective action on issues of critical importance to Indigenous peoples.

The border may have divided those peoples, but their commitment to each other and to the land of their ancestors has been a powerful unifying force.

Alaska fish (above); Charley River at Yukon (below)

Notes

- ¹ Quoted in Thornton, *Being and Place Among the Tlingit*, 3.
- ² Peter, "Caribou Issue in Canadian-American Relations," 2.
- ³ Alaska Native Heritage Center, "Cultures of Alaska."
- ⁴ McKinney, "Last Native Speaker"; Pemberton and Townsend, "Jones: Marie Smith."
- ⁵ Cruikshank, "Claiming Legitimacy."
- ⁶ Emmons, *Tlingit Indians*; Goldschmidt and Haas, *Haa Aaní Our Land*.
- ⁷ Cruikshank, *Do Glaciers Listen?* 12–15.
- ⁸ Goldschmidt and Haas, *Haa Aaní, Our Land*.
- ⁹ *Ibid.*, 41.
- ¹⁰ Cruikshank, *Do Glaciers Listen?*, 12-15.
- ¹¹ See Yukon International Storytelling Festival Official Website, <http://www.storytelling.yk.net/>, accessed December 3, 2010.
- ¹² *Ibid.*
- ¹³ There are other Athabaskan territories, including Navajo and Apache homelands in the American Southwest.
- ¹⁴ Cruikshank, "Through the eyes of strangers," 1.
- ¹⁵ Personal communication, December 2008.
- ¹⁶ *Ibid.*
- ¹⁷ *Ibid.*
- ¹⁸ *Ibid.*
- ¹⁹ United Nations Human Rights Council "Declaration on the Rights."
- ²⁰ Burch, *Alliance and Conflict*, 229-32, 241-43; also Kingston "Siberian Songs and Siberian Kin."
- ²¹ Gray, "Chukotka's Indigenous Intellectuals," reports that the people we are identifying as Yup'ik in the province of Chukotka—the relevant region of Russia—do not use the term Yup'ik in reference to themselves, employing instead the term Eskimosy. We use Yup'ik here partly because Alaskan Yup'ik refer to their relatives that way and to mark the fact of the relationship.
- ²² *Ibid.*; also Chance, *Inupiat and Arctic Alaska*; Schweitzer and Golovko, "Local Identities and Traveling Names."
- ²³ Schweitzer and Golovko, "Traveling Between Continents"; and Kingston "Siberian Songs and Siberian Kin."
- ²⁴ Burch, *Alliance and Conflict*, 148.
- ²⁵ Schweitzer and Golovko, "Traveling Between Continents."
- ²⁶ *Ibid.*, 3.
- ²⁷ Iseman, "Lifting the Ice Curtain."
- ²⁸ See Alaska Department of Community and Economic Development, <http://gov.state.ak.us/trade/2003/tad/russia/timeline.htm>. This site includes a timeline of border-related developments in the Bering Strait.
- ²⁹ Quoted in Arctic Studies Center website, Smithsonian National Museum of National History, <http://www.mnh.si.edu/arctic/features/croads/modeskim.html>. See also, Ford, "Thaw of the Ice Curtain."
- ³⁰ Chukotka Autonomous Oskrug "What is Necessary."
- ³¹ Schweitzer and Golovko, "Traveling Between Continents."
- ³² See also projects of the Chukotka Science Support Group (CSSG) of the Barrow Arctic Science Consortium, <http://www.arcticsscience.org/chukotka.php>.
- ³³ Gray, "Chukotka's Indigenous Intellectuals," 145, 156.
- ³⁴ See <http://www.everyculture.com/Russia-Eurasia-China/Aleuts-History-and-Cultural-Relations.html>; <http://www.amiq.org/cmmander.html>.
- ³⁵ See Aleut International Association website, <http://www.aleut-international.org/Page1.html>.
- ³⁶ From a 1975 funding proposal from Inuit people to an American foundation, quoted on the Inuit Circumpolar Council website, <http://www.inuitcircumpolar.com>.
- ³⁷ Hopson, "Welcoming Address."
- ³⁸ Personal communication with Inuit Circumpolar Council staff, 2007.

³⁹ From http://inuitcircumpolar.com/index.php?auto_slide=&ID=16&Lang=En&Parent_ID=¤t_slide_num=.

⁴⁰ See <http://arctic-council.org/article/about>.

⁴¹ ACIA, *Arctic Climate Impact*.

⁴² ACIA, *Arctic Climate Impact*, 11.

⁴³ Asinimov et al., "Polar Regions," 655.

⁴⁴ Inuit Tapiriit Kanatami, *Unikkaaqatigiit*, 79.

⁴⁵ *Ibid.*, 76.

⁴⁶ Native America Calling, "Arctic Climate Change."

Spotlight **"Sustaining Caribou and People"**

pp. 74–75

^a Mary Jane Moses, Old Crow, Yukon Territory. Vuntut Gwich'in First Nation. Official Website. <http://www.vgfn.ca/caribou2.php>.

^b Nelson, *Hunters of the Northern Forest*, 274.

^c Nelson, *Make Prayers*, 206.

^d Porcupine Caribou Management Board website, <http://www.taiga.net/pcmb/population.html>; and CBCNews, "Consider Worst-case."

^e Gwich'in Steering Committee, "Moral Choice," 4.

^f *Ibid.*, 7; also Peter, "Caribou Issue in Canadian-American Relations."

^g Jonathan Solomon, quoted in Gwich'in Steering Committee, "Moral Choice," 9.

^h See Nellemann and Cameron "Cumulative Impacts," and the studies cited in Gwich'in Steering Committee, "Moral Choice," 13–17.

ⁱ The text of the agreement can be found at <http://arcticcircle.uconn.edu/ANWR/anwrint-agreement.html>.

^j See <http://arcticcircle.uconn.edu/ANWR/anwrgwichin1.html>; and Langdon "Contradictions."

Spotlight **"Yukon River Inter-Tribal Watershed Council"**

pp. 82–83.

^l Rob Rosenfeld, quoted in Lovgren, "Native American Tribes Vow," 1.

^m Yukon River Inter-Tribal Watershed Council "Success Stories."

ⁿ Yukon River Panel, "About Us," <http://yukonriverpanel.com/salmon/>.

^o Quoted in Lovgren, "Native American Tribes Vow," 1.

^p Yukon River Inter-Tribal Watershed Council website, <http://www.yritwc.org/AboutUs/AboutUs/tabid/56/Default.aspx>.

^q See the organization's strategic plan at <http://www.yritwc.org/AboutUs/StrategicPlan/tabid/88/Default.aspx>.

^r Harvard Project on American Indian Economic Development, "Honoring Nations, 2005 Honoree"; see also, <http://www.yritwc.org>.



A GWICH'IN STORYTELLER SHOWS HER LIFE AND WORK

International borders ... have drastically altered life for Native nations in border regions, from how they perceive citizenship in their own nations to such matters as security, culture, collective identity, public health, and the natural environment.



Conclusion: A Seat at the Table

Over the last decade, as politics, law, and policy have responded to a post-9/11 world, U.S. borders have been changing. Once relatively thin lines upon the map, those borders have grown in some sense more substantial in recent years, presenting Native nations with dilemmas that may not be new in and of themselves but present new challenges under changed conditions.

Our focus in this book has been on the distinctive set of issues facing Native nations whose lands are close to U.S. borders. Those issues have been fairly consistent in all three border regions and over time: citizenship, crossing rights, access to and protection of cultural resources, environmental change, public health, and so on. Some may receive more emphasis in some places than in others or in different time periods. Environmental concerns, for example, have recently become especially prominent in Alaska's Arctic border regions; citizenship is a recurrent topic in O'odham lands in Arizona; and crossing rights are front and center along the eastern reaches of the U.S.-Canada border. But these are geographical and temporal variations within a largely common set of concerns.

"The border issue is not going to go away. All we ask for is a seat at the table on policies that affect the border."

– Vivian Juan-Saunders,
Tohono O'odham¹

There's a common undercurrent to these concerns as well. Behind the attention, lobbying, and debate that Native nations devote to this set of topics, there is a much more fundamental preoccupation: the rights, welfare, and survival of peoples. For most Americans, U.S. borders are markers of difference. They show where here becomes there, where us becomes them.

But for Native nations along U.S. borders, they often signify disruption of once continuous lands and peoples, forcing a distinction not between us and them but between us and us.

What is new in recent years is the context within which Native nations try to address these concerns. As U.S. borders have become more politicized and militarized, as environmental change accelerates in border regions, as borders within North America become less prominent simply as markers of difference and jurisdiction and more prominent as barriers to connection, so the Indigenous defense of distinctive relationships among persons, places, and ways of being becomes more difficult.

At these borders, the imperatives of federal governments—to classify and regulate space, control access, protect against attack, and so on—come up against Indigenous ones—to sustain community, facilitate connection, protect cultural assets and the land relationship.

While room for compromise or collaboration may seem scarce, it is not clear that these differing agendas have to be in conflict. Certainly Native nations understand the concerns of the United States and its neighboring countries; they share the risks that lately have driven border policies and are willing to take steps to mitigate those risks. The U.S. government sometimes has been responsive, too. Encouraging news from border regions may be rare, but in recent years it has included some federal/tribal attempts to come up with creative solutions to border dilemmas. We have highlighted several of those attempts in this book.

But too often, Native nations are an afterthought, if they're thought about at all. Too often, twenty-first-century border defense resembles nineteenth-century border-making, where Native nations were either invisible and unheard or were viewed as an inconvenience that, for the most part, could be ignored.

That time has passed. As Native nations throughout the United States reclaim their right to control their own affairs, manage their own assets, and shape their futures according to their own designs, border nations are staking their claims as well: to be recognized when border solutions are discussed and to have a seat at the table when border decisions are made.

Note

¹Quoted in Hendricks, Tyche, "On the Border," San Francisco Chronicle, December 3, 2005.



As Native nations across the United States reclaim their right to control their own affairs, manage their own assets, and shape their futures according to their own designs, border nations are staking their claims as well: to be recognized when border solutions are discussed and to have a seat at the table when border decisions are made (photo by NNI staff).

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Jason Cheever, istock

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A sign in English and the Salish language, shared by citizens of the Confederated Tribes of Colville, Washington State, and the Okanagan communities in British Columbia (photo from iStock)

