



## ***Border Action Network/Acción Fronteriza***

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### **Border Action Network Preparing to File Petition to IACHR Concerning Harassment of Persons Identified as Undocumented Immigrants in Border Area**

**Full Petition Presented Thursday, April 28, 2005**

#### **Introduction**

The Border Action Network is preparing a petition for submission to the Inter-American Commission on Human Rights against the United States of America. Through this petition, BAN—a non-governmental organization based in Tucson, Douglas and Nogales, Arizona that defends the rights of immigrants to the United States—will seek redress for human rights violations caused by the utter lack of protection and legal remedies for immigrant victims of intimidation by and violent confrontations with vigilante groups in southern Arizona.

The Inter-American Commission of Human Rights is the agency of the Organization of American States that is responsible for promoting human rights in countries that are members of that organization, including the United States. It has the authority to receive and decide on claims against the United States for alleged violations of international legal obligations concerning human rights.

#### **Background**

Throughout the past half-century, anti-immigrant groups have committed repeated incidents of intimidation and violence against undocumented immigrants crossing the Arizona desert. One of the more historically notorious actions occurred in 1973 when a group of ranchers beat, robbed and tortured a group of immigrants. Though somewhat infrequent, these hateful acts were prosecuted by the state and federal governments alike.

Over the last five years, however, anti-immigrant activities have become alarmingly frequent and the government has ceased to prosecute perpetrators of similar actions. Since 1999, a number of out-of-state groups—including Ranch Rescue, the American Border Patrol and Civilian Homeland Defense—have moved to Arizona to help mobilize and fuel a growing anti-immigrant movement. With these new transplants has come a great increase in hateful criminal activity toward immigrants in southern Arizona. Racist and white supremacist militia groups have caused grievous harms to hundreds—perhaps thousands—of immigrants, including injuries from firearms, physical assault and battery, robbery, false imprisonment and degrading verbal threats and insults.

Disregarding the extensive suffering caused by these human rights violations, the United States has failed to take *any* action against the perpetrators of these crimes. Over the past three years alone, numerous individuals and non-governmental organizations—

including BAN—have organized widespread campaigns to contact government officials and demand that they take action to prevent anti-immigrant human rights abuses. These grassroots actions have uncovered a litany of abuses and reflect that the government has extensive documented evidence of anti-immigrant crimes. Nevertheless, despite repeated citizen pleas to the U.S. Attorney, the Cochise County Attorney and the Arizona Attorney General, federal, government actors have done little or nothing to prevent or even discourage this hateful and illegal activity.

### **Exhaustion of Domestic Remedies**

Although a strong base exists in federal and Arizona State criminal law for domestic prevention of immigrant abuse, these remedies are utterly unavailable to undocumented immigrants as a matter of fact. Because federal and state prosecutors have failed to press criminal charges against anti-immigrant actors in southern Arizona and are shielded by governmental immunity from court challenges to these decisions, all attempts to exhaust domestic remedies on this point have been futile. Especially considering the government's failure to act in the face of repeated documentation of these abuses and extensive civilian petitions for intervention, all future attempts to pursue domestic remedies will also be futile.

### **The Responsibility of the United States for Violating International Human Rights Laws**

The failure of the United States through various governmental entities to prosecute anti-immigrant crimes and provide relief for victims violates undocumented immigrants' rights to physical integrity and freedom from bodily harm, non-discrimination and equality before the law, and judicial protection. The American Declaration of the Rights and Duties of Man and other provisions of international human rights law affirm and protect these rights, and bind the U.S. government to respect these rights.

International human rights norms obligate countries not only to change their internal practices that fail to recognize human rights, but also to take affirmative steps to protect these rights. Because the judicial and law enforcement mechanisms of the United States have provided *no* protection for undocumented immigrants against crimes of violence perpetrated against them, international law binds the United States to reverse this trend.

### **Relief**

BAN petitions the IACHR to add its voice to the many in southern Arizona demanding that the U.S. immediately take action to enforce domestic laws prohibiting vigilante violence in southern Arizona through federal, state and local government actors. Additionally, BAN seeks to implement education and training programs to better educate prosecutors of immigrants' rights and the United States' obligation to protect these rights under international law.