

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Repealing Chapter 3, Section 7 Law and Order Code Ban on Interracial Marriages)**

RESOLUTION NO. 05-430

1 **WHEREAS, the Constitution of the Tohono O'odham Nation provides that the Nation's**
2 **government "shall not deny to any member of the Tohono O'odham Nation the equal**
3 **protection of its laws or deprive any member of liberty or property without due**
4 **process of law." (Constitution, Article III, Section 1); and**

5 **WHEREAS, pursuant to Article III, Section 4 of the Constitution, the enumeration of rights**
6 **contained in Article III "shall not be construed as denying or abridging other**
7 **fundamental rights of the people guaranteed by Title II of the Indian Civil Rights Act,"**
8 **which similarly provides that no Indian tribe shall "deny to any person within its**
9 **jurisdiction the equal protection of its laws or deprive any person of liberty or**
10 **property without due process of law" (25 U.S.C. § 1302(8)); and**

11 **WHEREAS, race-based limitations on the right to marry have been held unconstitutional in other**
12 **jurisdictions as a violation of the right to due process and to equal protection; and**

13 **WHEREAS, the Nation's Law and Order Code provides that "The marriage of persons of Papago**
14 **Indian blood, or their descendants, with Negroes, Mongolians or Caucasians and**
15 **their descendants, shall be null and void." (Law and Order Code Chapter 3, Section 7);**
16 **and**

17 **WHEREAS, as written, the first sentence of this section prohibits certain marriages based upon**
18 **racial classifications; and**

19 **WHEREAS, if enforced, this provision would also prevent certain members of the Nation who are**
20 **not 4/4 Tohono O'odham from marrying other members of the Nation; and**

21 **WHEREAS, it is in the best interest of the Nation to repeal the first sentence of Law and Order**
22 **Code Chapter 3, Section 7.**

23 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council hereby**
24 **repeals the first sentence of Chapter 3, Section 7 of the Law and Order Code.**

25 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 01ST Day**
26 **of AUGUST, 2005 at a meeting at which a quorum was present with a vote of 2,401.45 FOR;93.35**
27 **AGAINST; -0- NOT VOTING; and [-0-] ABSENT, pursuant to the powers vested in the Council by**
28 **Section 1 (c)(1)(3) & (6) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by**
29 **the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
30 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June**
31 **18, 1934 (48 Stat. 984).**

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TOHONO O'ODHAM LEGISLATIVE COUNCIL

Evelyn B. Juan Manuel
Evelyn B. Juan Manuel, Legislative Chairwoman

1st day of August, 2005

ATTEST:

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

1st day of August, 2005.

Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 1st day of August, 2005 at 4:00 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon her approval or upon her failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Evelyn B. Juan Manuel
Evelyn B. Juan Manuel, Legislative Chairwoman

APPROVED

on the 2 day of August, 2005

DISAPPROVED

at 3:12 o'clock, P.M.

Vivian Juan-Saunders
VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 2nd day of

August, 2005, at 8:40 o'clock, A.M.

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

ACTION: REPEALING CHAPTER 3, SECTION 7 LAW AND ORDER CODE BAN ON INTERRACIAL MARRIAGES

MOVED: COUNCILMAN JOHN LAWSON, JR.

SECOND: COUNCILWOMAN CYNTHIA MANUEL

DATE: AUGUST 01, 2005

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	1. FRANCES MIGUEL ()	155.40	X			
	2. FRANCES G. ANTONE (Lucilda J. Valenzuela (Norris))	155.40	X			
CHUKUT KUK 258.7	1. ETHEL GARCIA ()	129.35	X			
	2. VERLON M. JOSE (David Garcia)	129.35	X			
GU ACHI 221.6	1. TIMOTHY L. JOAQUIN (Jonas Robles)	110.80	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	110.80	X			
GU VO 193.1	1. RAYMOND VICTOR ()	96.55	X			
	2. MICHAEL FLORES (Grace Manuel)	96.55	X			
HICKIWAN 167.4	1. DELMA GARCIA (Mary E. Sam)	83.70	X			
	2. SANDRA ORTEGA ()	83.70	X			
PISINEMO 171.8	1. BARBARA SALVICIO ()	85.90	X			
	2. GERALD FAYUANT ()	85.90	X			
SAN LUCY 169.0	1. JOHN W. LAWSON, SR. ()	84.50	X			
	2. GLORIA RAMIREZ ()	84.50	X			
SAN XAVIER 193.8	1. FELICIA NUÑEZ ()	96.90	X			
	2. OLIVIA VILLEGAS-LISTON ()	96.90	X			
SCHUK TOAK 146.9	1. FRANCES B. CONDE ()	73.45	X			
	2. PHYLLIS JUAN ()	73.45	X			
SELLS 421.0	1. DENNIS E. JOSE ()	210.50	X			
	2. EVELYN B. JUAN MANUEL ()	210.50	X			
SIF OIDAK 186.7	1. WAVALENE SAUNDERS (Isidro Lopez)	93.35	X			
	2. DARLENE ANDREW (Rita Martinez)	93.35		X		
TOTAL		2,440.80	2,401.45	93.35	-0-	[-0-]

**PASSED VOTES