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The Treaty of Guadalupe Hidalgo

Still Relevant Today

By Roberto Rodríguez and Patrisia Gonzales
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From 1996 to 1998 marked the 150th anniversary of the Mexican-American War. The most important individual anniversary was the signing of the Treaty of Guadalupe Hidalgo, which took place on February 2, 1848, and which formally ended the two-year conflict between the United States and Mexico.

While some people (and many U.S. courts) see the treaty as dead, others see it as the basic document that governs relations between both countries. Still others see it as a living human rights document that pertains to people of Mexican origin residing in the United States.

Many of us were raised with the idea that the war against Mexico was simply a pretext for stealing its territory, and the treaty, negotiated under military duress and signed by a corrupt dictator, simply formalized the theft of half of Mexico's territory - a violation of international law. (As a result of the war, Mexico lost land that now makes up the Southwestern United States).

While many Mexican Americans view the treaty in this context, it did guarantee Mexicans and their descendants who remained in the ceded territories certain political rights, including land rights. But by the end of the century, most Mexicans had lost their land, either through force or fraud.

During the early Chicano movement in the 1960s, New Mexico land rights crusader Reyes López Tijerina and his Alianza movement invoked the Treaty of Guadalupe in their struggle. In 1972, the Brown Berets youth organization also invoked it in their symbolic takeover of Catalina Island, off the Southern California coast.

"The key to understanding the treaty, however, is not so much what's in it, but rather, what isn't in it."
For more than 15 years, many Chicano indigenous groups have cited the treaty in their struggle for the human rights of Chicanos in international forums, such as the U.N. They maintain, however, that the Mexican and indigenous peoples living in what is today the Southwest U.S. were not signatories. Native American peoples have also referred to it in their legal disputes.

Despite the fact that “It’s not our treaty,” says Rocky Rodríguez, national director of the Denver-based National Chicano Human Rights Council, Chicanos in the United States today are also covered by it.

However, when it comes to fighting for human rights cases, especially those of land theft and law enforcement abuse, seeking relief through U.S. courts is basically of no use to Chicanos, says Rodríguez. People of Chicano/Mexican origin rarely win when they use or encounter the judicial system, she says.

Richard Griswold del Castillo, a San Diego State University history professor, considers the treaty a living document, and studies the subject in his recent book, *The Treaty of Guadalupe: A Legacy of Conflict*. Upon examining the document and its 23 articles negotiated by both countries, the most startling thing that stands out is that article 10 is missing. That article, which was deleted by the U.S. Senate upon ratification, explicitly protected the land rights of Mexicans. Additionally, article 9, which deals with citizenship rights, was weakened.

The key to understanding the treaty, however, is not so much what’s in it, but rather, what isn’t in it.

According to precedents set by U.S./Indian treaties, people do not automatically lose their rights when they lose a war. People possess inherent and universal human rights and when treaties are negotiated, the people involved can lose only the rights specifically agreed upon.
In *American Indians, American Justice*, by Vine Deloria and Clifford M. Lytle, the authors state that courts, in recognizing the past exploitation and the use of force against American Indians, developed a set of judicial rules in dealing with disputes. In effect, they are guiding principles when dealing with U.S./Indian treaties. According to the authors, one of the rules states: “Treaties reserve to Indians all rights that have not been granted away.” This is known as the “reserved rights doctrine.”

It thus follows that Mexicans in the U.S. did not lose their rights, unless that was stipulated in the treaty. And of course, no such stipulation was made. Also, these same rules call on judges to interpret treaties in the manner that reasonable people would interpret them. And it can be assumed that reasonable people don’t “give away” their lands or rights in treaties.

Armando Rendón, author of *Chicano Manifesto*, a 1971 book that’s also about the treaty and which is being republished, is a strong believer in the work of the council. He believes a test case is on the horizon, seeking redress on behalf of Chicanos, based on Guadalupe Hidalgo.

We too predict that a test case—with legal merit—will soon arise on the issue of either language rights or land grants, based on the treaty and predicated on the fact that Mexicans (or their descendants) living in the ceded territories did not lose their universal rights as a result of the war.

Reflecting over the United State’s history of violated treaties, Rodríguez says, “Indian prophecies predicted trickery in the north [America] and brute force in the south. Here [in the Southwest U.S.], both have been used.”

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### Timeline of Events Leading to and Following the Treaty of Guadalupe Hidalgo

**1842**
- Sam Houston raises 1,200 men to oppose Mexican raiders attacking Anglo settlements in territory claimed by Texas.
- Juan Seguin is elected Mayor of San Antonio, Texas, but is soon forced to flee to Mexico as Anglo vigilantes attack Mexican Texans.

**1846**
- The United States supports Texan border claims and tries to buy New Mexico and California from Mexico. Angered by Mexico’s rejection of the offer, President James K. Polk orders General Zachary Taylor to cross into the disputed territory and blockade the mouth of the Rio Grande.
- Mexican troops retaliate, and President Polk declares war.

**1847**
- U.S. forces under General Winfield Scott enter Mexico City; peace negotiations with Mexico begin.

**1848**
- The Treaty of Guadalupe Hidalgo ends the U.S. Mexican War; Mexico cedes territory in the Southwest to the United States for $15 million and a promise from the U.S. government to assume any debts owed to U.S. citizens by Mexico. The treaty promises to respect the cultural and property rights of Mexicans living in the territory and to allow them to become U.S. citizens.

**1851**
- Congress passes the California Land Act to resolve property disputes between Mexican Americans and Anglos.

**1853**
- General Antonio López de Santa Anna returns to power as president of Mexico and signs the Gadsden Purchase Treaty, ceding land in what is now southern Arizona and New Mexico to the United States for $10 million.

**1855**
- Laws are enacted in California to prohibit many cultural pastimes of the Mexican American population, such as bullfighting.
- The Supreme Court rules that the Treaty of Guadalupe Hidalgo does not apply to Texas.

**1857**
- Anglo businessmen try to push Mexican teamsters out of south Texas, violating the guarantees of the Treaty of Guadalupe Hidalgo.

**1858**
- Miners and settlers move into Colorado in search of silver, forcing more Mexican Americans from their land.