

Human Rights for Chicanos: A Prime Goal for the Future

By Armando B. Rendón

The pomp and fireworks that will highlight ceremonies all over the U.S. this July 4th illuminate a profound irony of Mexican American history. On July 4, 1848, the U.S. Congress ratified a document that is little known outside the Mexican American community and maybe a few history buffs – the Treaty of Guadalupe Hidalgo. The Treaty ended hostilities between the U.S. and Mexico, hostilities provoked by then President James Polk.

The Treaty, despite its 178 years in existence, is very much a living human rights document. It did more than stop the fireworks between the U.S. and Mexico, a war which the U.S. started. My research concludes that the Treaty of Guadalupe, signed on February 2, 1848, is also a bridge for Mexican Americans between the rights set out in the U.S. Constitution and today's system of human rights.

When the Treaty was proclaimed by the U.S. Congress on July 4, 1848, the foundations were already in place for the principles we now espouse in numerous agreements between Nations. The same principles were acclaimed and nurtured as well in the Constitutions establishing Mexico's Nationhood. In 1848, when the United States ceased its war against Mexico, these basic principles were also engraved in the document "ending hostilities" between the two Nations.

The Treaty granted the Mexicans living in the territory taken by the U.S. full citizenship and is incorporated into the U.S. Constitution with all the human rights it confers. Since its inception, the Treaty has been cited in numerous court cases involving American Indian tribes and in numerous cases seeking to reestablish the line of authority and ownership from the kings of Spain to the grantees of land grants and their descendants throughout the Southwest.

But the principle most basic to human rights – the protection of life and liberty – has been the one most grievously violated in incidents against Mexican Americans dating back virtually to the very first days of the treaty's existence. Until now, we have not valued the Treaty as a human rights document, although this is where its strength and relevance lie. As a result, we have not used the Treaty in its proper context, that is, as a primary vehicle to address violations of Chicano human rights in international forums.

What I have done in my work on the Treaty is to place the Treaty within the framework of international principles of justice and within the continuum of the evolution of human rights law in the Americas. The Treaty is more alive today than it was in 1848; its protections afford Chicanos a new perspective on the aspirations we have had for the vindication of the many wrongs committed against Chicanos as a people.

We Mexican Americans have looked to the Treaty as a domestic, political document, rather than, as I would assert, an international instrument having authority, within our system of law, second only to the Constitution itself. Establish its essence as a document guaranteeing rights beyond the statutory or common law precedents of U.S. law and we may then bring the case of the Mexican American before international forums, including the United Nations.

The Treaty enables us to assert that we indeed possess a nationhood by virtue of being party to an international agreement. The concept of Mexican Americans constituting a Nation, much like federally recognized Native American tribes, was a rallying call from the early days of the Chicano Movement. We are analogous to the tribes who attained sovereign status through treaties, that is, nations within a nation.

In order to bring our case before the world, much needs to be done in terms of organization and preparation. We must also become familiar with the Inter-American Commission on Human Rights and the Inter-American Court for Human Rights, headquartered in Washington, D.C., which reflect the human rights principles and procedures of the UN Human Rights Council and thus afford us of the Americas the opportunity to seek redress for human rights violations. Another document of great importance for Chicanos was enacted in 2007, the UN Declaration on the Rights of Indigenous Peoples.

But in order for us effectively to present and defend violations of our human rights, it is essential for like-minded Mexican Americans to form a working group of persons with knowledge and experience in international law, human rights law, and generally the workings of the UN system, and, of course, the Inter-American system. Eventually such a group could evolve into a non-governmental organization, (NGO) which provides formal recognition for presentations in international forums.

Broadly, the areas of human rights law fall into three categories:

Civil and Political Rights protect individuals' freedoms and ensure participation in civil and political life without discrimination:

- Right to life, liberty, and security
- Freedom from torture and degrading treatment
- Freedom of expression, assembly, and association
- Right to a fair trial
- Right to privacy

Economic, Social, and Cultural Rights focus on the social and economic well-being of individuals and include:

- Right to work and fair wages
- Right to education
- Right to health
- Right to an adequate standard of living
- Right to participate in cultural life

Collective Rights are held by groups rather than individuals, including:

- Right to self-determination
- Rights of minorities and indigenous peoples

This array of human rights provide ample avenues by which Mexican Americans can seek recourse to violations against our people. We Mexican Americans number more than 40 million people in the US, which makes us the largest indigenous ethnic population in the country. This also gives us status under the Declaration of the Rights of Indigenous Peoples to seek redress at the UN and as necessary before the Inter-American institutions. On this July 4th, I urge the Mexican American Heritage Day Association to celebrate the occasion by adding as part of our vision for the future the goal of advancing human rights and encouraging Mexican Americans to take an active role in that cause.

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