

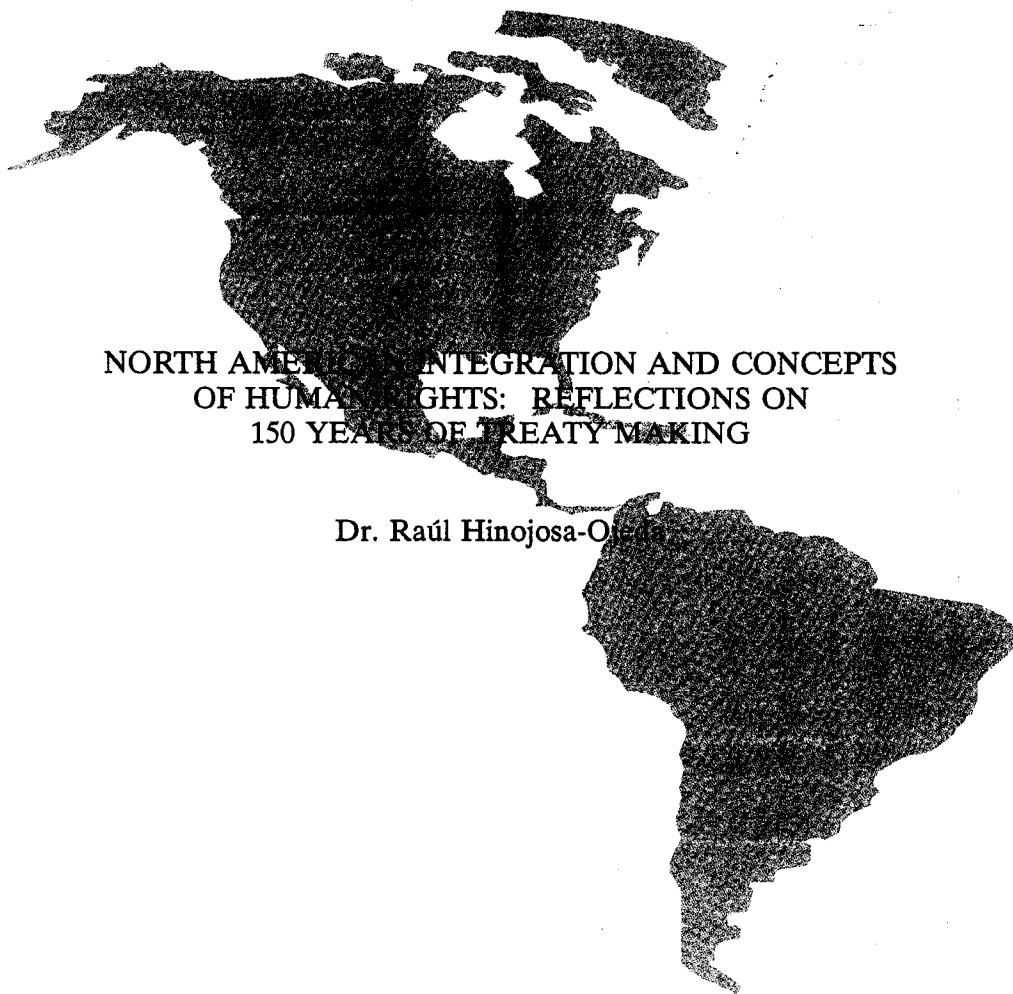
CH 17

SOUTHWESTERN JOURNAL
OF
LAW AND TRADE
IN THE
AMERICAS

VOLUME V

SPRING 1998

NUMBER 1



NORTH AMERICAN INTEGRATION AND CONCEPTS
OF HUMAN RIGHTS: REFLECTIONS ON
150 YEARS OF TREATY MAKING

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**NORTH AMERICAN INTEGRATION AND
CONCEPTS OF HUMAN RIGHTS:
REFLECTIONS ON 150 YEARS
OF TREATY MAKING**

Today we have the opportunity to reflect, not only on the one hundred and fifty years of cross-national integration and the evolution of human rights in North America, but also on what we may expect to talk about in a similar conference in the year 2048 for the 200th anniversary of the Treaty of Guadalupe Hidalgo. What will be our reflections at that time back to 1848 and 1998?

There have been essentially four periods of treaty making between the United States and Mexico. The first period was in the 1840's. Thereafter, very intense periods of treaty making between the United States and Mexico have occurred almost every fifty years, as regularly as a clock striking high noon. The second period was during the 1890's, including new investment arrangements and even an aborted free trade treaty during the dictatorship of Don Porfirio Diaz.

Moving forward into the 1940's, we find the third extraordinary period of treaty making between Mexico and the United States. Here we find treaties on oil expropriation, debt relief, free trade, and migration (The Bracero Program). The current period of the 1990's brought another fourth set of agreements, primarily built around the NAFTA and the concept of free trade. Each of these periods and their treaties tell us much about the way in which the United States and Mexico treat trade, capital, immigration flows, and more importantly, the way in which human rights are conceived and operationalized. What is very interesting to me when reading the Treaty of Guadalupe Hidalgo is the way in which the text really reflects the history of the time. You have to understand that the 1846-47 Mexican-American War occurred at a fundamental crossing point in American history. This was the first war, according to the contemporary press accounts, that galvanized the American public as a nation for war on foreign soil.

The text of the Treaty itself reflects a particular American vision of the nature of rights and suggests that the war was based on race as well as conquest. The document is very much rooted upon a series of racist assumptions and practices. Reading through the Treaty, I was struck, for example, by the fact that in Article 11 the text states explicitly that "it shall be unlawful for any inhabitant of the United States to purchase or acquire any Mexican." The drafters thought it necessary to clearly state that this particular practice, which existed in the United States at the time, could no longer be pursued with respect to Mexicans.

Another article that was interesting to me, Article 9, dealt with the process of the incorporation of Mexican citizens into the United States society. The treaty states that any citizen of Mexico that decided not to remain a Mexican citizen would be incorporated into the United States, yet would not necessarily enjoy all the rights of citizenship of the United States. The treaty allowed for Mexicans who remained in the former northern territories to technically lose their Mexican citizenship, yet left it up to the U. S. Congress to decide how and when to grant these people the full rights of United States citizens. In other words, right from the start, there was already a strong ambiguity as to how these people were to be treated and whether they would have immediate access to a full regime of rights.

The Treaty of Guadalupe Hidalgo thus originated the first wave of U.S.-Mexico treaty making, and as such is really indicative of what I call the first regime of United States-Mexican relations. This regime was primarily based on notions of conquest. The important thing about United States-Mexican relations in each successive period of treaty making is that they are indicative of the way the United States would subsequently deal with other countries around the world. The problem, or as some others say the unique fortune, for Mexico has always been that it is the first testing ground for the United States understanding of itself in the world. Since the 1840's, Mexico has been the first testing ground of new policy regimes vis-à-vis other countries, and developing countries in particular. This was the case for the policy of Manifest Destiny, as exemplified in the Mexican-American War.

If we move forward to the end of the 19th Century, it is important to note that the United States no longer saw itself involved in a war of conquest and Manifest Destiny, if you will, but rather with the new goal of economic imperialism. The documents drafted in the late 19th Century, particularly the trade agreements of the 1890's, reflect the

United States' efforts to gain market and investment access, particularly in the Western Hemisphere.

Remember that there is another anniversary being celebrated this month: the Spanish-American War of 1898. The Spanish-American War, beginning with the blowing up of the *Maine* in February 1898, was the extreme example of the vision of American Imperialism that assumed the right to determine the economic and political direction of other nations, rather than forcibly taking land for incorporation into the territory of the United States. If you read the texts of the treaties and the debates in the United States Senate at the time, you find language referring to countries, and particularly Mexico, no longer as areas naturally belonging to the United States territorially, but rather whose markets are seen as falling under the United States' sphere of influence. There was a sense that the United States had a legitimate right to acquire markets and establish dominate economic relationships, to the exclusion of the other actors, particularly the competing imperial powers of Europe.

Moving forward then into the 1940's, we again find a new and very peculiar set of treaty relationships between the United States and Mexico. In the early 1940's, treaties were signed that not only established free trade, but also forgave 90% of Mexico's debt and accepted Mexico's expropriation of the oil industry in 1938. Additionally, a very interesting treaty established a legal framework for temporary labor migration between Mexico and the United States, which became known as the Bracero Program. Now remember, these were the years of World War II. At this point in time the United States and the Roosevelt Administration were very eager to get Mexico involved in its war effort. It is fascinating to note that the Bracero Program included particular provisos that are quite extraordinary: for example, the program excluded Texas from participating because of its racist and exploitative ways of treating Mexicans. The lack of rights afforded to Mexicans became an issue only because the geopolitics of the time, and this led to a new language of bilateral agreements which excluded Texas from the benefits of the Bracero Program on the basis of an international understanding of human and labor rights.

The Bracero Program, as it was conceived and operated during the war period, was actually for the United States a unique precedent which afforded a rather extraordinary degree of rights to temporary immigrants, including the right to United States labor laws. This precedent turned out to be only temporary, however, to be revoked as the post WWII power relations changed. The Bracero treaty turned

out to be an agreement that was basically unilaterally operated by the United States. The experiment turned into a rather tragic-comic episode as Mexico tried to enforce the human and labor provisions and principles of the treaty. Mexico decided that it would not allow its workers' rights to be violated in the United States and tried to stop Mexicans from crossing over the border. The Mexican government actually tried putting troops on the bridges on the Rio Grande to stop Mexicans from crossing over into the United States. The attempt failed, not surprisingly, and up until 1964 the Bracero Program had the characteristics of a binational mutant legal system, justifying the practice of bringing Mexicans into the United States for the purposes of labor exploitation with a very limited set of rights.

Nevertheless, during the War period, the United States did develop a "good neighbor" approach that was reflected in the treaties of the time. The treaties of 1942 soon led to the agreements of 1946 that actually allowed Mexico to begin a nationalist process of import substituting industrialization. Import substitution recognized Mexico's right to protect its processes of domestic industrialization. At least until the 1950's, the United States replicated this approach as a model throughout the world in its relationship to developing countries. The United States actually pushed economic nationalism as complimentary to American interest both as a weapon in the Cold War and as benefitting American multi-national corporations. Again, this was something that began first and foremost with the relationship between the United States and Mexico.

Where are we now in the late 20th Century? Well, I argue that the NAFTA agreement, while launching a new paradigm for relations between developed and developing countries, is as yet, a very incomplete framework to deal with the major challenges in United States-Mexico relations, and North-South relations that I generally believe will come to a head in the early decades of the next century.

The challenge is how to take this extraordinary experiment, represented by the NAFTA — linking the richest country in the world via free trade with a much poorer neighbor — and making it work for the benefit of both countries' workers? How is that challenge to be dealt with in a form that actually produces sustainable economic development that is mutually beneficial? How do we create conditions whereby a regime of rights is shared within this territory of North America that can do away with the continuing exploitation of immigrant labor? The pattern of migration that is allowed to exist between the United States and Mexico turns out to be absent in the discussion

on the NAFTA, yet it is crucial if we are actually to close the huge income gaps in this part of the world.

If you look at North American integration, what is really spectacular about migration is that it is much more important than trade and investment. The NAFTA leaves out what is in effect the largest mechanism of United States-Mexican integration, i.e. a huge continuing pattern of labor supplies to the United States and the associated transfers of wealth for both countries. Between Mexico and the United States we now have a situation where approximately 300,000 undocumented workers and their families come to the United States on an annual basis, compared to about 100,000 legal residents. Thus, the number of undocumented people in the United States is expanding at a rate faster than that of legal immigrants coming in from Mexico, causing even larger legal distortions and opportunities for economic exploitation. Recent new immigration laws in the United States will further create a permanent underclass with a set of rights significantly below those afforded to citizens of the United States and with lower wages, this will generate greater subsidies for California consumers, but also growing inequality. In a sense, we are now producing a class of people almost exactly like those the Treaty of Guadalupe Hidalgo suggested would be only a temporary phenomenon, an internal class of workers with sub-citizen rights. United States-Mexican migration thus ironically undermines the new era of United States-Mexico free trade. Why do I say that? If you look at Los Angeles today with its 100,000 undocumented workers in the garment industry, the situation provides the United States with an unfair trading advantage due to artificially repressed wages *vis-à-vis* Mexican exports. In this setting, the NAFTA could lead to even greater disparities in income between and within countries in North America, further dividing the rapidly integrating North American society.

What does this imply for where we are going in the next fifty years? Well, by the year 2048, the plurality of people in California will be of Mexican or Latino descent. Just last year we passed the limit where people of European descent are no longer the majority of the people living in California. The issue of demographic change, particularly in California, will become the driving force of what will be the world's first multi-cultural and multi-racial advanced capitalist society. We are already seeing the implications of this radical transition in such things as the racist backlash behind the anti-immigration Proposition 187 by the inevitably declining majority. The current transition period will hopefully not last long. Yet this transition period is being marked

by cultural wars, which are actually another form of a class assault on the working people in California, and threatens to undermine the regime of rights throughout North America. I also think that Mexico will have to reconcile long unresolved issues relating to the race and ethnicity of its indigenous population, as the case of Chiapas highlights.

So, what is to come? One possibility is the formation of a North American Visa arrangement, where the free mobility of labor and capital would provide full rights to all North American workers in whatever country they may be in. Whether that results in a regime of full North American citizenship, or an open labor arrangement such as in today's Europe, is still a question that obviously will be very much fought over. But I think some type of expansion of rights for Mexican labor in the United States is probably inevitable. The expansion of human, labor and political rights to all immigrants, as well as to all people within North America, is perhaps the most crucial question that Mexico and the United States will have to face in the next fifty years. The possible future sustain ability of a humane regime of rights and relations in North America is going to be determine very much by what happens right here in California, frankly, right here on Wilshire Avenue. I leave it in your hands.