

Resolution on Enforcement Mechanisms of International Treaties Between USA and USM

**To be proposed at the California LULAC
State Convention, May 23, 2010**

WHEREAS, in recent days, the passage of SB 1070 by the State of Arizona has highlighted the importance of United States of America – United States of Mexico international relations and foreign policy;

AND WHEREAS, issues involving immigration cannot and should not be approached by both nations in a vacuum, isolated from the history of relations between both nations; nor should the issue of immigration be approached in isolation from the treaties that bind both nations; and neither nation should attempt to unilaterally legislate on the issue of immigration, but should instead invoke the existing provisions of the Treaty of Guadalupe Hidalgo to deal holistically with a plethora of issues that need resolution;

AND WHEREAS, Article XXI of the Treaty of Guadalupe Hidalgo commits both the United States of America (USA) and the United States of Mexico (USM) to a joint process to solve critical political and/or commercial issues that arise between them:

If unhappily any disagreement should hereafter arise between the Governments of the two republics, whether with respect to the interpretation of any stipulation in this treaty, or with respect to any other particular concerning the political or commercial relations of the two nations, the said Governments, in the name of those nations, do promise to each other that they will endeavour, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship in which the two countries are now placing themselves, using, for this end, mutual representations and pacific negotiations. And if, by these means, they should not be enabled to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one republic against the other, until the Government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighbourship, whether it would not be better that such difference should be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such

course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference, or the circumstances of the case.

AND WHEREAS, the current state of affairs between the USA and the USM must be seen in the light of a history of over 160 years of USA violations of the rights of Mexican citizens and their descendants under the Treaty of Guadalupe Hidalgo and the Protocols of Queretaro, to the extent that treaties are contracts between nations, the USA has a consistent record of violations of the treaty and the USM never got what it bargained for that which the USA promised to perform pursuant to the Treaty and the Protocols;

AND WHEREAS, Article IX of the Treaty of Guadalupe Hidalgo states that:

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States. and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the mean time, shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without; restriction.

AND WHEREAS, in spite of the commitment of the USA to abide by these principles, Mexicans and their descendants who remained in the occupied territories of Mexico that became incorporated into the USA, were subjected to egregious violations of their rights including but not limited to:

- In California, following the cession of land to E.E.U.U. following the Mexican – American War, former and current citizens of Mexico were denied the right to bring charges or testify in court against “white” people, on the theory that Mexicans were defined as being at least one-quarter of indigenous extraction and were therefore denied by statute the right to testify against “white” people. A concrete example of how this impacted Mexicans following the war was that it sparked the rebellion against E.E.U.U. authority by Joaquin Murrieta, who was denied the right to bring charges against Americans who had gang raped his wife and lynched his brother. Murrieta’s rebellion was defined as “crime” by the authorities of the E.E.U.U.
- Organizations such as the Texas Rangers operated with state authority to simply run Mexicans off their land by means of threats and violence
- Thousands of Mexican, like African-Americans, were subjected to lynching without legal recourse throughout the “Southwest” of the E.E.U.U.
- During the ‘Great Depression,’ the administration of President Herbert Hoover instigated the forcible deportation and flight to escape threats and violence of 2,000,000

persons of Mexican origin or descent, approximately 1.2 million of whom are estimated to have actually held citizenship in the E.E.U.U.

- Mexican children were systematically subjected to segregation in education and other social institutions
- Indigenous U.S. "Indian" tribes, formerly recognized by the USM before the conquest of the "Southwest," are repeatedly subjected to the desecration of their tribal burial grounds
- E.E.U.U. authorities systematically violate the rights of Mexican nationals that are accorded to by the Vienna Convention on Consular Affairs to consular notification and access.

AND WHEREAS, the enactment of SB 1070 by the State of Arizona is just the latest outrage perpetrated in violation of Article IX of the Treaty of Guadalupe Hidalgo;

THEREFORE BE IT RESOLVED, that CALIFORNIA LULAC calls upon National LULAC to demand that President Obama of the USA and President Calderon of the USM instruct their appropriate subordinates, i.e., Secretary of State Hilary Rodham Clinton and Secretary Patricia Espinosa Cantellano of the Secretariat of Foreign Affairs to enter into immediate consultations to invoke the provisions of Article XXI of the Treaty of Guadalupe Hidalgo for a bilateral commission to review and consider all aspects of USA-USM relations and to negotiate appropriate remedies for both nations, including but not limited to:

- Making the provisions of the Treaty of Guadalupe Hidalgo self-executing in USA and USM courts
- Making the provisions of the International Covenant on Civil and Political Rights self-executing in USA and USM courts
- Making the provisions of the Vienna Convention on Consular Relations self-executing in USA and USM courts, and in particular, violations of the rights accorded to USA nationals and USM nationals under Article 36 of the Treaty shall be presumed to be grounds for the suppression of evidence obtained in violation of those rights in the respective courts of both nations
- Making violations of USA and USM nationals under each of these treaties by government agents the grounds for disciplinary action by the employing authorities of those agents;

AND BE IT FURTHER RESOLVED that if the bilateral commission is unable to resolve these issues, that the USA and/or the USM shall invoke Article XXI's provision for third nation arbitration of any outstanding disputes that cannot be solved through the bilateral commission process.