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Struggle for Survival:

The Hispanic Land Grants of New Mexico, 1848–2001

PHILLIP B. GONZALES

Land has different meanings to people in the United States. Beyond purely instrumental purposes, it is for many at the core of individual and collective identity. It is often the emblem of well-being and care for family, neighbors, and community. Land can inspire the spiritual and serve as the cornerstone of existential values. In this regard, ethnicity is an important basis for defining land. As Sonya Salamon has observed, distinctive cultural practices, such as kinship systems, gender roles, inheritance customs, and land tenure systems, “have roots in the original and subsequent peoples who inhabited a particular space.” Salamon thus sees “layers” of cultural viewpoints fixed upon the land, particularly in rural areas.¹

One type of minority layering rises from histories of land dispossession. Here, cultural identification is informed, indeed given emotional charge, by claims of original and continued ownership of ancestral lands. The land in such cases tends to be regarded as necessary for the very survival of the

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1. Sonya Salamon, “Cultural Dimensions of Land Tenure in the United States,” in *Who Owns America?: Social Conflict Over Property Rights*, ed. Harvey M. Jacobs (Madison: University of Wisconsin Press, 1998), 159–81. See also Louise Fortmann, “Introduction. Bonanza! The Unasked Questions: Domestic Land Tenure Through International Lenses,” in *Who Owns America?*, 3–15.

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group. Native Americans, as the classic instance, press the argument that their existence as distinct “peoples” is dependent on the extent to which they can retain or wrest back lands that were once theirs by sovereign right. “The right of native communities to self-preservation, the foundational right accorded to collective entities capable of bearing rights,” one such advocate observed, “would be meaningless without a right to the continued possession and enjoyment of their land.”²

It does not receive the same degree of recognition as that of the Native Americans, but a parallel experience involves the Hispanic groups that are associated with the old Spanish and Mexican land grants of the upper Rio Grande region in New Mexico and southern Colorado. The present-day heirs to these grants also share in an ancient heritage, theirs dating to the sixteenth and seventeenth centuries when Spain first colonized what is now the American Southwest. They, too, grieve that the United States despoiled territory from ancestors who belonged to another sovereign in violation of a nineteenth-century treaty. They furthermore argue that the theft of their lands has caused their traditional culture to become an “endangered species,” a point that gains force against the backdrop of some of the most severe regional poverty in the country.³

Since 1848, when New Mexico became part of the United States, generations of land-grant heirs have found themselves in uphill struggles for cultural survival. An integral theme of southwestern history turns on their battles with waves of incoming social, economic, and political forces that worked to vastly reduce the amount of land formerly in their families’ possession as citizens of the Mexican Republic. Integral to this particular cultural layer, the heirs have long seethed over what they allege has been the denial of their birthright to the land and the subsequent decimation of their traditional culture. Clark Knowlton’s metaphorical renderings capture the depth of this sentiment, their bitterness, resentment, and hostility forming “an underground stratum of hot lava buried deeply in the social structure of the

2. Darlene M. Johnston, “Native Rights as Collective Rights: A Question of Group Self-Preservation,” in *The Rights of Minority Cultures*, ed. Will Kymlicka (New York: Oxford University Press, 1995), 179–201.

3. “The Lesson,” *Albuquerque Journal*, 12 March 1989.

State,” or, “a dark underground river [that has flowed] throughout the history of American New Mexico.”⁴

A burning oppositional consciousness, fueled by the conviction that the United States betrayed its promises in the Treaty of Guadalupe Hidalgo, has from time to time impelled land-grant heirs to what one observer has called “desperate acts of political insurgency.”⁵ But it has also produced collective organizing on many political fronts. A statewide land-grant movement today pressures congressional and state politicians, meeting with promising success and generating hope that the United States can be made to squarely face and make amends for the particular strain of injustice they claim has victimized them historically. The very existence of the land grants merits new general thinking about the way that traditional connections to the land can, and morally should, be handled within the greater spectrum of political pluralism in the United States based on the recognition of both ancestral rights and the intractable collective memories of certain citizen groups.

The origins of the issue date to the end of the seventeenth century when a decree from Spain gave New Mexico governors (and sometimes lesser officials) authority to grant parcels of various sizes from the royal domain to individuals, groups, towns, and indigenous communities. Allotted according to clearly defined, and rather elaborate, procedures as set out in the *Recopilación de Leyes de los Reynos de las Indias*, the grants fulfilled many purposes—fostered development of the frontiers, encouraged settlement in sparsely populated areas, rewarded administrative leaders, and set up buffers to distance hostile Indian tribes from the populated colonies. The grants also signaled Spain’s dominion over a vast western section of the North American continent against decided continental expansion by the United States and the exploratory excursions of Europeans. Mexico broke off from Spain in 1821, but the new republic, inheriting the need to sustain frontier settlement, continued to abide by the Spanish method of distributing land.

Indeed, proportionately more grants were awarded during the Mexican pe-

4. Clark S. Knowlton, “Land Grants Problems Among the State’s Spanish Americans,” *New Mexico Business* 20 (June 1967): 1–13.

5. Guillermo Lux, “Ancient Aspirations: A Mexican-American View of Land Reform,” in *Land Reform, American Style*, ed. Charles C. Geisler and Frank J. Popper (Totawa, N.J.: Rowman & Littlefield, 1984), 188–205.

riod, and they were also considerably larger. One reason is that authorities needed to ward off the real possibility of invasion by the Lone Star Republic. More importantly, the accelerated establishment of private grants was meant to keep newly arrived American merchants from acquiring too much land and therefore political influence, which they had begun to do based on the liberalization of land laws under Mexican rule.⁶

Father Antonio José Martínez actually inaugurated a long tradition of community resistance to Anglo designs on Mexican land even before the American conquest of the Southwest. Martínez, an educated and popular priest with a base of support among the common folk, led a handful of politically influential clergy. This “anti-americano faction” challenged American filibustering in New Mexico, accusing the newcomers of taking advantage of local landholders, abusing the administration of land grants, and manipulating laws to gain possession of alarmingly large tracts of land.⁷

Before the Pueblo Revolt of 1680, in which all Spanish colonizers were either killed or banished from the upper Rio Grande region, most *mercedes* (lands relinquished by the crown) were given to individuals for service rendered to the administration and for establishing *encomienda*-type ranches with their characteristic element of tribute extracted from Indian labor.⁸ Diego de Vargas reconquered New Mexico in 1692. Throughout the eighteenth century, the type of *merced* that came to involve the most frontier territory, and the form that is of central concern to present-day heirs, was the *ejido*.

The *ejido* was awarded to groups of settler-families (*pobladores*) who formally petitioned for a grant. Most distinctively, the *ejido* rested on a communal basis of ownership. Individual family households were set on long lots along a river (the Rio Grande, Chama, Rio Puerco, or Pecos) or tributary for

6. Malcolm Ebricht, *Land Grants and Lawsuits in Northern New Mexico* (Albuquerque: University of New Mexico Press, 1994), 22–25; Myra Ellen Jenkins and Albert H. Schroeder, *A Brief History of New Mexico* (Albuquerque: University of New Mexico Press, 1987), 9; Victor Westphall, *Mercedes Reales: Hispanic Land Grants of the Upper Rio Grande Region* (Albuquerque: University of New Mexico Press, 1983), 27–41, 44–58.

7. Robert J. Rosenbaum, *Mexicano Resistance in the Southwest* (Austin: University of Texas Press, 1981), 42; David J. Weber, *The Mexican Frontier, 1821–1846: The American Southwest Under Mexico* (Albuquerque: University of New Mexico Press, 1982), 81, 98, 193.

8. Marc Simmons, *Spanish Government in New Mexico* (Albuquerque: University of New Mexico Press, 1968), 220.

cultivating vegetable gardens and orchards. Settlers owned their allotments and could sell them as private property, although they usually left them to descendants. The remaining parcel, the *ejido* proper, was held in common by all the grant settlers for grazing, obtaining resources such as firewood and building materials, threshing, fishing, hunting, and fruit-gathering. Essential to the economic survival of the community, the commons, typically formed 90 percent of the total land of an *ejido* and could not be sold. The Spanish Crown intended that all the land and other natural resources not specifically transferred to individuals be reserved for general use only.⁹

Significantly, the policy placed ownership of the land in the hands of the villagers. The *pobladores*, typically led by an individual (*poblador principal*) who formally submitted the petition for the grant, were then responsible for organizing a local government.¹⁰

In its most developed state, the land-grant community attained a corporate social organization. Erecting and sustaining social life in the rugged, high mountain or upland terrain of New Mexico were formidable propositions. Successful adaptation, particularly as hostile Indian tribes threatened many of the settlements, required strong normative structures. As in similar communities in Europe, Spain, and Latin America, the administration of the agropastoral tradition in New Mexico made for tightly bound social relations, in spite of functioning connections to provincial and departmental administrations. The *acequia* system of irrigation, requiring participation by each household in a well-defined procedure for maintaining a complex of canals,

9. John R. Van Ness, *Hispanos in Northern New Mexico: The Development of Corporate Community and Multicommunity* (New York: AMS Press, 1991), 189; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 25. One recent report has pointed out that no land grant documents contain direct reference to "community land grants," nor have Spanish and Mexican laws been found to define or use this term, which was more the product of scholars and popular terminology. Yet the term can be used as a code to designate land grants that did involve a commons. United States General Accounting Office (hereafter GAO), *Treaty of Guadalupe Hidalgo: Definition and List of Community Land Grants in New Mexico*, Exposure Draft, (Washington, D.C.: GAO, January 2001), 6–7.

10. Michael C. Meyer and Michael M. Brescia, "The Treaty of Guadalupe Hidalgo as a Living Document: Water and Land Use Issues in Northern New Mexico," *New Mexico Historical Review* 73 (October 1998): 321–46; Malcolm Ebright, Testimony in *Status of Community Land Grants in Northern New Mexico*, Oversight Hearing Before the Subcommittee on General Oversight and Investigations of the House Committee on Interior and Insular Affairs (Washington, D.C.: U.S. Government Printing Office, 1989), 5–42.

reinforced village identification. Animal husbandry and communal stubble sheep-grazing contributed to cohesion. Patron saint commemorations and the role of a penitent Catholic brotherhood maintained religious values. Ultimately, the settlements derived their corporate quality from the land-holding system's defined rules, directives, and laws for establishing townships.¹¹

It is not known for certain how many community grants were awarded by the Spanish and Mexican governments in New Mexico. Many of them had been abandoned before the American conquest. The U.S. General Accounting Office (GAO) has identified 295 that came under U.S. adjudication in the nineteenth and early twentieth centuries.¹²

In protest of the Lone Star secession, Mexico claimed the right to Texas in 1836. War was therefore sparked in 1845 when the United States annexed that territory. Claiming Mexican provocation, the United States launched several military invasions into northern and central Mexico. Mexico, overpowered by superior might, surrendered in 1848. By the terms of the Treaty of Guadalupe Hidalgo, the United States paid \$15 million for New Mexico (Arizona included), California, and territory extending into present-day Nevada, Utah, and Colorado.

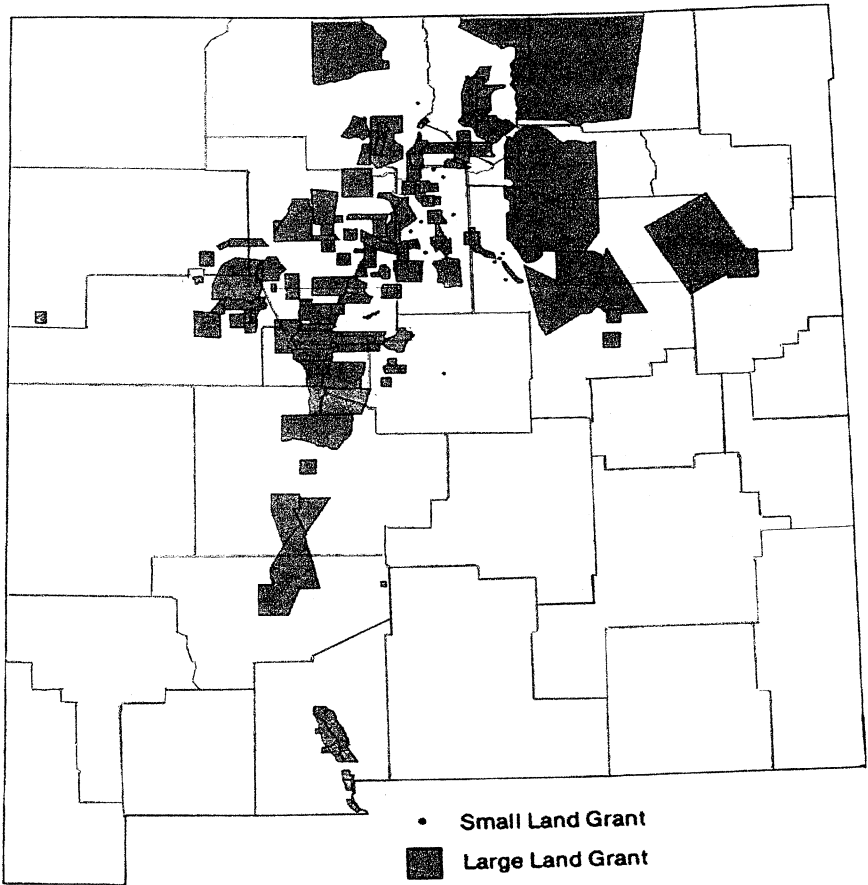
The shift of national boundaries had dramatic consequences for the settled portions of this vast area. Overnight, New Mexico's 60,000 Spanish-speaking residents and 10,000 native Pueblos became wards of an Anglo nation-state. The process spelled the formal incorporation of entire societies of native Mexicans and Pueblos, including millions of acres of land-grant property, an area "nearly as big as Vermont and New Hampshire combined and only two million acres less than all the federal lands [currently] controlled by the Bureau of Land Management in New Mexico."¹³

Article X of the Treaty of Guadalupe Hidalgo originally provided explicit protection, under judicial mandate, for the Mexican land grants. However, President James Polk objected to the provision, fearing that claimants would seek to resuscitate extinct grants and thereby jeopardize settled lands throughout the Southwest. The U.S. Congress, following Polk's wishes,

11. Van Ness, *Hispanos in Northern New Mexico*, 129–31, 176–99.

12. GAO, *Treaty of Guadalupe Hidalgo*, 22–2.

13. GAO, *Treaty of Guadalupe Hidalgo*, 5.



Outline of Land Grants Awarded in New Mexico, Spanish and Mexican Periods.

Adapted from Bureau of Land Management Land Status Map—1972.

struck Article X. American and Mexican officials later met to clarify certain aspects of the treaty. Article Two of the Protocol of Querétaro stated that the exclusion of Article X did not annul the land grants. Assuring protection of grant titles, it stated that grantees could have their ownership of land

acknowledged by American tribunals. At this juncture, it appeared possible that the United States would have to accommodate a communal form of land ownership in spite of its reliance on private property and emphasis on individual rights. Mexico signed the Querétaro Protocol. However, Congress, perceiving that it contained the same vulnerability as the original treaty, refused to ratify it. In one interpretation, the hidden agenda concerned reluctance by American leaders to go to court to test the titles of anyone who held land under a Spanish or Mexican grant.¹⁴ Still, because the protocol was filed in Congress along with the treaty, contemporary land-grant activists argue that the United States inherited at least a moral, if not a legal, obligation to honor the traditional *ejido*.

Because New Mexico did not become a state immediately after annexation, it could not influence the procedure Congress would choose to adjudicate its land-grant titles as California was able to do after gold was discovered there and after it was granted statehood in 1850. Because the Treaty of Guadalupe Hidalgo failed to provide clear-cut procedures for confirming the land grants, nothing compelled the United States to act quickly to promptly resolve the Mexican land-grant issue as it did with respect to grants that the Spanish empire had made to most of the settled Indian Pueblos.¹⁵ Instead, the *mexicanos* would now face a century of continuous threats to the integrity of the very concept of the *ejido*.

Six years after formal annexation, Congress established the office of surveyor general. One of the duties of this official was the adjudication of property rights in the territory, including examining documents and verifying the ownership of land grants. Individuals, towns, and other communities had to prove ownership or property interest in a particular grant. The surveyor general was charged with ascertaining the origin, nature, character, and extent of all claims under the laws, usages, and customs of Spain and Mexico. He had to deal with private land titles as Mexico would have and be

14. Westphall, *Mercedes Reales*, 74–76; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 28–29.

15. Natural Resources Center, *Remote Claims Impact Study: Lot II-A, Study of Problems That Result From Spanish and Mexican Land Grant Claims* (Albuquerque: Natural Resources Center, University of New Mexico School of Law, 1980), vi; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 37.

guided by Supreme Court decisions. In considering petitions for land grants, he was to take as *prima facie* evidence of the grant to a city, town, or village, the fact that they already existed. After review of the grant documentation, the official forwarded a recommendation to the secretary of the interior, who then sent it to Congress for final rejection or confirmation. If approved, the grant was surveyed and a patent issued to the title's owner.¹⁶

From the standpoint of the land-grant heirs, the surveyor general-system proved a dismal failure. Surveyors general did not know Spanish, nor were they familiar with Spanish and Mexican civil law or legal history. None of the nine who held the office were lawyers. Congress failed to provide sufficient resources to conduct fair hearings. The land grants were not the top priority of surveyors general, who were charged with extending the federal public-land survey system in a checkerboard of townships. Effective hearings with notice to opposing parties were lacking, only one side having the opportunity to present its case in most investigations. In not providing for due process, the system violated the rights of heirs as U.S. citizens. Land grants were sometimes confirmed to the wrong party. For example, the Tierra Amarilla grant was a community entity that the surveyor general confirmed to an individual as a private grant. Several large private grants were confirmed for excessive acreage, possible because grants under the system were not surveyed until after they were confirmed. Congress had no way of knowing how much land was being confirmed. The Maxwell grant was confirmed for 1,750,000 acres, and the Sangre de Cristo grant for 2,750,000 acres, when each should have been limited to less than 100 thousand acres. Both were eventually awarded to non-Hispanic colonizers. Congress proved incapable of ultimately deciding on the validity of claims and could well have appointed a judicial commission to hear them as had been done in California. The recommendations of surveyors general to reform or improve the system to deal with the logjam of claims being made were ignored.¹⁷

The lack of just or adequate governmental attention to the land grants provided opportunities for American land speculators to come into New Mexico and enrich themselves at the expense of the Hispanic heirs. A distinct sub-

16. GAO, *Treaty of Guadalupe Hidalgo*, 9.

17. Westphall, *Mercedes Reales*, 81, 87–102; Ebright, Testimony, 6–7.

class of speculators targeted the land grants with legal tactics and fraudulent means. The lawyers, judges, politicians, entrepreneurs, and journalists who comprised this sector came to be known as the Santa Fe Ring. With a reported interest in some seventy-five land grants, lawyer Thomas B. Catron, the most notorious of the land-grant speculators, became the largest landholder in the United States. Nearly every governor of the New Mexico Territory from the late 1860s to 1885 was said to be a ring member. Some surveyors general themselves engaged in land-grant speculation; three of the nine men to hold the office are now considered “blatant” land speculators, who acquired grant holdings while they were in office. Speculators used cattle ranching, mining companies, and railroad investments to capitalize acquired land grants. “With this network working against their interests,” Ebright has written, “it was no wonder that Hispanic land-grant settlers, unfamiliar with Anglo laws and language and often not aware of court proceedings involving their land grants, had little chance of protecting their property.”¹⁸

Speculators used two mechanisms: purchasing the principal settler’s interest in the grant, usually through use of the *poblador principal*; and the partition suit, having the land subdivided according to an 1876 law that entitled a lawyer to ask the courts to divide the grant from among its owners for a sale. The statute required a sale if the property could not be physically divided without decreasing its value. The courts consistently found this prerequisite to exist, and in many cases in which lawyers purportedly represented the interests of land-grant heirs, ordered the grant sold. In other instances, Anglo lawyers and Hispanic residents conspired to falsify genealogies while claiming that original communal grants were actually private grants.¹⁹

Poor and incomplete record-keeping of title papers and the disarray of the archives did not aid *nuevomexicanos*. Vaguely defined boundaries based on natural landmarks often clouded the actual extent of the grant. Problems

18. Westphall, *Mercedes Reales*, 102–05; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 40–41.

19. Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 42; Van Ness, *Hispanos in Northern New Mexico*, 232–33.

stemmed from frequent transfers and subdivisions of grants; failure to write wills and probate estates; failure to join one's wife in conveyances of real property, conveyances originally made through oral agreement; and the relatively high costs of filing claims. Still, researchers have argued such difficulties should not have prevented U.S. authorities from applying customary use of land as a key criterion for title and possession as Spain, Mexico, and indeed England, recognized.²⁰

As the defects in the handling of land grants became apparent and complaints about abuses mounted, an effort emerged in the late 1880s to reform the adjudication process. The new Surveyor General, G. W. Julian, openly challenged the Santa Fe Ring, calling it a "pestilence" upon the land of New Mexico. However, Julian was led in his zealotry to an overly critical view of many valid grants. Reexamining thirty-five claims covering four million acres that had been recommended for confirmation by his predecessors, he recommended the rejection of twenty-two embracing over two million acres. Of those Julian recommended for confirmation, almost all were for a smaller area than was claimed. Julian revised the procedural and substantive rules that had governed land-grant adjudication, making confirmation for the claimant more difficult. He single-handedly reversed certain presumptions favoring the validity of land-grant claims on the position that claims should be strictly construed against the claimant. He also started investigations on legal issues such as ownership of the commons, theorizing that the Mexican government, not the *pobladores*, retained ownership. Julian's conservative approach had lasting consequences for land-grant adjudication.²¹

The era of surveyors general lasted just over forty years. By 1886, 205 claims had been filed and 13 were rejected outright. Of the 141 allowed, however, Congress formally approved only 46, leaving 95 in limbo. Fifty-one were not acted on at all. The majority of titles were thus left in an unsettled state. The machinations of speculators in acquiring land grants took

20. Lux, "Ancient Aspirations," 194, 196; Natural Resource Center, *Remote Claims Impact Study*, vii, 104; Van Ness, *Hispanos in Northern New Mexico*, 218–20; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 133–34.

21. George W. Julian, "Land Stealing in New Mexico," *North American Review* 145 (July 1887): 17–31; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 44–45; Van Ness, *Hispanos in Northern New Mexico*, 240.

place largely away from the ken of the heirs, many of whom were treated as squatters on land that rightly belonged to them, or who were victims of conspiracies that excluded them from the petitioner groups. Often, because they were allowed to graze the land, years passed before the unsuspecting villagers realized they had been bilked of the title to their land. And even when grants were confirmed to the appropriate Hispanic heirs, the commons were often greatly reduced and restrictions placed on their ability to graze and use resources on the grant.²²

But heirs did not take the threats to their lands passively. In their long collective memory, they have always reserved a special place of ignominy for the Santa Fe Ring, especially Thomas Catron, nor have they excluded some comprador Hispanics, considering them thieves who schemed to steal their land-grant heritage.²³

Moreover, Anglo American encroachment in the nineteenth century sparked considerable conflict, including violent resistance. Early episodes occurred on the Maxwell grant. Up to the 1860s, *nuevomexicano* settlers on the original Beaubien-Miranda grant had eked out a living in a *peón-patrón* relationship with Lucien Maxwell, the *de jure* owner of the grant. The settlers were threatened with displacement after gold was discovered on the Maxwell, and the grant had been sold to European investors, who had no idea of how to deal with the native populations. By 1871, mass protests against the intervention of mining interests broke out. *Pobladores* joined squatters and American miners for self-protection. Shooting incidents that began in 1873

22. Frank W. Blackmar, *Spanish Institutions of the Southwest* (Baltimore: Johns Hopkins University Press, 1891), 326–27; David Benavides, “Lawyer-Induced Partitioning of New Mexican Land Grants: An Ethical Travesty” (Guadalupita, N.M.: Paper, Center for Land Grant Studies, 1994), 15; Malcolm Ebright, “Land Grant Community Associations in New Mexico” (Guadalupita: Center for Land Grant Studies, 1994), 1, and Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 44, 155; Van Ness, *Hispanos of Northern New Mexico*, 228, 229–30, 242; Westphall, *Mercedes Reales*, 139, 143.

23. For the expressions in the late nineteenth century, see, Rosenbaum, *Mexicano Resistance in the Southwest*, 277, 279, 281; for the early twentieth century, Robert Torrez, “La Mano Negra: The ‘Black Hand’ and Beginnings of Violent Protest to Land Loss in the Tierra Amarilla Land Grant,” Research Paper No. 35, Center for Land Grant Studies, 1994; for the 1960s, Michael Jenkinson, *Tijerina: Land Grant Conflict in New Mexico* (Albuquerque: Paisano Press, 1968), 39; for the 1980s, Roberto Mondragón, Testimony in *Status of Community Land Grants in Northern New Mexico*, 68; and for the 1990s, Tomás Vigil, “Activists Fight for Rights,” *La Herencia del Norte* 10 (Summer 1996): 9.

escalated to 1875. The sheriff had difficulty enforcing order in what became a highly complex set of interests in contention. Periodic outbreaks, resulting in what one historian called “an extraordinary amount of violence and an impressive number of murders,” continued on the Maxwell until the 1890s when the grant was finally broken up among several private interests.²⁴

Other regions of the territory saw violent ethnic conflict over land disputes. The oft-studied Lincoln County wars, involving well-known territorial personalities such as Billy the Kid, were instigated when Texans moved onto the old Mexican settlements throughout southern New Mexico.²⁵

The nineteenth-century period of confrontation culminated in the short but highly significant outburst of armed resistance called *Las Gorras Blancas* (the White Caps) in San Miguel County in the northeastern part of the territory. Originating as an ad hoc local organization, Las Gorras Blancas turned its resentment in 1889 to Anglos and some *Hispanos* who fenced off disputed commons. Covering riders and horses with white sheets, armed bands of *Hispanos* rode at night, killing livestock, knocking down fences, and tearing out railroad tracks. The movement posed considerable threat to the order that the territorial administration sought to maintain. It also produced celebrated court cases. The organization won political support and influence in San Miguel and nearby counties. But the leadership, affected by the rapid economic development of the region, conflated the matter of preserving an entire traditional culture, including its distinct land tenure system, with the more modern, industrial aims of the general Populist Movement, such as just wages and the right to bargain with employers. Las Gorras Blancas faded as a potentially insurgent movement in the 1890s after the jailing of many of its leaders.²⁶

24. Maria E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict Over Land in the American West, 1840–1900* (Berkeley: University of California Press, 2002), 38–39, 71–75, 96–113, 121–38, 143–56, 192–206; Jim Berry Pearson, *The Maxwell Land Grant* (Norman: University of Oklahoma, 1961), 119–32; Rosenbaum, *Mexicano Resistance in the Southwest*, 75; Howard Roberts Lamar, “Land Policy in the Spanish Southwest, 1846–1891: A Study in Contrasts,” *Journal of Economic History* 22 (December 1962): 498–515.

25. Robert Marshall Utley, *High Noon in Lincoln: Violence on the Western Frontier* (Albuquerque: University of New Mexico Press, 1987), 10–13.

26. Clark S. Knowlton, “The Study of Land Grants as an Academic Discipline,” *Social Science Journal* 13 (October 1976): 3–7; Robert W. Larson, “The White Caps of New Mexico: A Study of Ethnic Militancy in the Southwest,” *Pacific Historical Review* 44 (May 1975): 171–85.

But the folk in individual communities, such as Cañones, continued to ignore the fences that were meant to keep them from taking advantage of their accustomed usufruct rights, and surreptitiously grazed livestock on the land they once owned. Their running personal battles with foreign owners over control and use of the commons did not cease.²⁷

With a backlog of 116 land grants, and other claims waiting to be filed, Congress created a new system to adjudicate the land grants in New Mexico, Colorado, and Arizona. The Court of Private Land Claims was formally organized, five judges presiding, at Denver on 1 July 1891. Regular sessions were to be held in Denver, Santa Fe, and Tucson, but since the great majority of cases were New Mexican, the bulk of hearings took place in Santa Fe.²⁸

The Court of Private Land Claims heard 282 claims lying entirely or partly in New Mexico and involving 34,653,340 acres. Whereas claimants to the surveyor general were aided by certain presumptions that eased the burden of proof (such as the presumption of the validity of a community grant based on the existence of a settlement on the grant in 1846), the adversarial procedure decided as the standard for the Court of Private Land Claims laid a burden to prove the existence of the grant. While the court was sensitive to the old claims of fraud and wrongdoing and recognized what was considered the excessive confirmations made by the surveyors general to non-Hispanics, it applied a harsher, more technical, cautious and restrictive adjudication. Moreover, the court, in contradiction of Spanish and Mexican law, judged as invalid deputations and all grants that were issued by officials who were not governors, such as *alcaldes*, *ayuntamientos*, prefects, and lieutenant governors. The court also applied harsh criteria for accepting supporting documents.²⁹

More momentous still was the decision rendered in *United States v. Sandoval et al.*, 1897. The Court of Private Land Claims had awarded all the commons claimed by the Hispanic petitioners of the San Miguel del Bado grant, which is situated along the Pecos River in northeastern New Mexico.

27. Van Ness, *Hispanos in Northern New Mexico*, 245–46.

28. For a detailed account of the formation, personnel, and process of the court, see Westphall, *Mercedes Reales*, 236–68.

29. Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 46; Natural Resources Center, *Remote Claims Impact Study*, ii; Ebright, *Testimony*, 9. Westphall, *Mercedes Reales*, 255.

In its appeal to the U.S. Supreme Court, federal lawyers adopted Surveyor General Julian's position that it was Mexico, and not the local community, that fundamentally possessed the *ejido*. The Supreme Court concurred, holding that the Treaty of Guadalupe Hidalgo transferred ownership of the grants from Mexico to the U.S. government. As a result of *Sandoval*, the court tended to reject or significantly whittle down subsequent claims for commons. Contemporary experts consider the *Sandoval* interpretation, moving community lands to the public domain, a violation of international law. It is called the "single most important land grant decision resulting in the greatest loss of [commons]," for it enabled the United States to acquire a vast territory now comprising most of the Carson and Santa Fe National Forests. In the one saving grace, the Supreme Court did not apply *Sandoval* retroactively; those commons confirmed before 1897 remaining in force.³⁰

Still another consequential departure occurred in 1898 in *Hays v. United States*, when the U.S. Supreme Court removed the presumption of authority of a granting official. After that decision, concerning the Embudo grant in north-central New Mexico, the claimant had the burden to prove that the officials granting land or making copies of land-grant documents had the authority to do so—rather than the government, which had actual physical custody of documents. Claimants still carried the general burden of proof but were left without the benefit of a key presumption that had previously eased that burden. The whole climate of the court favored the U.S. government. Federal lawyers employed witnesses who were knowledgeable about land-grant archives and Spanish and Mexican law. Hispanic claimants, lacking money and American know-how, were deprived of equivalent expertise and were often poorly represented by lawyers with unknown credentials and reputation.³¹

As the dust of the Court of Private Land Claims settled, thirteen years after it was first kicked up, eighty-two grants were confirmed representing

30. Natural Resources Center, *Remote Claims Impact Study*, ii; Meyer and Brescia, "The Treaty of Guadalupe Hidalgo," 325; Quote, Ebright, Testimony, 11; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 48–49; Westphall, *Mercedes Reales*, 138–39, 256. Not all legal researchers disagree with *Sandoval*, e.g., Gilberto Espinosa, "New Mexico Land Grants," *State Bar of New Mexico 1962 Journal* 1 (November 1962): 3–13.

31. Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 46–47.

less than 2,051,526 acres, or 6 percent of the total acreage claimed. Rejected claims involved 33,439,493 acres. Non-Hispanic claimants filed forty-three of the 282 claims, and eleven of these were at least partially confirmed. Seventy-three cases, including fifty-eight from the New Mexico district, were appealed to the U.S. Supreme Court. In one calculation, if the court had complied with the obligation assumed by the United States under the Treaty of Guadalupe Hidalgo, eight to nine million more acres of land would have been confirmed. As one researcher summarized it, “Modern scholars have found many of the Court of Private Land Claims decisions to be unfair when tested by standards of fairness contained in international law and in the Treaty of Guadalupe Hidalgo.”³²

In the two adjudication experiences, the surveyor general and the Court of Private Land Claims, 155 grants were confirmed and patents were issued for 142. Altogether only 24 percent of land-grant petitions were confirmed, many having been brought forward by representatives of the commercial interests in the territory who had acquired the grant rights from their Hispanic owners by various devices.³³

As the twentieth century dawned, clusters of heirs once again resorted to sabotage. On the Tierra Amarilla land grant, which had been mired in court cases due to Tom Catron’s determination to possess it, clandestine attacks on fences and livestock occurred between 1909 and 1919. Guerrilla action also affected Anglo owners of a portion of the Antón Chico grant, in east-central New Mexico in 1906. In 1918, a lawyer by the name of W. H. Gillenwater reported that some unknown parties had cut down the fences that he had erected on the Ortiz Mine grant, which he was leasing. Various reports of attacks on ranch property extend to the 1950s and 1960s.³⁴

From the heirs’ frames of reference, another invading force, appearing in

32. Westphall, *Mercedes Reales*, 265; Quote, Ebright, Testimony, 6.

33. GAO, *Treaty of Guadalupe Hidalgo*, 9; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 37; Van Ness, *Hispanos of Northern New Mexico*, 220–21; Westphall, *Mercedes Reales*, 144.

34. Torrez, “La Mano Negra.” Bell Ranch Fence Cutting Investigation, Arrests and Investigations, 1906, Scrapbooks, Bell Ranch Papers, Center for Southwest Research, General Library, University of New Mexico; George W. Armijo to Holm O. Bursum, 9 March 1918, folder 3, box 7, Holm Bursum Papers, Center for Southwest Research, General Library, University of New Mexico; Jenkinson, *Tijerina*, 49–50.

particularly egregious proportion, has been the U.S. Forest Service. National forests were first established in the late nineteenth century. The service may have assumed the role of wildlife protector for the American heritage, but to the Hispanic heirs, national forest imperialism, with its growing set of rules and regulations, muscled in on the traditional use of the commons. Management of the Pecos Forest at the turn of the twentieth century, for example, went from fire fighting to range and timber control of the commons, which the federal foresters purchased from private speculators. As the Forest Service sought to establish its authority over land-grant property, affected heirs assaulted trespassing park rangers in the villages of Rociada in 1901 and Cuba in 1909.³⁵

A 1927 state law amended previous statutes to allow the board of trustees of a community grant to sell portions of the commons. Land-grant scholar Malcolm Ebright has charged the U.S. Forest Service with “actively pursuing” a policy of acquiring previously confirmed grants. In the 1930s the federal purchase of land grants formed part of a Hispanic land reform program meant to make land available for the exclusive use of the local villagers whom idealistic New Deal administrators considered a “dependent, subsistent population.” Low-interest loans and grants, cooperative marketing associations, and land acquisition by the government provided residents preferential grazing rights. Eventually the U.S. Forest Service possessed vast commons through direct purchase or trade. In congressional hearings held in 1988, U.S. Forest Service officials denied that the agency’s manifest policy had been to adversely acquire or aggressively pursue land-grant property. Tellingly, the lands were purchased during the hardship of the Great Depression when Hispanic farmers, ranchers, and workers were financially vulnerable. Many of the acquisitions thus involved suits to quiet title.³⁶

From the perspective of the heirs, however, what counted were the results.

35. William E. deBuys, *Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range* (Albuquerque: University of New Mexico Press, 1985), 241.

36. Frankie McCarty, *Land Grant Problems in New Mexico* (Albuquerque: *Albuquerque Journal*, 1969), 8, 21; Jenkinson, *Tijerina*, 44–45; Ebright, Testimony, 41; Dick Peterson, Testimony in *Status of Community Land Grants in Northern New Mexico*, 63–67. In 1969, another official said the U.S. Forest Service was willing to quit-claim the land back to the heirs of the Polvadera grant heirs; however, the heirs could not agree on the boundaries of the grant.

In this regard, the federal government came to control, wholly or in part, eighteen previously confirmed land grants, including the Polvadera, Sebastian Martín, Caja del Río, La Majada, Cuyamungué, San José, Gabaldón, Ramón Vigil, Abiquiú, Ortiz Mine, and Juan Jose Lobato, or approximately 714,000 acres of prime forest. In Rio Arriba County, the Kit Carson Forest area acquired 69.1 percent of the forests and meadows. The dramatic consequences of this control are illustrated in the case of the village of Cañones. Once the center of three substantial land grants in an area deep in the Hispano outback northwest of Santa Fe, it is now surrounded on three sides by land under the jurisdiction of the U.S. Forest Service.³⁷

As it acquired commons, the U.S. Forest Service began to favor timber sales to the wood products industry, reducing the management of resources for the benefit of villagers. While commons were often transferred directly to the Forest Service with the requirement of serving the heirs, this usufruct benefit was eventually denied. A commitment to forest conservation contributed to the drastic reductions in the number of stock permitted to graze in the forests and to restrictions on the types of stock allowed to graze.³⁸

Hemmed into their micro-basins, heirs developed a particularly sharp resentment for *la floresta*, as they labeled the leviathan U.S. Forest Service. Overt hostilities between land-grant heirs and federal agents came to a head at hearings held in 1968. Heirs charged Forest Service officials with refusing to listen to their complaints. In the face of U.S. Forest police powers, heirs in certain areas defiantly treated the mountain lands as their commons, freely hunting and gathering wood without seeing the necessity of paying state fees or seeking permission to use the forest as they saw fit. In one high-profile trial, Hispanic villagers of the San Luis Valley in southern Colorado fumed at federal law officers who, they said, entrapped heirs on poaching charges,

37. McCarty, *Land Grant Problems in New Mexico*, 8; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 52–53, and, Testimony, 64, 11; Peter Nabokov, *Tijerina and the Courthouse Raid* (Albuquerque: University of New Mexico Press, 1969), 42; Van Ness, *Hispanos in Northern New Mexico*, 243.

38. Nabokov, *Tijerina and the Courthouse Raid*, 25–28; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 54; Van Ness, *Hispanos in Northern New Mexico*, 246. For a more charitable assessment of the Forest Service's policy changes regarding use of the forests, see deBuys, *Enchantment and Exploitation*, 247–49.

arguing that their traditional use-rights of the forest had been violated. More recently, the motor vehicles of hikers, considered modern-day encroachers, were damaged by clandestine vandals.³⁹

Another dimension opened up in the 1890s as the territorial and state legislatures passed laws facilitating the incorporation of community land grants with boards of trustees and bylaws, and defining trustee responsibilities, rules for determining grant membership and grant boundaries, and title stipulations. In an apparent attempt to resolve the discrepancy between “communal” and “private” land tenure systems, the land grants were mandated to become “quasi-municipalities,” a legal category still not fully understood by heirs today.⁴⁰

The first regulatory laws were passed in 1891 and 1897. It seems, however, that these early measures concerning who could rightfully control a grant were insufficiently binding, as illustrated by the conflicts that arose in the important Las Vegas community grant. Because of the City of Las Vegas’s economic dominance in the New Mexico Territory, an intense competition over control of the grant was set off in the late nineteenth century. The power struggle arising in 1902 involved a group of city leaders, who petitioned Congress to form a special board of trustees for the grant consisting of themselves, with the intent of turning the commons into private property. This was the only case in which a judge decided who the commissioners of a community grant would be. Protests by heirs lasted five years. After two celebrated court hearings and many community meetings filled with factional conflict, the “people’s movement” for control of all of their historic lands was eventually lost.⁴¹

39. Vigil, “Activists Fight for Rights,” *La Herencia del Norte* 10 (Summer 1996): 9; Nabokov, *Tijerina and the Courthouse Raid*, 26–27, 65; Jenkinson, *Tijerina*, 44; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 165–68; “The Lesson,” *Albuquerque Journal*, 12 March 1989; “Backpackers’ Car Tires Slashed on Truchas Land Grant,” *Albuquerque Journal*, 11 July 2001.

40. White, Koch, Kelley, and McCarthy, Attorneys at Law and the New Mexico State Planning Office, *Land Title Study* (Santa Fe: New Mexico State Planning Office, 1971), 239.

41. Anselmo Arellano, “People Versus Trustees: Protest Activity on the Las Vegas Land Grant, 1902–1907,” in *Las Vegas Grandes on the Gallinas 1835–1985*, ed. Anselmo Arellano and Julián Josué Vigil (Las Vegas, N.M.: Editorial Teleraña, 1985), 66–74; Clark S. Knowlton, “The Las Vegas Community Land Grant: Its Decline and Fall,” paper presented at the Western Social Science Association Annual Meeting, Albuquerque, 1980; Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 196–200.

In the 1920s the New Mexico legislature moved to more firmly define procedures for the forming of boards of trustees of land grants according to the rules for townships. Among many provisions for grant management were establishing qualifications for membership and electors, setting rules for the election of land-grant officials, and defining the scope of board duties. These laws provided important means for heirs to keep control of their grants. For some, they also provided grounds for developing a critical outlook. In the case of the San Joaquín Town Corporation revived in 1940, for example, members officially proclaimed their purpose as being “to protect the society which is encompassed by said Corporation against the injustices and tricks of tyrants and despots, of those who insult us and seize our lands.”⁴²

Today, there are twenty patented community land grants surviving as governing bodies with bylaws (Abiquiú, Atrisco, Anton Chico, Cañon de Carnué, Cebolleta, Chililí, Juan Bautista Valdez, Jacona, Las Vegas, Manzano, San Fernando y Santiago [Truchas], San Antonio de las Huertas, San Miguel del Vado, San Pedro, Tajique, Tomé, Torreón, Tecolote, Cubero, Cristobal de la Serna). In addition, at least nineteen clusters of heirs are informally organized with no legally constituted commission (Cañon de Chama, Los Conejos, Ojo Caliente, Town of Belén, Tejón, Embudo, Sebastián Martín, San Ysidro, Town of Cieneguilla, Las Trampas, Mora, Petaca, Santa Cruz, Tierra Amarilla, Sangre de Cristo, Sevilleta de la Joya, San Antonito, Juan José Lobato, and Antonio Ortiz grant). Many of these groups carry on with the resistant ideology expressed in the 1940 San Joaquín manifesto.

Not all the problems of community integrity have involved external pressures and threats, however, some stemming from the dynamics of internal management. A set of distinct issues arose when some heirs sought to derive financial profit from the commons. In the 1950s, members of the Tomé Land grant, south of Albuquerque, who did not own livestock, complained because they saw no benefit from the policy of devoting the commons to grazing. In part they reflected the passing of the agro-pastoral tradition. Three hundred heirs voted in 1955 to convert the grant to the Tomé Land and Improvement Company, aiming to place portions of the 100,000 acres of commons on the

42. White, et al., *Land Title Study*, 242; Ebright, “Land Grant Community Associations in New Mexico,” 103; Nabokov, *Tijerina and the Courthouse Raid*, 51.

market. The strategy was bolstered by a 1967 state law allowing corporations established under the community land-grant corporation act of 1891 to reorganize as for-profit stockholding corporations.⁴³

In 1968, two-thirds of the stockholding heirs of the Tomé land grant voted to sell virtually its entire commons to an east coast development company for \$4.7 million. The company proceeded to construct a bedroom community. A lawsuit filed by heirs who claimed they were wrongfully excluded as shareholders disastrously spoiled Tomé's effort at making a profit. Years of hostility and recrimination dogged the Tomé community. In 1978, the state supreme court declared Tomé's 1955 reincorporation invalid, but in a contradiction yet to be fully understood, let stand the sale to the development company. The court also appointed a special master to decide who were legitimate heirs, resulting in a number that far exceeded the members of the grant at the time of sale. Certain heirs who had originally received money were forced to pay back what they had received from the sale, forcing some to borrow money and place liens on their property. In the end, over 6,000 claimants received about \$600 each. Community heirs were left bitterly divided. Only recently have representatives from the two major factions sought to reconcile their differences to see about gaining back another portion of the commons that is currently part of the Cíbola National Forest.⁴⁴

The Atrisco community land grant, one of the largest surviving grants, had a different, but in some ways similar, for-profit experience. In 1967, Atrisco heirs voted to approve the reincorporation of the town of Atrisco as the Westland Development Company, Inc. All property rights connected to the town of Atrisco land grant remained in Westland. Between 1970 and 1976, a suit was litigated to determine each heir's rights to shares of Westland derived as a descendant of the original 225 Atrisco incorporators. Each incorporator was awarded 3,175 shares of stock to be divided among descendants. Westland paid its first dividend to shareholders in the amount of \$365,805. By 1993, Westland owned 49,000 acres, increased to 60,000 with the pur-

43. "Grant Heirs Want an Accounting," *Albuquerque Journal*, 29 December 2000; White, et al., *Land Title Study*, 243.

44. "Tomé Heirs Seek Site in Manzanos," *Albuquerque Journal*, 23 July 2000.

chase of a parcel north of its existing boundaries in the Rio Puerco Valley.⁴⁵

Still, Westland's success has meant further alienation of original commons. In the 1970s, a number of heirs formed a dissident organization called the Atrisco Land Rights Council. Today the council argues that the decision to become a for-profit organization violated the spirit, if not the law, of the Treaty of Guadalupe Hidalgo. Calling for a return of the commons for sole use among the heir families, the council objects at every public forum that arises as Westland attempts to sell or develop its lands, or serve them up for city annexation.⁴⁶

On a more general level, the chances for a broad social movement that could unify heirs, regardless of land-grant association, were historically diminished by several factors. The adjudication process, for one, forced restrictions on who counted as an heir for a given grant based on lineage to original settlers. Social boundaries also formed among those in the greater category of heirs since each community grant represented a cultural, social, and legal saga of its own, leading heirs to identify most closely with their particular homeland grant.⁴⁷

It took until the 1960s for a social movement to bring the heirs per se into broad unity. The key vehicle was *La Alianza Federal de Mercedes* (Federated Alliance of Community Grants), formed in 1963 by Reies Lopez Tijerina, a fiery, ex-evangelical preacher, who had migrated to New Mexico from south Texas. As *La Alianza's* key organizer, president, and public figurehead, Tijerina marked out an ambitious project. Not simply a struggle to have the commons returned to their rightful owners, it aimed to link the grants with property, civil, and cultural rights, all with the general goal of establishing the grants as "free city states." Tijerina sought to have international and United Nations agencies recognize the United States' violation of the Treaty of Guadalupe Hidalgo by denying the so-called "Indo-Hispanos" of their tradi-

45. "History of Westland Development Co., Inc.," Distributed by Westland Development Co., Inc., Albuquerque, N.M. September 2002; "Firm OKs Petroglyph Land Sale," *Albuquerque Journal*, 9 September 1989.

46. "Atrisco Heirs Ask for Continued Connection With Petroglyphs," *Albuquerque Journal*, 28 July 1990; "Commission Endorses Westland Development," *Albuquerque Journal*, 14 May 1999.

47. In the 1930s, for example, the Tierra Amarilla Grant Corporation was formed to reclaim commons associated strictly with that particular grant. McCarty, *Land Grant Problems in New Mexico*, 14.

tional right to “sovereignty,” which he interpreted as guaranteed by the terms of the Spanish and Mexican land grants.⁴⁸

The first Alianza convention drew representative claimants from fifty land grants. Heirs were the core leaders and most deeply committed participants. By 1964, La Alianza claimed a membership of over 6,000. One of the key effects of the movement was to crystallize the “land-grant heir” as a significant political category representing a cross-referencing of tradition, history, and culture in New Mexico. As the movement emerged, academic studies documented the cynicism and resentment that prevailed among the general Hispanic population in northern New Mexico against the government over the land issue.⁴⁹

La Alianza worked on several fronts. It persuaded Representative Henry Gonzalez, (D.-Texas) to call for a special House committee to conduct a complete investigation of the legal, political, and diplomatic status of the land grants. Had the measure passed, the study would have included the question of obligations to and the rights of heirs of the original beneficiaries of the Treaty of Guadalupe Hidalgo. In its most striking and consequential aspect, however, La Alianza evolved into a direct-action organization. Among its more dramatic tactics, participants occupied portions of national forests as a form of recovering particular land grants, tore down fences and burned barns belonging to non-heir owners of former commons, issued eviction notices to Anglos who lived on historical commons, and directly confronted U.S. Forest Rangers.⁵⁰

La Alianza’s militancy sparked intense battles with district and state authorities. The Hispanic district attorney of Rio Arriba County, Alfonso

48. Nancie Gonzalez, *The Spanish Americans of New Mexico: A Heritage of Pride* (Albuquerque: University of New Mexico Press, 1969), 94–97; Roxanne Dunbar Ortiz, *Roots of Resistance: Land Tenure in New Mexico, 1680–1980* (Los Angeles: Chicano Studies Research Center Publications, University of California at Los Angeles, 1980), 118–19.

49. Jack Kutz and Rini Templeton, *Grassroots New Mexico: A History of Citizen Activism* (Albuquerque: Inter-Hemispheric Education Resource Center, 1989), 55–56; McCarthy, *Land Grant Problems in New Mexico*, 14; Nabokov, *Tijerina and the Courthouse Raid*, 217–18; White, et al., *Land Title Study*, 81–82.

50. McCarty, *Land Grant Problems in New Mexico*, 23. The Abiquiu Corporation, the immediate forerunner to La Alianza, carried out some of these actions. See Nabokov, *Tijerina and the Courthouse Raid*, 19, 28–29, 30–31, 51, and, Jenkinson, *Tijerina*, 55–66.

Sánchez, publicly called Tijerina a rabble-rousing communist. Sánchez sought to curtail La Alianza's activities in the northern part of the state by arresting members for unlawful assembly and firearms violations. In June 1967, *Alianzistas* attempted to carry out a citizen's arrest of Sánchez based on a warrant from the San Joaquín del Río Chama grant, alleging his abuse of their constitutional rights. Sánchez was not in the courthouse, however. The ensuing chaos became known as the notorious "Tierra Amarilla Courthouse Raid." Two law enforcement officers were wounded, and a journalist and sheriff's deputy were taken hostage. With National Guard tanks rolling into New Mexico's high country, a five-day manhunt by 500 law enforcement agents searched the bushes and villages for the fleeing Alianza members. Tijerina was targeted in the hunt, even though he arrived at the scene after the violence had run its course. Eventually, twenty individuals involved in the incident were indicted for various crimes.⁵¹

As the trial date neared, a scheduled eyewitness, Eulogio Salazar, was brutally beaten to death. Salazar, a jailer wounded in the raid, had mistakenly fingered Tijerina. Despite initial suspicions, no evidence appeared linking the murder to La Alianza, and the case was never solved. In the trial stemming from the courthouse incident, Tijerina acted as his own defense counsel, winning acquittal for the charges of kidnapping, false imprisonment, and assault on a jail.⁵²

Tijerina also joined the greater Chicano movement of the 1960s, becoming a leader alongside Cesar Chávez of the United Farm Workers, and Rudolfo Gonzales of La Raza Unida Party. Tijerina's association with the Chicano movement brought unprecedented national attention to the plight of land-grant heirs and mobilized thousands for the cause outside New Mexico. Tijerina also posed as a Mexican-American representative of the greater civil rights movement. He expended considerable energy serving as chair of the

51. Richard Gardner, *¡Grito! Reies Tijerina and the New Mexico Land Grant War of 1967* (New York: Harper Colophon Books, 1970), 237–53; Nabokov, *Tijerina and the Courthouse Raid*, 33, 56–57, 59–60, 64, 70, 95–103, 108–11, 118–23, 231–39.

52. Gardner, *¡Grito!*, 250–53; Nabokov, *Tijerina and the Courthouse Raid*, 174–75, 231–35, 257–65; McCarty, *Land Grant Problems in New Mexico*, 15, 257–64; Jenkinson, *Tijerina*, 68–73.

New Mexico Poor People's Campaign and participating in the national Poor People's March to Washington, D.C.⁵³

Martin Luther King assured Tijerina that the land-grant claims would be merged with the demands of blacks for their just rights. However, an apparent consequence of this expanded movement activity was the removal of Tijerina's leadership skills away from their much-needed focus on the land-grant struggle itself. As a result, some old-time land-grant activists grew disillusioned with Tijerina. Meanwhile, Tijerina came to openly protest against the dominance of black militants in the Poor People's March, while also becoming embroiled in conflict with other national Chicano movement leaders. Eventually, police repression largely snuffed out La Alianza. Tijerina spent two years in federal prison for destruction of national forest property. His dominating charismatic style did not provide for a succession of leadership on behalf of the *mercedes*. By the mid-1970s, La Alianza's collective insurgency waned. Nevertheless, it may have stimulated budget allocations for range improvements on the Santa Fe and Carson National Forests and encouraged creation of other federal government programs in the rural communities.⁵⁴

While the broad collective scope of the land-grant movement shrank in the mid-1970s, the spirit of resistance stayed alive in northern New Mexico. The 1980s witnessed a spurt of militancy on the Tierra Amarilla land grant, which after totally going to a Santa Fe Ring member, had been divided between several private interests. Amador Flores, a former Alianzista, had lived with his family on a portion of the grant for many years before the private corporation that owned the property served him with a notice of eviction. A judge granted title to the land development company at a hearing that Flores did not attend. Flores, arguing that title was awarded without proof of ownership, stood his ground based on a right of inheritance to the original community grant. His refusal to move provoked a spontaneous mobilization

53. Ignacio M. Garcia, *United We Win: The Rise and Fall of La Raza Unida Party* (Tucson: MASRC, the University of Arizona Press, 1989), 103, 111–12, 135–38; Jenkinson, *Tijerina*, 96; Nabokov, *Tijerina and the Courthouse Raid*, 219, 221–23, 244.

54. Nabokov, *Tijerina and the Courthouse Raid*, 8, 219, 242–49; deBuys, *Enchantment and Exploitation*, 275.

led by Pedro Arechuleta. Flores spent two months in jail for civil contempt and refusing to obey a court order to vacate the disputed land.⁵⁵

A new organization, *El Consejo* (The Council) raised funds for Flores' defense, erected bunkers around the Flores home, hoisted the Mexican flag, and reconstructed an ethnic identity claiming the Mexican Republic as its nation. A resurgence of land-grant activism seemed in the offing. However, Flores settled his case and accepted a monetary compensation. He and Arechuleta split ranks. Flores accused Arechuleta of only wanting money from him, while Arechuleta argued that Flores had agreed to share any proceeds from the case with *El Consejo*.⁵⁶ Collective protest around the land-grant issue subsided.

The latest phase of the land-grant struggle took definite shape in 1995. The momentum among heirs now lies in the Land Grant Forum, a largely informal but firmly established confederation of representatives from numerous land grants, along with individual supporters. The forum holds monthly meetings at various land-grant sites. Attendance averages 150 participants, although special meetings have drawn upward of 300.⁵⁷

The forum carries on with much of the same critical ideology that *La Alianza* fostered in the 1960s and 1970s. Activists express a deep mistrust of the U.S. court system, perceiving it as systemically biased against the entire concept of a community land grant. On the other hand, compared to *La Alianza* and *El Consejo*, the dominant thrust in the Land Grant Forum is reformist and decidedly pragmatic. Its dominant strategy has been to resume pressuring congressional officials to address the demand for return of commons now under control of the Bureau of Land Management and the U.S. Forest Service. The main spokesperson, former New Mexico Lieutenant Governor Roberto Mondragón (an heir to the Antón Chico grant) had previously worked with Congressman Bill Richardson in an unsuccessful effort to get a federal response to community land-grant claims. Having helped found the forum, Mondragón returned to the congressional agenda in 1998, rede-

55. Roberto Mondragón, Testimony, in *Status of Community Land Grants in Northern New Mexico*, 67–93; “Flores Posts Bond to End Jail Time,” *Albuquerque Journal*, 19 August 1988.

56. “Beating Up the Big Boys,” *Rio Grande Sun* (Española, N.M.), 16 September 1990.

57. “NM Land Grant Forum Details Fraud, Reclamation,” *Optic* (Las Vegas, N.M.) 19 September 2000. Estimates of attendance were made from participant observation.

signing the Richardson bill and persuading Republican Congressman Bill Redmond to introduce it. Redmond's positive response indicated recognition of the importance given the land issue by a broad voter constituency in northern New Mexico.⁵⁸

The bill called for a federal commission to investigate the history of unjust dispossession and to hear the petitions of heirs to have the federally owned commons returned to the people. It received bipartisan support from New Mexico Senators Pete Domenici (R) and Jeff Bingaman (D), each of whom submitted land-grant bills of their own. That national powerhouse Domenici publicly referred to the land-grant legacy as "the longstanding unfairness that has blemished the conscience of New Mexico history," was a significant measure of how far the land-grant movement had come. Likewise, Senator Bingaman lamented the "real injustices done over the past 151 years since the Treaty of Guadalupe-Hidalgo."⁵⁹

The Redmond bill received strong Republican support, including that of Speaker Newt Gingrich, essentially because it served the conservative movement's objective of devolving federal resources into private hands. It passed the House, but, with only twelve supporting Democrats, died in the Senate. Redmond then lost his congressional seat to Democrat Tom Udall. Following through on his campaign promise, Udall introduced land-grant legislation similar to Redmond's. But Republicans now balked based on Udall's party affiliation. In any case, the Gingrich leadership began to crumble. Meanwhile, the Hispanic Congressional Caucus, dominated by the Democrats, continued to perceive the land-grant issue as a ploy to serve Republican interests.⁶⁰

Senators Domenici and Bingaman next sought to have the U.S. Justice Department undertake a major study of the land grants. Justice officials,

58. Bill Redmond, videotaped statement played at Hearing of the Guadalupe Hidalgo Treaty Land Claims Act of 1998, Hearing Before the Subcommittee on Forests and Public Land Management, Española, N. M., 26 September 1998, 8.

59. Pete Domenici, Remarks given at Hearing of the Guadalupe Hidalgo Treaty Land Claims Act of 1998, Subcommittee on Forests and Public Land Management, Española, N.M., 26 September 1998, 2; "Land-Grant Effort Expected in Fall," *Albuquerque Journal*, 21 August 1999.

60. "Udall Revives Land Grant Bill," *Albuquerque Journal*, 3 February 1999; "Land-Grant Effort Expected in Fall," *Albuquerque Journal*, 21 August 1999; "Senators Push Land-Grant Study," *New Mexican* (Santa Fe), 21 August 1999.

disagreeing on the need for such a study, had the proposal killed by a congressional conference panel. In an “end-run play,” Domenici and Bingaman amended a 2000 federal appropriation to order that the GAO conduct a two-year study of the land grants. The GAO was charged with pursuing a series of research questions determined by the offices of New Mexico’s congressional delegation. The first report, issued in April 2001, focused on the definition of the community land grant under Spanish and Mexican law and provided a list of grants that were determined to be original community land grants. The GAO solicited comments from New Mexico residents who had knowledge of the grants for incorporation into a final report to Bingaman and Domenici.⁶¹

For the 2002 session, Representative Udall introduced a bill called the Guadalupe Hidalgo Treaty Land Claims Act of 2001 into Congress, calling for a presidential commission to review claims in New Mexico and other states. Upon study of the causes of land displacement, the plan calls for reparations to heirs including land, money, or other types of compensation. The bill was pending as of the present writing. Heirs hope that the GAO and Udall initiatives will result in meaningful actions by Congress concerning the federal government’s responsibility and possible obligations in the historical dispossession of the grants. One scholar has noted that “Any scheme for giving back community lands to rightful heirs would be extremely complicated,” and yet the heirs agree that, “Difficult as this problem might seem it would need to be addressed.”⁶²

The Land Grant Forum also looks to the State of New Mexico for recompense. For some heir groups, the key policy need is for laws to allow a land grant’s board of trustees to be the sole bidder for land-grant properties that are seized for delinquent taxes. Currently, anyone can bid on the land when taxes on land-grant property remain delinquent for three years.⁶³ The forum more generally succeeded in having the 1999 state legislature establish a per-

61. “Land-Grant Effort Expected in Fall,” *Albuquerque Journal* 21 August 1999; “Congress Orders Study of Land Grant Claims,” *Daily Lobo* (University of New Mexico) 20 October 1999; “Agency’s Report Begins to Sort Out N.M. Land Grants,” *Albuquerque Tribune*, 5 February 2001.

62. “Udall Revives Land Grant Bill,” *Albuquerque Journal*, 3 February 1999; Quote, Westphal, *Mercedes Reales*, 273.

63. “Heirs Attack Atrisco Project,” *Albuquerque Journal*, 11 January 1999.

manent office in the state attorney general's office to monitor land grants. The Guadalupe Hidalgo Land Grant Task Force, formed by Attorney General Patricia Madrid, a native New Mexico Hispanic, holds monthly meetings with the Land Grant Forum to discuss various ways in which the state can support its concerns. In the election year of 2002, forum meetings were attended by gubernatorial candidates, who pledged their support for legislation to enable improvement or restoration of the land grants.

The Land Grant Forum recently decided that the best way to provide direct assistance to particular land grants would be to form a 501c(3) non-profit organization. In calling the organization Proyecto Indo-Hispano Conservation Trust, the organizers adopted the ethnic nomenclature that Reies Tijerina had defined in the Alianza days as the way to emphasize the historic intermixture of the Spanish and Indian. Foundations and other kinds of resources will be targeted to help those groups of heirs who wish to form boards of trustees and bylaws or other types of community organizations. Proyecto assists heirs in compiling their ideas about preferred remedies as requested by the GAO investigating team. Plans call for establishing a financial trust specifically for land-grant development.

Meanwhile, each group of heirs carries on with its own particular issues and projects, not all of which are readily addressed by the loosely formed Land Grant Forum. The Carnué grant, for example, fends off a forced city annexation of its commons. Las Truchas and Manzano engage in open dispute with liberal environmentalists, who threaten to curtail by injunctions and lawsuits, traditional rights to logging and grazing. The politics of internal land-grant management, with all too frequent dissension among heirs, continues to plague some grants. Some disagreement involves charges of power clique formation, others turn on fundamental issues such as the methods for assigning grazing leases on the Anton Chico grant or the use of revenues on the Tecolote grant.⁶⁴

64. "City to Appeal Land Annexation Order," *Albuquerque Journal*, 21 January 2000; Thomas E. Macias, "Environmental Conflict Between Hispanos and Environmentalists in Northern New Mexico: Implications for an Understanding of Ethnic Group Support of Environmental Campaigns" (Master's thesis, University of New Mexico, 1997), 7-19; "Manzano Grazing Spurs Clash," *Albuquerque Journal*, 1 December 1995; Ebright, "Land Grant Community Associations in New Mexico," 103; Clyde Eastman and James R. Gray, *Community Grazing: Practice and Potential in New Mexico* (Albuquerque: University of New Mexico Press, 1987), 56-57, 64-65.

Moreover, private interests now partially or wholly own the community grants. The activists in these cases hoe a difficult row; as Senator Domenici has made clear, “under no circumstances” would any suggested remedies include divesting the rights of private property owners in disputes involving land grants. A possible solution under discussion is to apply the concept of reparations for historical wrongs to minority groups to the Hispanic heirs of traditional lands.⁶⁵

Of course, it has long been impossible to rely on subsistence ranching and farming, the one time basis of Spanish and Mexican land tenure, or even to graze the modest commons for profit. Nevertheless, the remnants of a corporate culture remain firm in many of the locations of old villages where the *acequia* form of water management, self-help efforts, the capacity to meet common interests, and ancient religious practices still exist. Animal husbandry and the desire to own livestock still hold symbolic value among the males of the rural communities in spite of the difficulty of making such activities reality.⁶⁶ In this vein, the Tomé grant now puts on an annual festival featuring the cultural legacy of the Rio Abajo portion of the land-grant homeland.

Throughout traditional New Mexico, regardless of variation in community structure, the heirs are convinced that social and cultural well-being are tied to the pride of once again possessing the mountains, valleys, and waterways as their ancestors once did. The ideal of “community” holds special attraction as a response to the social dislocations affecting the populace. As the news media hype one northern New Mexico county for having the highest rate of illicit drug-related deaths of any town in the United States, grassroots activists contend that the problem stems from a “collective grief” over the erosion of culture and loss of land. In their meetings, heirs of the Tomé land grant yearn for a “spiritual connection” to their ancestral commons, seen to be “about not only healing wounds and bringing a community back together, but

65. “Tomé Heirs Seek Site in Manzanos,” *Albuquerque Journal*, 23 July 2000; “Hispanic Heirs Seek Reparations for N.M. Lab Land,” *Albuquerque Tribune*, 29 August 2001.

66. Van Ness, *Hispanos in Northern New Mexico*, 243–46, 249–50, 187, 252; Eastman and Gray, *Community Grazing*, 65–66.

about setting a new focus on the *sierras* [mountains] and trying to get them back for the people of Tomé.”⁶⁷

Nor does the focus on tradition hold only sentimental value as the heirs look for the material utilization of their extant commons. For some the issue concerns mineral rights. Others are actually raising fodder and farming on a small scale for bartering in the community. The Tecolote heirs want to develop the gravel pits on their grounds. Several of the rural Hispanic communities have effective non-profit organizations using external financial sources to build farming cooperatives, new grazing practices, recreational centers, land title clearance projects, and social service programs.⁶⁸

The community land-grant movement would profit from recent theorizing on group land rights, specifically the general discussion on “moral pluralism” and the American liberal polity. Human-rights scholars recognize “the right of each native group to own in common the territory in which it lives, under special laws that prohibit the division or sale of the land.” Of the three possible ways to use land for group rights—secession, federalism, and native reservations—the last is most tied to the “devastating problem” of the destruction of minority cultures. The right to occupy a non-alienable tract of land justifies helping those who might otherwise “crash” and become dysfunctional.⁶⁹ Future work should seek to square the community land grant with an expanded notion of the native reservation and group land rights.

Meanwhile, a traditional layer of cultural identity in New Mexico continues to give expression to “ancient aspirations” for the restoration of land grants. As Ebright has observed, the sense of injustice that the heirs perceive “will not be simply forgotten. It is more likely that controversies and disputes will continue to surface.”⁷⁰ The land-grant issue is sure to grow to prominence in the political discourse of the Southwest.

67. “Heroin Heartland,” *Crosswind Weekly* (Albuquerque-Santa Fe), 16–23 August 2001; McCarty, *Land Grant Problems in New Mexico*, 21; “Grant Heirs Want an Accounting,” *Albuquerque Journal*, 29 December 2000.

68. Van Ness, *Hispanos in Northern New Mexico*, 244, 247, 249.

69. Edmund Abegg, “Group Land Rights,” in *Groups and Group Rights*, ed. Christine Sistare, Larry May, and Leslie Francis (Lawrence: University Press of Kansas, 2001), 235–47. The latter ideas are those of Will Kymlicka, cited in Abegg, “Group Land Rights,” 241–42.

70. Ebright, *Land Grants and Lawsuits in Northern New Mexico*, 54.

ABSTRACT

At the end of the Mexican-American War in 1848, the United States annexed what had been the Mexican Department of New Mexico, and as it did, it absorbed millions of acres of agro-pastoral land whose parcels had been under a communal system of ownership by Mexican citizen-villagers. From the heirs' point of view, the subsequent American system of adjudicating ownership of these traditional properties proved inadequate, leading to the loss of two-thirds of their commons to American land speculators and the U. S. National Forest. Like the Native Americans, the heirs of these grants have long seethed in resentment over the steady erosion of their hold on their traditional lands and culture. This article outlines the processes of despoliation of the land grants from their original owners, and, more centrally, suggests the historical cycles of collective struggle that the heirs have mounted since the 1840s in order to retain and wrest back their commons, as well as organize the grants that they have been able to secure. A stubborn land-grant movement has gone through various forms of collective action including clandestine violence, protest confrontation, legal strategies, and political lobbying. In the most recent phase, activists have hopeful signs that the U.S. Congress is ready to respond to their demand for return of commons now under federal jurisdiction.