Dear Colleagues,

Thank you for reading the following chapter, which forms a part of my book manuscript. *Settlement Colonialism: Compensatory Justice in United States Expansion, 1868-1964* argues that a forgotten tradition of international legal claims against the US government transformed foreign policymaking as the nation was becoming a global power. Between 1900 and 1930, thousands of migrants to the United States and its territories charged the federal government with promoting forms of racial violence that violated the international norms known as the “standard of civilization.” Through attention to the consequences of their unexpected claims, the book explains why a legal model that facilitated American imperial interventions throughout the nineteenth century collapsed during the first decades of the twentieth, prompting foreign policymakers to develop new strategies for projecting US power abroad.

*Settlement Colonialism* is a legal history of United States imperialism, demonstrating that foreign policymakers used international arbitration as a key strategy to facilitate annexation of northern Mexico, Puerto Rico, the Philippines, Samoa, and the Panama Canal Zone during the era of territorial expansion. It is also one of the first social histories of international law, suggesting that this strategy came into crisis as a result of the thousands of West Indian, Panamanian, and Mexican residents of American territories who turned seemingly technical calculations of market value compensation into larger questions about what kinds of state violence international law prohibited. The project draws on legal, diplomatic, political, and media sources from Spanish and English language archives in the United States, Mexico, Panama, and the United Kingdom to consider how struggles over the contents of international law have not only been waged in halls of The Hague, but also in the locks and stops of the Panama Canal Zone, the cotton fields of South Texas, and the copper mines of Arizona.

Earlier chapters consider how the United States used the practice of mass claims settlement to shore up both formal territorial control and informal economic influence abroad during the late nineteenth and early twentieth centuries. The chapter below considers why this particular model of international arbitration stopped working for the United States as an effective foreign policy tool during the 1930s. Existing scholarship holds that mass claims settlement disappeared from international law following World War II because of its inherent inefficiency. This chapter and the ones that follow offer a different explanation. They propose that the United States turned away from the practice of state to state arbitration when this form of dispute resolution began to expose the US legal system to unanticipated international scrutiny.

Many thanks again for reading these pages. I look forward to our discussion, and in particular to your comments and suggestions.

Sincerely,

Allison Powers Useche

2019-2020 Clements Fellow, Southern Methodist University

Assistant Professor of History, Texas Tech University

# Chapter 5: The Specter of Compensation

*Allison Powers Useche*

On the morning of April 18, 1923, Ramón Delgado and P.S. Childress got into an argument over the terms of their labor contract for the Yancey, Texas cotton plantation that Childress owned and Delgado worked. The 70-year-old man from Coahuila informed his landlord that he planned to leave after the harvest to seek better working conditions elsewhere. Childress responded by fatally shooting Delgado with a rifle. Although several witnesses testified that the victim had been unarmed, the local jury acquitted Childress on the grounds of self-defense.[[1]](#footnote-1) Delgado’s four daughters had limited recourse in challenging the decision. Their report to the San Antonio Consul prompted an exchange of notes among the Mexican Secretary of Foreign Relations, the American State Department, and local law enforcement officials. But the Delgado sisters had largely run out of remedies. A few months after their father’s death, however, there emerged a new forum that they could turn to in order to demand that the United States government be held accountable for the failures of its justice system: the US-Mexico General Claims Commission.

Historians have long recognized the role of racialized labor violence in concentrating wealth and power in the American Southwest during the early twentieth century.[[2]](#footnote-2)  Stories like Delgado’s were not particularly unusual, but they are not typically considered as part of the history of US foreign relations or of international law more broadly. This chapter and the one that follows argues that they should be, because of what happened next. Adelfa, Dorotea, Cecilia, and Amada Delgado appealed to international law as Mexican citizens, charging the United States government with a “denial of justice” before the US-Mexico Claims Commission, an international arbitral tribunal established through bilateral treaty to “settle and adjust amicably claims by the citizens of each country against the other.”[[3]](#footnote-3) And they were not alone. Hundreds of Mexican nationals filed similar claims for relatives who had been killed, injured, or unjustly incarcerated while residing in the United States.

An international tribunal may have seemed an unlikely place for the Delgado sisters to seek justice during the 1920s. Throughout the nineteenth and early twentieth centuries, bilateral arbitrations tended to favor the interests of powerful nations and their nationals. [[4]](#footnote-4) More often than not the cases they considered concerned investment disputes resulting from labor legislation, taxation, or court decisions that limited the profits of foreign investors.[[5]](#footnote-5) State Department officials assumed the US-Mexico Claims Commission would continue this trend. The tribunal was created in response to the 1910-1920 Mexican Revolution for the expressed purpose of compensating American property owners for losses resulting from the Revolution and its aftermath. Given the roughly one billion dollars of US investments in Mexico at the time,[[6]](#footnote-6) the State Department was concerned with the redistributive impulses of the 1917 Mexican Constitution, which offered social and labor rights unmatched in the Americas. Foreign investors were particularly worried about the implications of Article 27, which laid the groundwork for agrarian reform and resource nationalization through government expropriations. President Warren G. Harding demanded the creation of a claims settlement tribunal in order to secure compensation for losses to American property owners as a condition of United States recognition of Álvaro Obregón’s new government. The Mexican president complied, and on September 8 of 1923, The United States and Mexico created the General Claims Commission.

The US-Mexico General Claims Commission was designed, like other arbitral tribunals of its kind, to depoliticize injustices suffered by foreign nationals through the mechanism of monetary compensation. Three judges—one American, one Mexican, and one neutral—would decide which claimants deserved compensation for losses suffered by persons or their property incurred at the hands of the foreign government.[[7]](#footnote-7) These judges based their rulings on the Law of Nations and in particular on the “standard of civilization”: the un-codified body of jurisprudence that included the writings of international jurists, the decisions of international tribunals, and the actions of states deemed civilized.

While arbitration was by the 1920s a well-established model for state to state dispute resolution, the formation of the 1923 United States-Mexico General Claims Commission marked the first time an international tribunal would consider the problem of large-scale resource nationalization. Unlike Russia, which had after its 1917 Revolution repudiated all sovereign debt, Mexico pledged that its new revolutionary regime would respect existing international laws. A commitment to compensation through the mechanism of international arbitration allowed the Mexican State to position itself as offering an alternative form of liberalism that operated within the existing international legal order, rather than a repudiation of liberal principles in toto. But the State Department remained concerned about the existence of “Bolshevik-Mexican intrigues and iniquities.”[[8]](#footnote-8)

US government officials predicted that the US-Mexico Claims Commission would limit the ability of foreign states to engage in redistributive projects by mandating compensation for all foreign property expropriated. State Department lawyers hoped to take the teeth out of the 1917 Mexican Constitution’s new claim to sovereignty over resources in land and minerals by mandating market value compensation for any foreign property expropriated or devalued through labor legislation. While Harding forced Obregón’s hand by making recognition of his government contingent on a return to arbitration, Mexico also viewed the Claims Commission as a test site to determine how the redistributive project of the revolution would be either sanctioned or prohibited by international law. Both administrations then aimed to take advantage of the structure of the Claims Commission to promote their distinct visions of liberalism.

Talk of a new claims settlement commission commenced at the Bucareli Conferences in Mexico City in 1923. The exact discussions that transpired during these meetings remained unknown to the public, but rumors abounded that a series of secret agreements accompanied the formal return to arbitration that came out of them. The Bucareli Conferences served as the public face of an extended process of private negotiations.[[9]](#footnote-9) The 1922 Lamont-de la Huerta agreement between Mexican Secretary of Finance Adolfo de la Huerta and the head of the newly formed International Committee of Bankers on Mexico Thomas Lamont established that the Mexican Supreme Court would not retroactively apply Article 27 of the 1917 Constitution, thereby protecting existing foreign investments from nationalization. It also guaranteed that Mexico would resume its international debt payments as a gesture of the nation’s continued commitment to the sanctity of private property.[[10]](#footnote-10)

It is not clear what exactly took place at the Bucareli negotiations. But Secretary of State Charles Evan Hughes certainly directed US representatives to use the agreements to “conserve and strengthen the rules of international conduct” so as to protect private property abroad.[[11]](#footnote-11) And on September 8 of 1923, this goal seemed to have been realized. The United States and Mexico created the General Claims Commission to address any losses stemming from the actions of either government since 1868. Two days later, the two governments created a separate “Special Commission” to address claims that arose directly out of revolutionary violence. The Claims Commissions would then publicly articulate what the United States and Mexico had already privately agreed to—that foreign investments in Mexico would be protected from the redistributive mandates of the revolutionary constitution.

The United States was not alone in demanding compensation for the property of its nationals damaged as a result of the Mexican Revolution. But there was one crucial difference between this Commission and similar claims settlement tribunals set up between Mexico and France, Germany, Italy, Great Britain, Belgium, Japan, and Spain in the aftermath of the Revolution. The US-Mexico arbitration allowed not only claims of American citizens against Mexico, but also cases brought by Mexican citizens against the United States government. The difference in structure stemmed from a clause in the 1848 Treaty of Guadalupe Hidalgo—which had ended the Mexican American War and resulted in the cession of half of Mexico’s territory—mandating that the two states use arbitration to resolve any outstanding disputes.[[12]](#footnote-12) The State Department was not particularly worried about Mexico’s ability to bring claims before the tribunal. The previous US-Mexico Claims Commission, which had run from 1868-1875, had resulted in a $3,975,123.79 debt from Mexico to the United States.

Unlike the post-revolutionary arbitrations set up between Mexico and other nations, however, the US-Mexico Claims Commission fell apart. Despite early optimism concerning the possibilities of arbitration to deal with the threat posed to foreign investors by resource nationalization, a decade later the tribunal had produced more disagreements than decisions. After a long, drawn out period of pleadings, the two governments dissolved the Commission in 1937 with 3,000 individual claims remaining unresolved. The privately negotiated lump sum settlement that replaced the tribunal prevented these outstanding claims from being formally decided.

What caused the US-Mexico Claims Commission to collapse? Historians of foreign policy have pointed to the 1930s as a watershed moment in transforming United States approaches to both diplomacy and international law, inaugurating an era often referred to as “the turn to non-intervention” or even “the end of empire.” They have argued that this shift arose out of New Deal politics, the military exigencies of World War II, or simple diplomatic outmaneuvering by the administration of President Lázaro Cárdenas, who pushed the project of resource nationalization further than any of his predecessors.[[13]](#footnote-13) Certainly the United States government was eager to prevent Mexico from selling oil to Germany, had shifted focus to new domestic and international concerns, and had developed its own nascent welfare state. But this chapter and the one that follows offer an additional explanation for the transformation in foreign policy orientation characterized as the “turn to non-intervention”: the United States abandoned the Claims Commission, and with it a stance towards international law that had characterized its foreign policy for a century, in part because of cases like that of Ramón Delgado.

DENIALS

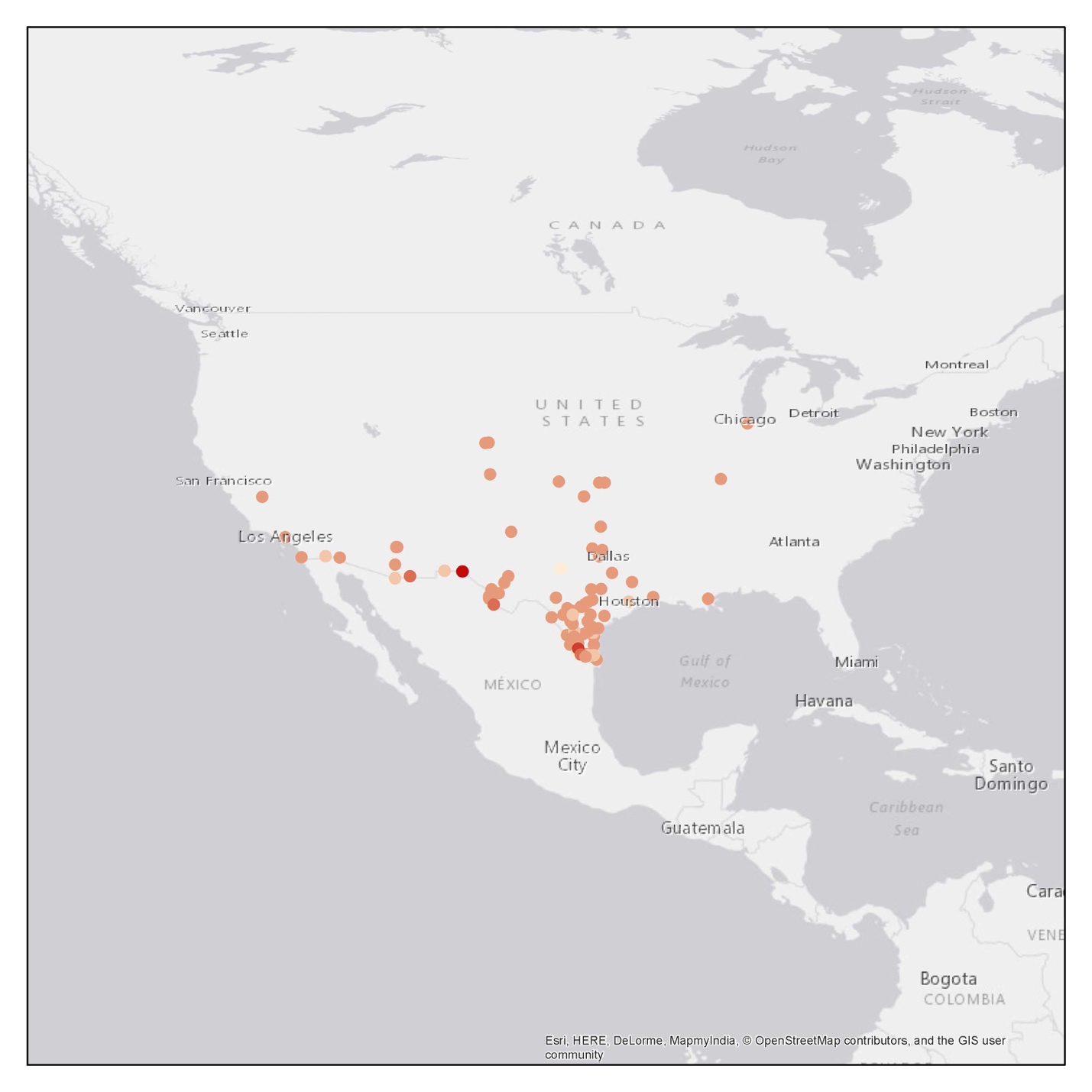
The US-Mexico Claims Commission was primarily designed to address damage to American life and property in Mexico following the Revolution on the one hand, and land titled under Mexican law that had not been recognized by United States courts after the 1848 cession on the other. Investments and land titles indeed represented the bulk of the money claimed. But the Commission turned into something that US State Department lawyers had not foreseen. The cases that produced the most disputes among the tribunal’s lawyers and judges concerned a different kind of claim—the type brought by the Delgado sisters for their father’s murder. When denied legal remedies in domestic forums, hundreds of Mexican nationals turned to international law to demand their own visions of justice. The United States presented roughly 2,800 claims for almost $514 million, while Mexico presented 836 claims against the U.S. for $245 million.[[14]](#footnote-14) Although many of these were for lands taken in violation of Treaty of Guadalupe Hidalgo—a topic historians Rodolfo de la Garza and Karl Schmitt have explored—of the roughly three hundred sets of Mexican pleadings that originated in US territory,[[15]](#footnote-15) only eighty pertained to land titles. The remaining two hundred and twenty were denial of justice charges, with the highest percentage of these arising out of the murders of Mexican nationals that had gone unpunished by the American justice system. These cases asserted that the United States legal system did not protect human life in ways commensurate with the standard of civilization under international law. 

Figure 3: Map of Denial of Justice Claims Originating in the United States, Created by the Author through GIS. Darker red dots indicate a concentration of claims.

How did Ramón Delgado’s case work its way from acquittal by a South Texas jury to consideration before an international arbitral tribunal? Mexican nationals residing in the United States had been appealing for decades to the Mexican government to stop the violence, dispossession, and coercive labor conditions that state and federal courts had sanctioned since the nineteenth century. Their actions laid the groundwork for claims subsequently brought by Mexico before the Commission. The United States government had a lot to answer for. In many parts of the Southwest, Jim Crow laws extended to both “Colored and Mexicans” in a regime of legalized racial subordination some historians have dubbed “Juan Crow.”[[16]](#footnote-16) Mexican workers consistently received one half to two thirds the wages of their white counterparts between the 1880s and the 1920s.[[17]](#footnote-17) Both Mexican nationals and American citizens of Mexican descent faced increasingly brutal violence from law enforcement and vigilantes. During the 1910s in particular, Texas Rangers and vigilantes killed between several hundred and several thousand of the Mexican descent population in South Texas alone, as historian Monica Muñoz Martinez has demonstrated.[[18]](#footnote-18) The Calles administration, alarmed at numbers of Mexican citizens migrating to the United States during the 1920s, launched a newspaper propaganda campaign warning potential migrants with headlines including, “Mexicans, you should not leave Mexico!”; “In California and Arizona there are more than a million Mexican slaves!”; “and “Laborers who go to the United States are killed with impunity.”[[19]](#footnote-19)

The post-revolutionary Mexican government had new pragmatic and ideological stakes in seeking out claims against the United States. Obregón and his successors knew that Mexico faced millions of dollars in American claims for expropriated property. Any cases against the United States government then held the potential to chip away at some of this looming debt. A 1925 Report to the Mexican Agent in charge of General Claims found:

There are many claims that having a similar cause can be presented before the General Commission, where the immense series of murders committed in the United States, many of which are unpunished for the simple reason that the murderers were North Americans and the victims Mexicans, would most probably cause a shocking impression. In my view, this impression will favor the claims presented for this reason, especially if they are carefully prepared and appropriately presented.[[20]](#footnote-20)

As this Report suggests, there were purely strategic reasons for advancing claims like Delgado’s. But the Mexican government was also responding to mounting pressure from the Mexican public to respond to conditions in the United States. Labor associations throughout Mexico protested increasing anti-Mexican violence in the American Southwest. In response to the 1922 lynching of Mexican national Elias Villarreal Zárate in Weslaco, Texas, one hundred members of the Guadalajara Chauffeurs’ Association demonstrated in front of the local American consulate. Their cars bore placards that characterized Americans as “vicious,” “villainous,” and “barbarous.”[[21]](#footnote-21) The protesters demanded that the State Department respond to the incident in Weslaco and that the government of the United States better protect Mexican nationals abroad. If the American consul did not forward their protest to Washington, the chauffeurs warned, there would be further actions taken by their Workmen’s Association.[[22]](#footnote-22)

The protest is remarkable given that the victim was not from the region—he had been born in San Miguel de Camargo, Tamaulipas, and had lived in Texas for years.[[23]](#footnote-23) The chauffeurs’ actions hundreds of miles away from the scene of the lynching indicates that public outrage at anti-Mexican violence in the United States was mounting. A 1922 letter to the Secretary of State warned that the incident demonstrated “both the Mexican consul and the Mexican residents of the region, given the attitude of the American authorities, lack the necessary guaranties and securities,” due to the fact that anyone who attempted to report injustices the Mexican consuls “had been seriously threatened.”[[24]](#footnote-24) The Mexican Embassy filed a formal protest to the State Department for the negligence or complicity of the US authorities in the case at hand, urging federal officials to investigate the situation.[[25]](#footnote-25) The Ambassador called the attention of the State Department to “the frequency with which the Embassy has lately had to formulate demands regarding the crimes perpetrated against Mexican citizens—in many cases acting as authors or participants authorities of the United States—that the delinquency or lack of justice which many of these cases have been considered and resolved by United States authorities.”[[26]](#footnote-26) The initial protest on the part of the Chauffeur’s Association and subsequent correspondence between State Department and Mexican Ministry of Foreign Relations officials then laid the groundwork for the Mexican government to use Villarreal’s death to prepare a denial of justice case against the United States when the Claims Commission formed a year later.[[27]](#footnote-27) Mexican lawyers would argue that “the lynching of Elías Villarreal Zárate was a crime which in every civilized nation would be severely punished” because “in all civilized countries of the world, the accused has the indisputable protection that he can be judged by competent authorities in a procedure in which he is allowed to defend himself and is only given the punishment he merits in conformity with the law, by the authorities who are competent to do so.”[[28]](#footnote-28)

By the 1930s, activists had been working for decades to pass federal anti-lynching legislation in the United States.[[29]](#footnote-29) While the vast majority of lynching victims in the South were African American, historians William Carrigan and Clive Webb have found that there were 547 confirmed cases of mob violence against persons of Mexican descent in the US between 1848 and 1928, the date of the last reported case.[[30]](#footnote-30)Claims like Villarreal’s put new pressure on the federal government to address the widespread problem of lynching in the South and Southwest through the framework of diplomatic relations decades after Ida B. Wells’ and others’ anti-lynching campaigns demanded federal intervention to protect the lives of African Americans.

The Mexican consuls and embassy had drawn increasing attention to incidents like those of Delgado and Villarreal in recent years, as racial violence increased across the Southwest. In a 1931 report concerning the protection of Mexican nationals abroad, Mexican Secretary of Foreign Relations lawyer Anselmo Mena emphasized, “ the sufferings imposed on the Mexican worker during his time in this country,” included “very difficult tests for the psychology of any civilized man.”[[31]](#footnote-31) “The most grave of these difficulties,” he suggested, “derived from the rudeness characteristic of the low level American functionary, who feels obliged to be the interpreter of every class of racial extremisms.”[[32]](#footnote-32) Mena did not however place much faith in Mexican nationals abroad to defend their own rights. He concluded, “the Mexican transgresses the rules of criminal law with such frequency” because most migrants were “unadapted to the juridical system of this country and foreign to its legal traditions and ignorant of its laws.“[[33]](#footnote-33)

Although Mena assumed that Mexican national abroad were “peons” who were “ignorant” of both their rights and the workings of the American legal system, victims of state violence made it possible for the Mexican Embassy to translate discrete incidents into diplomatic demands and legal claims by reporting their experiences to their local consuls. The Mexican Ministry of Foreign Relations often relied on the initial efforts of individuals or voluntary organizations such as local branches of the *Sociedad Honorífica Mexicana* to collect data on potential claims against the United States.

Without the initial work of Mexican nationals abroad in making complaints about local law enforcement to their consuls, there would have existed no paper trail through which to identify cases that could be brought against the United States.Beginning in 1923, lawyers from the Mexican Ministry of Foreign Relations scoured consular reports for episodes that might hold international dimensions concerning diplomatic protection of nationals abroad. They used these records to track down potential claimants who had not responded to their adverts in Spanish language newspapers in the United States publicizing the Claims Commission.[[34]](#footnote-34) In 1924, Adelfa, Dorotea, Cecilia, and Amada Delgado wrote directly to the Mexican Ministry of Foreign Relations requesting that a claim be brought before the tribunal in their father’s name after reading about the Claims Commission in a local newspaper. The Yancey branch of the *Sociedad Honorífica Mexicana*, the San Antonio Consul, the Mexican Ambassador, and members of the Ministry of Foreign Relations had already laid the groundwork for an international claim through their petitions asking the US State Department to take action against the Texas law enforcement officials who allowed Mexican nationals to be murdered with impunity.

Despite increasing levels of diplomatic tension concerning treatment of Mexican nationals in the United States Southwest, State Department lawyers seemed confident that the judges of the US-Mexico Claims Commission would distinguish between what they considered to be uncivilized forms of violence in Mexico and rule of law in United States. The American Consul General in Mexico, Alexander W. Weddell, sent a report of political and economic conditions in Mexico during September of 1926 in which he noted that the Mexican press “had much to say of a brutal attack by a mob in Texas on a group of officers having in their custody certain Mexican prisoners who were shot to death in the struggle.”[[35]](#footnote-35) He attributed the newspaper coverage to “a frantic effort to find a palliative” for the fact that American Jacob Rosenthal had recently been killed in Mexico by bandits, noting “The Mexican mind seems unable to make a distinction between a savage and anarchistic attempt to apply the penalties of the law against prisoners and a vulgar holdup of travelers by persons charged with the maintenance of law with robbery as the motive.”[[36]](#footnote-36)

If Mexican lawyers were indeed searching for a “palliative” to even the scales against American claims, they did not have to look far. Mexican Agency lawyers including Oscar Rabasa, Benito Flores, Roberto Córdova, Eduardo Suárez, and Bartolomé Carvajal y Rosas advanced hundreds of claims against the United States on the grounds that the federal government had failed to protect the lives and property of Mexican nationals within its borders. They formed the first generation of Mexican post-revolutionary government lawyers. Carvajal y Rosas had ample experience working on international arbitral tribunals. As former Secretary to Mexican Legations in Argentina, Brazil, Uruguay, and Belgium, he had participated in territory and boundary disputes that had gone to arbitration in the Caribbean and Southern Cone. Oscar Rabasa’s father had worked as a congressman and constitutional lawyer under the Porfirian regime. Eduardo Suárez would become an architect of the post-revolutionary fiscal state and a representative at the Bretton Woods negotiations a decade later.[[37]](#footnote-37) All recent graduates from Mexico’s *Escuela Nacional de Jurisprudencia,* these lawyers varied in the radicalism of their politics, but each remained committed to rethinking the international legal doctrines governing US-Mexico relations.

Mexican government lawyers used cases like those of Delgado and Villarreal to raise new questions concerning the meaning and implications of a “denial of justice” under international law. A denial of justice was an international legal mechanism that one state could use to hold another government accountable for unfair treatment of its nationals. If a Mexican citizen had been denied access to the legal process of the United States, the Mexican government could bring an international claim in his or her name to demand monetary compensation as restitution for the damages incurred. A cornerstone of the law of diplomatic protection of persons and their property held thatsovereign powers were obligated to protect the interests of their subjects abroad and could demand recourse when their citizens’ international legal rights were violated by a foreign government. Throughout the nineteenth and early twentieth centuries, this concept was most often invoked in regard to investment disputes arising out of countries deemed less advanced than their northern and western counterparts. The United States in particular tended to take a denial of justice involving investment protections much more seriously than a breach of contract or unpaid bonds, even if the financial stakes involved were comparable due to the fact that this kind of case posed more of a perceived ideological threat to the protection of private property under international law.[[38]](#footnote-38)

Although the terms of the 1923 US-Mexico Claims Convention waived the common requirement of proof that claimants had exhausted all possible domestic remedies before turning to international law, a denial of justice claim still represented a charge against the legal system as a whole. But its precise definition was notoriously difficult to pin down. As the judges of the US-Mexico Claims Commission noted, celebrated American internationalist John Bassett Moore had argued as recently as 1910 that he did “not consider it to be practicable to lay down in advance precise and unyielding formulas by which the question of a denial of justice may in every instance be determined.”[[39]](#footnote-39)

In an early case involving a United States claim against the Mexican government however, the Commissioners attempted to clarify established definitions of the concept. In the 1926 decision of *L.F.H. Neer and Pauline Neer (U.S.A.) v. the United Mexican States,* a case brought by the American widow of a mine superintendent in Durango whose killers had not been prosecuted, the judges ruled, “The Commission recognizes the difficulty of devising a general formula for determining the boundary between an international delinquency of this type and an unsatisfactory use of power included in national sovereignty.”[[40]](#footnote-40) However, they maintained,

(First) that the propriety of governmental acts should be put to the test of international standards, and (second) that the treatment of an alien, in order to constitute an international delinquency, should amount to an outrage, to bad faith, to willful neglect of duty, or to an insufficiency of governmental action so far short of international standards that every reasonable and impartial man would readily recognize its insufficiency.[[41]](#footnote-41)

The “Neer Test” then came to serve as the barrier through which each government’s lawyers had to pass in order to prove that a denial of justice had occurred. The Commissioners disallowed the *Neer* claim on the grounds that the actions of the Mexican government in response to Neer’s death had not amounted to a significant enough “outrage” to meet the newly devised standard. Despite this loss for the US government, American Commissioner Fred Nielson wrote a separate but concurring opinion in which he suggested that the tribunal should go even further toward articulating the specific contents of the standards concerning what constituted a denial of justice. Surely, he suggested, “It may perhaps be said with a reasonable degree of precision that the propriety of governmental acts should be determined according to ordinary standards of civilization, even though standards differ considerably among members of the family of nations, equal under the law.”[[42]](#footnote-42) All three commissioners accepted the Neer standard as the formula they would use to determine whether or not a denial of justice had occurred. Their consensus around the meaning of the standard of civilization would however increasingly unravel as the pleadings process continued.

While international law textbooks tend to cite *Neer* and similar United States claims against Mexico as the defining legacy of the US-Mexico Claims Commission, this case only marked the beginning of a much longer dispute over the nature of a denial of justice that transpired during the tenure of the tribunal. The process of contestation occurred after the limited decisions the tribunal published from 1926-1931, and through the extensive pleadings advanced by Mexican and US lawyers between 1932 and 1937. During this time there emerged fundamental disagreements between the United States and Mexico over the meaning and implications of a denial of justice—disagreements that ultimately led to the Commission’s collapse in 1938.

Disputes over what kinds of actions a government could be held liable for began with an early case that came before the General Claims Commission: *The United Mexican States on behalf of Teodoro García and María Apolinar vs. The United States of America*, decided in 1926*.* In their majority opinion, neutral and Mexican Commissioners Cornelius van Vollenhoven and Genaro Fernández MacGregor ruled, “The Commission makes its conception of international law in this respect dependent upon the answer to the question, whether there exists among civilized nations any international standard concerning the taking of human life.” Teodoro García and María Apolinar Garza had filed a denial of justice claim with the Commission after their nine-year-old daughter, Concepción, was shot and killed by a US army lieutenant while crossing the Rio Grande on April 8, 1919. Concepción’s shooter had been court martialed over the incident on the grounds that he had violated a US military regulation that prohibited firing on unarmed persons supposed to be engaged in smuggling or crossing at unauthorized places. He was then pardoned by a Board of Review in a decision that was approved by US president Woodrow Wilson. The Mexican lawyer arguing the case, Eduardo Suárez, urged the tribunal to address the problem of how to deal with state actions “which while they assuredly comply with constitutional requirements, nonetheless transgress the Law of Nations…the principles of Universal Justice accepted by all Nations and which therefore are a part of International Law.”[[43]](#footnote-43) The brief marked a turning point for the Commission and for Suárez, at the time a young economist who would go on to serve as an architect of Mexico’s post-revolutionary labor law and as a Mexican delegate to the League of Nations.

In this case, one of the first Suárez argued and the one of the last the Commissioners were able to definitively rule on, Vollenhoven and Fernández decided, “The Commission not only holds that there exists one [standard], but also that it is necessary to state and acknowledge its existence because of the fact that there are parts of the world and specific circumstances in which human practice apparently is inclined to fall below this standard.”[[44]](#footnote-44) In particular, they determined, “Human life in these parts, on both sides [of the Rio Grande], seems not to be appraised so highly as international standards prescribe.”[[45]](#footnote-45) As international law scholar Edwin Borchard noted at the time, the decision represented the first time an international claims commission had attempted to outline in detail the elements of “an international standard concerning the taking of human life.”[[46]](#footnote-46) The dissenting Commissioner on the case, American Fred Nielsen, admitted that “whether the United States is so liable must, in my opinion, be ascertained by a determination of the question whether American law sanctions an act that outrages ordinary standards of civilization.”[[47]](#footnote-47) He disagreed, however, as to how to establish evidence of such a standard. Nielsen vigorously rejected the outcome of the decision—a $2000 award for the claimants—citing a lack of evidence as to what kinds of violence the standard of civilization actually prohibited.

POR ROBARLE SU TRABAJO

By the time Mexico had filed its briefs for each of its claims, the United States Agency found itself in trouble. Bert Hunt, who had gotten the US-Panama arbitration back on track after the controversy surrounding the Joint Land Commission, now served as American Agent for the similarly structured US-Mexico tribunal. Yet he felt that the current claims settlement proceedings were beginning to escape his control. By 1935, Hunt was at a loss as to how to deal with the hundreds of Mexican claims against the US government that remained on the docket. Seeking financial and administrative assistance, he wrote a series of reports urging the State Department to direct more funds and legal expertise towards the Mexican Claims Committee. “In spite of my best efforts,” he wrote, “I am unable to maintain a schedule of revisions of briefs, which is necessary to maintain in order to permit the pleading work to go forward at the rate necessary to complete the arbitration in the time allowed.”[[48]](#footnote-48) Explaining that it was “physically impossible for him to review all of them and keep abreast of the other work of the Agency,”[[49]](#footnote-49) he asked that the State Department to direct more funds toward the General Claims Commission, which he viewed as raising the most urgent of concerns.[[50]](#footnote-50)

Hunt requested an emergency congressional appropriation bill to fund the work of the Agency, explaining that, “There has never been, to my knowledge, an arbitration in this country anything like the present proportions, which has been successfully completed in anything like the amount of time available to this Agency.” Referencing the nearly eight hundred remaining claims against the US government, the panicked Agent concluded, “I cannot overemphasize the fact that now, for the first time, the Agency is confronted with the immediate necessity of defending this Government against Mexican claims, totaling $245,000,000.” He warned that if said Congressional appropriation was not forthcoming, he would not take responsibility for the outcome of the arbitration.[[51]](#footnote-51)

Hunt had good reason for his concern. Between 1935 and 1936, the majority of outstanding claims were argued by both Agencies. Through this pleadings process, the Mexican Agency strategically explored how the standard of civilization might be made to challenge the legitimacy of the US government’s pretense to a monopoly on interpretations of the contents of international law. The State Department in turn invoked procedural and technical arguments related to evidence, calculation, and nationality to get these claims disallowed. As their disagreements heightened, the underlying logic of the tribunal began to come under considerable strain. International claims settlement tribunals like the General Claims Commission were designed on the presumption that ascertaining the market value of the loss—of property or of labor—would offer a fair gauge of compensation. This presumption began to break down over the course of the 1934-1936 pleadings process, when Mexican claims exposed market value in the United States to be the effect of illegal violence rather than its corrective. Far from an isolated set of conflicts, the Mexican Agency suggested, the widespread and unpunished murder of Mexican nationals in Texas, Arizona, New Mexico, California and beyond was part of a systematic attempt to control land and labor in the formerly Mexican Southwest.

Mexico brought claims against the United States concerning well-known episodes anti-Mexican violence, including 1918 Porvenir Massacre[[52]](#footnote-52) in which Texas Rangers had attacked and summarily executed fifteen unarmed men of Mexican descent on Manuel Morales’ ranch, and the infamous Bisbee Deportation of 1917, in which armed vigilantes, led by the local police, summarily imprisoned over one thousand Arizona copper miners in railroad boxcars and “deported” them to the Sonoran desert in response to an IWW strike.[[53]](#footnote-53) But many claims against the United States involved not the spectacular violence of Bisbee and Porvenir but instead the everyday coercion that enforced a racialized system of labor exploitation in the US Southwest. Mexico sought to demonstrate that seemingly isolated episodes of violence against Mexican nationals that had gone unpunished by local juries actually amounted to a state sponsored project of labor coercion that Mexican lawyers sought to link to an identifiable state action on the part of the US government.

In arguing that the United States had failed to protect life and property according to international norms, Mexican lawyers came up against a similar set of problems confronted by civil rights activists in the United States. Under international law, States were not responsible for the acts of private citizens but only for the actions of state agents because, in the words of American Agency lawyers Bert L. Hunt, Gerald Monsman and B.M. English, the state was “not the insurer of the lives of foreign citizens.”[[54]](#footnote-54) Arbitration then evoked a set of questions similar the state action problem in United States constitutional law,[[55]](#footnote-55) in which discrimination must be shown to be the result of an identifiable state action in order to amount to a violation of the equal protection clause of the 14th amendment. The vast majority of Mexican denial of justice claims against the United States did in fact stem from the murder of Mexican nationals at the hands of United States agents such as police officers, Texas Rangers, or military officials. But many of these claims, like those of Delgado, concerned the seemingly private violence of landlords, foremen, and supervisors against their employees.

The case of Ricardo Chaboya illustrates this problem. On the morning of October 8, 1922, Chaboya and five other workers staged a sit-down strike while building a San Diego road for the California Construction Company. The 39-year-old wheelbarrow man had been laid off two days prior and demanded pay for his time worked. The others sought a raise from $4.50 to $5 per day. Superintendent J.L. Heath arrived on the scene, and eyewitness accounts offer three distinct versions of the events that transpired next. Ramón Miranda, Antonio González and Jesús Granados testified that Heath attacked Chaboya, striking him on the head with a shovel and producing an injury that led to his death.[[56]](#footnote-56) Foreman C.R. Sear conceded that Heath had dealt the fatal blow, but suggested that Chaboya had instigated the fight by agitating a strike and insulting the superintendent with language “no white man would take from anybody.”[[57]](#footnote-57) Finally, Heath insisted that he struck his former employee to protect himself from a knife that never materialized during the police investigation.[[58]](#footnote-58) The Coroner’s Inquest found Heath not guilty by reason of self-defense, and the county court judge did not initiate a criminal case concerning Chaboya’s death.[[59]](#footnote-59) The Mexican Agency then worked to establish state complicity in incidents that had transpired between private individuals such as Chaboya and Heath on the San Diego construction site.

In order to demonstrate that the United States legal system fell below the standards prescribed by international law, Mexican lawyers had to prove first and foremost that the “self defense” argument—the one the United States drew on in the cases of Ramón Delgado, Ricardo Chaboya, and hundreds of others—was flawed. Their treatment of Felix Hernández’s claim is particularly illuminating. Similar to Chaboya, Hernández had been shot and killed by his former railroad foreman in Orange, Texas in 1922. The grand jury had failed to indict the foreman, N.H. Free, on the grounds that he was defending himself from a knife that police officers were never able to locate. In their brief, filed in 1935, Mexican attorneys Bartolomé Carvajal y Rosas and Anselmo Mena argued that Felix Hernández’s sisters, who filed the claim, had suffered a denial of justice “supported by local laws which are below the standards of International Law.”[[60]](#footnote-60) After suggesting that the American government was liable because “that Government which refuses to reprieve an official in any matter causing injury to the interests of an alien, makes his acts its own, and may not evade abiding by the consequences, after having tacitly so ratified them,”[[61]](#footnote-61) they went on to emphasize, “the conduct of the authorities at Orange Texas, in the case of the murder of Felix Hernández, is absolutely unheard-of in the times in which we live.”[[62]](#footnote-62)

Cases like those of Chaboya and Hernández raised the question of larger links between physical violence and economic coercion in the political economy of the American Southwest and Midwest. If the labor legislation introduced by the Mexican revolutionary government amounted to an expropriation from the United States corporations that would lose profits as a result of compliance, Mexican lawyers suggested, then perhaps the lack of adequate labor protections in the United States deprived Mexican workers of the rights they were afforded under international law.

One rampant example of US laws that violated international norms, Mexico suggested, concerned the problem of forced labor as a form of punishment. While “peonage” was illegal under United States, Mexican, and international law, various forms of debt relations had been used to restrict the movement of workers in the US South since the end of Reconstruction.[[63]](#footnote-63) Although the 13th amendment to the United States constitution exempted prisoners from its prohibition of involuntary servitude, Mexican lawyers used the Claims Commission to question the legitimacy of forced labor as a component of imprisonment. The case of Juan Bermea exemplified this issue.Bermea, Cesario Ortiz, Manuel Zamora, Alberto Gomez, Higinio Flores, Jose Moreales, Baldomero Linares, and Octaviano Escutia had been working on the Missouri, Kansas, and Texas Railway when they were arrested in 1923 in Grayson County, Texas and compelled to sign a document in which they confessed to the crime of vagrancy. They could not pay the fine and were as a result sent to work on road construction.[[64]](#footnote-64) Roberto Córodva and Ignacio Sánchez Gávito argued in their brief for the case that these men had been illegally deprived them of their freedom.[[65]](#footnote-65) Recognizing that the Texas Penal Code allowed for forced labor as a punishment for vagrancy, the lawyers suggested that responsibility could nonetheless be “directly derived from laws below International Standards” in addition to “the responsibility incurred from the misdeeds of Texas authorities who had compelled the claimants through fraud or force to sign false statements concerning their vagrancy.”[[66]](#footnote-66)

Another problem the Mexican Agency identified with United States political economy concerned the seemingly private uses of violence as a mechanism for labor coercion. Cases in which Mexican laborers were driven out of town under threat of violence just before the harvestor were murdered after refusing to accept their working conditions, they suggested, amounted to state actions when this kind of violence went unpunished. Delgado’s daughter Adelfa sent a letter to the Mexican Secretaría de Relaciones Exteriores that is particularly revealing in its diagnosis of the problem. Her father, she insisted, “fue muerto por robarle su trabajo”—was killed in order to steal the products of his labor.[[67]](#footnote-67)

In cases like these, Mexican lawyers argued, the conduct of the American authorities “was not conformable to the general principles of international law, and even less so to the general principles of justice and of equity which are now invoked…This may not be explained otherwise than by race hatred, very well exemplified as among the Americans in Texas and those Mexicans who are so unfortunate as to venture to contribute their quota to the labor of that region.[[68]](#footnote-68) Defending these kinds of murders, they suggested, “would be to sanction a social regime much below international standards, in which human life would absolutely depend on the bloodthirsty instincts of such officers by their attitude demonstrate that for them human life has no value.”[[69]](#footnote-69)

How the United States Agency would respond to these claims was not immediately clear. Early on, the State Department actually considered pursuing a line of argument that divorced US international liability from the actions of state law enforcement officials. In a 1935 Memo to the Secretary of State, Agent Bert Hunt wrote in regard to the Felix Hernández case,

It is assumed that this is only one of quite a number of claims which will be presented by Mexico for alleged injuries or damages to personal property of Mexican citizens in the United States by acts which fall within the jurisdiction of the Federal Government. The question is therefore presented whether this Agency shall make the defense that the national government is not responsible in international law for the acts or omissions of the state governments or their officials in matters coming under the jurisdiction of the several states under our constitutional system. This question has been up for consideration by the Department in a number of cases.[[70]](#footnote-70)

“An important question of policy,” Hunt then suggested, “is presented as to whether the Government of the United States desires to make and maintain the defense that it is not responsible for acts or omissions of the state government of the officials thereof.”[[71]](#footnote-71) The problem was, “it would seem that the defense if good as to the Government of the United States would generally be good as to those governments of Latin-American countries organized upon the same general constitutional system as that prevailing in the United States.”[[72]](#footnote-72) He ultimately concluded, as did the State Department that, “If the United States presents the maintenance of this principle of non-liability therefore in the circumstances stated it would probably result in much greater detriment to the rights of American citizens claiming against Mexico than to the rights of Mexican citizens claiming against the United States.”[[73]](#footnote-73) Hunt found the prospect of federal non-liability for the acts of state authorities particularly troubling in its implications for the large number of claims concerning “seizures of American property under the so-called ‘Agrarian Laws’ passed by Mexican state legislatures after the Revolution.”[[74]](#footnote-74)

Unable to dismiss denial of justice cases on questions of law, the United States Agency turned to procedural issues of evidence to get them disallowed. Lawyers Bert Hunt, Albert Kunze, and Benedict English repeatedly insisted that the Mexican Agency had no concrete evidence to support their argument that American jury and grand jury proceedings violated due process, because they had no evidence of the proceedings themselves.[[75]](#footnote-75) Mexican lawyers instead argued that the secrecy around United States grand juries amounted to a violation of international legal standards. Roberto Córdova and Federico Mariscal suggested, “The local legislation establishing a system in accord with which records are not kept of what was done by its judicial authorities perhaps entails a denial of justice, being considered below the standards of International Law.[[76]](#footnote-76) Oscar Rabasa went even further to conclude in regard to Felix Hernández’s case:

Inasmuch as the procedure before the Grand Jury is secret and there is no opportunity for obtaining exact proof of the way the evidence is admitted or eliminated, and taking into account the evidence of the fact, by its own denouncement of the death of Hernandez at the hands of Free, the Mexican Agency sustains that the absolving from the crime of murder is a matter which should be resolved by a Tribunal distinct from the Grand Jury.[[77]](#footnote-77)

The United States Agency countered that these kinds of records were not necessary, given the presumption that civilized nations adhered to a set of norms regarding judicial procedure.”[[78]](#footnote-78) But privately, State Department lawyers increasingly moved away from hinging their arguments on the standard of civilization. Bert Hunt’s drafting process reveals that he abandoned his early appeals to universal international standards during the 1934 pleadings extension, when he began to re-frame his arguments in terms of bilateral, treaty-specific obligations. In the final edition of his brief for one such case, for example, Hunt crossed out the statement, “Killing in self defense is recognized as legitimate by the municipal law of all civilized countries and hence by international law” and replaced it with the statement that the practice was recognized “by both Mexico and the United States.”[[79]](#footnote-79) As the United States Agency turned away from legal arguments and toward technical questions of calculation and nationality, the stakes of the tribunal shifted—from assessing compensation, to questioning the ways in which international law institutions might exercise oversight over national legal systems. At the heart of each of these strategies were questions of how the abstraction of productive labor could be used to demand or deny access to political rights under international law.

CALCULATING COMPENSATION

Because the US-Mexico Claims Commission was an arbitral tribunal, the question of whether a denial of justice had occurred under international law remained bound up with the issue of whether the market value of the loss of life or earning power could be calculated. A core tenet of arbitration stipulated that claimants would receive awards based on the pecuniary value of their damages. But calculating the market value of lost labor power was problematic even under routine legal proceedings. In his 1909 treatise on *The Law of Eminent Domain*, American jurist Philip Nichols went so far as to conclude that, “market value is almost a wholly imaginary standard.”[[80]](#footnote-80) Furthermore, wrongful death and injury, particularly with regard to the industrialized working conditions of factories and fields, had undergone a transformation in both the United States and Mexican legal traditions during the decades surrounding the turn of the twentieth century.[[81]](#footnote-81)

The US-Mexico Claims Commission judges faced the most serious challenge in calculating market value when it came to what the tribunal’s judges referred to as the “taking of human life.” Newly appointed American Commissioner Oscar Underwood lamented on the eve of the tribunal’s dissolution in 1937 that, “there is no efficient means for recording human suffering and transcribing it into a legal record.”[[82]](#footnote-82) The Commissioners worked out a detailed formula for calculating the value of losses due to death, injury, or false imprisonment. Their discussions of the extent to which age, earning capacity, probability of increase in earning capacity, relationship to claimant, extent of contributions made toward support of claimant, expenses incurred, mental anguish caused by death, and insurance contributed to calculable damages became increasingly politicized over the course of the pleadings process.[[83]](#footnote-83) The Claims Commission drew on actuarial categories from the insurance industry and tort law in calculating damages that were designed to be compensatory rather than punitive.

The United States Agency used the tribunal’s established calculation formula as a strategy to avoid the legal question of whether a denial of justice had occurred by arguing that claims should be dismissed on the technicality of market value calculation alone. State Department lawyers repeatedly insisted that even if a denial of justice had occurred, compensation would be negligible because the decedents had not earned enough money, or had not earned their money in legitimate ways, for their deaths to have a significant financial impact on their relatives.

In most cases, the United States Agency argued that the decedent’s wages had been so low that they could not realistically have contributed significant financial support to their families. In his reply brief for the case of the wrongful killing of Murcio Arredondo by police officers at his home in Mexía, Texas after Arredondo had reported the officers’ attempt to lynch his son to the local Mexican Consul, US lawyer Bert Hunt argued, “It hardly requires demonstration that, according to all accepted mortality tables, a man of 68 years of age has very nearly reached the twilight of his life expectancy, and certainly the vast majority of persons fortunate enough to arrive at such an age retire from active participation in business affairs...his legally calculable prospective earnings would have been negligible indeed.”[[84]](#footnote-84) Mexican lawyers instead suggested that “because the fact that the deceased did not enjoy a great income does not imply that the claimants might not have sustained material damages, because, being poor people, any circumstance directly injuring their economic status, was of great importance, and precisely on account of their humble position they had to feel the loss of the head of the family, since the wife was left destitute with the children and in the worst economic conditions which she had to confront in her struggle for life.”[[85]](#footnote-85) Furthermore, the Mexican Agency pointed to the exploitative labor conditions throughout the United States and within Texas in particular, where the majority of claims originated, to argue that wages were not a just gauge of compensation. The United States government, Suárez, Rabasa, and Flores suggested, was validating landlords’ use of violence to steal their tenants’ shares by arguing that claimants who had been physically forced to leave their plantations just before the harvest had “lost their interest in that year's crop.”[[86]](#footnote-86)

In the case of Bernabé Garcia, who was shot and killed by a Deputy Sheriff in a saloon near Donna, Texas, they suggested the problematic nature of a compensatory mechanism that based its awards on wages that were unjustly suppressed through violence in the first place. Here Rabasa argued that it was not enough to award a claim “based on the rate of wages of a minimum character of such Mexican day laborers, established in Texas, and, in general, in the South of the United States.”[[87]](#footnote-87)

The United States Agency countered these arguments by insisting that claimants and their relatives had not been engaged in legitimate forms of labor but instead in criminal activities. Benedict English and H.M. Bishop fell back on the well-worn argument that the decedents had been bandits, smugglers, or generally “bad men”—a contention that doubled to support the claim of self-defense in the majority of the Ranger and police murder cases. Santos Rivera, for example, according to the United States reply brief for his case, “had no trade or occupation; his living was earned at gambling...he never worked at all, that is at honest labor.”[[88]](#footnote-88) In their answer to the claim of Luis Amezquita Gomar, who had been murdered by a police officer affiliated with the Ku Klux Klan on the pretext of searching for moonshine, Bert Hunt suggested that the decedent’s earnings could not be calculated because he was a “notorious bootlegger.”[[89]](#footnote-89) In regard to the claim of Quirino Cano, who American Immigration Inspectors shot and killed while he was crossing the Rio Grande, the lawyers insisted that:

Any attempt to calculate damages could be no more than a mere guess as to how long he might succeed in carrying on his illegal traffic and as to what portion of his undetermined receipts from such criminal activities were devoted to the support of the claimant. It is respectfully submitted that it would not be in harmony with the dignity and standing of an international tribunal to undertake to determine, as a basis for an international award in damages, the probable income of a criminal from the continued pursuit of the illicit occupation…[because] Clearly, any such earnings of support, even if they were susceptible of calculation, should not be made the basis of an international award.[[90]](#footnote-90)

The question of calculation exposed growing rifts in the Mexican and United States government’s approaches to international legal standards. The pleadings process demonstrates how legal definitions of personhood served as a preconditions for effective citizenship, not least in considering the final strategy the U.S. Agency deployed to get these claims dismissed: the denationalization of Mexican claimants.

STATELESSNESS ON THE US-MEXICO BORDER

Suggesting that claimants did not possess legitimate labor power—the theoretical basis of classical legal liberalism organized around the principle of property in self—Bert Hunt and his team of attorneys sought to challenge Mexico’s ability to bring their cases before an international tribunal. In addition to arguing that claimants had not earned enough money to demonstrate that they had suffered compensable losses, the US Agency for the tribunal used economic arguments to suggest that the vast majority of claimants against the United State government had lost their Mexican nationality and, as stateless individuals, could not appeal to international law for redress.

The United States Agency turned to a strategy that had serious implications not only for US-Mexico relations, but also for international law more generally. Along with Benedict English and Alfred Kunze, Hunt sought to effectively denationalize claimants from their Mexican citizenship so that as stateless individuals they could not use international law to make claims against the United States Government. Historians and political theorists tend to treat interwar and post-WWII statelessness as a problem specific to women whose nationality followed that of their husbands.[[91]](#footnote-91) The pleadings of the US-Mexico Claims Commission, however, demonstrate that the United States Agency attempted to render hundreds of Mexican claimants stateless during the 1930s in their attempt to block these cases from the consideration of the Claims Commission. Unable to win once judges were forced to face the question of whether the United States legal system adhered to the standard of civilization, State Department lawyers sought to remove claims from consideration by establishing a lack of jurisdiction.

Hunt, English, and Kunze repeatedly argued that most claimants had lost their Mexican citizenship because they had resided for too long in the United States. To prove this assertion, they cited Chapter I, Article 2 of the May 28, 1886 Mexican law of Alienship and Naturalization, which stipulated:

The following are aliens: Those absent from the Republic without permission or commission from the Government, excepting in order to prosecute their studies, or in the interests of the public, or for the establishment of trade or industry, or in the practice of a profession, who allow ten years to elapse without asking permission to prolong their absence.[[92]](#footnote-92)

The United States Agency argued that this provision was automatic in its operation. As we saw in debates over the amount of compensation owed to claimants who the United States characterized as criminals without fixed income, State Department lawyers invested considerable time and energy in establishing that decedents had not been engaged in the kind of productive economic activity that would have sustained their Mexican citizenship during prolonged residence abroad. Furthermore, many of the claimants who came before the Commission were the wives and daughters of men who had been killed. A lack of Mexican government records, bolstered by the fact that claimants by definition had to demonstrate that they relied financially on their deceased relatives in order to advance a claim, paved the way for the US Agency to argue that both decedents and claimants had lost their Mexican nationality in almost every single denial of justice case pleaded in 1935 or after. While the Mexican Agency also suggested that certain claimants were not United States citizens, the content and scale of their respective arguments concerning nationality remained distinct. The Mexican Agency only proposed that a handful of claimants lacked US citizenship. The United States instead argued that claimants had lost their Mexican nationality in hundreds of cases—in fact, the American Agency made this argument in almost every single counter-brief written after 1930. Furthermore, Mexican lawyers proposed that claimants held a separate nationality, whereas their American counterparts predicated their assertion that claimants were not Mexican citizens on the concept of statelessness.

Denationalization was a concerted United States Agency strategy evidenced not only by its regularity, but also through correspondence. Bert Hunt routinely sent letters to employers and public officials from the towns where claimants lived seeking evidence “desired for the purpose of showing that the several claimants were not Mexican nationals at the time this claim was filed in 1925, or that they [had] since lost their Mexican nationality.”[[93]](#footnote-93) When Mexican lawyers pointed out that American police officers, judges, and military officials had themselves gone on legal record referring to the claimants or decedents as “Mexican,” the US Agency countered that they were using the term as a racial category, not as an indication of nationality. So frequently did United States lawyers resort to this strategy, Roberto Córdova and Alfredo del Valle Gomez observed that it had become “systemic for the Agency of the United States to deny the established nationality of the claimants.”[[94]](#footnote-94) Oscar Rabasa further argued that “by accepting the thesis of the United States it would be materially impossible to prove the Mexican nationality of the claimants, because that theory of the Agency of the United States, concerning which the attention of the Honorable Commissioners is respectfully called, can be summed up thus: to deny in all cases the proof of the nationality of Mexican Claimants, whatever that proof may be.”[[95]](#footnote-95)

The Mexican attorneys’ arguments quickly escalated to condemn the reckless quality of this denationalization and its potentially catastrophic consequences for international law. Their critique became more urgent as the implications of the State Department’s strategy crystallized. In early cases before the Commission, US lawyers seemed to be using the lack of nationality argument to demonstrate that claimants were United States or dual citizens, and therefore could not use international law to make claims against their own country. Bert Hunt established that claimants like Gregorio Rivera had acquired dual citizenship and therefore could not bring claims against the United States because “a person cannot sue his own government in an international court.”[[96]](#footnote-96)

The strategy quickly developed, however, into the position that claimants could not bring their cases before an international tribunal because they were stateless individuals. Hunt increasingly deployed the argument he first developed in the case of Sixto Quintanilla, in which he insisted, “There is no doubt that stateless persons, such as the claimant, have no standing in international law” because “since they do not own a nationality the link by which they could derive benefits from International Law is missing, and thus they lack protection in far as this law is concerned...however much they are maltreated, International Law cannot aide them.”[[97]](#footnote-97) Oscar Rabasa, José Gallástegui, and Vicente Sánchez Gavito countered in a 1936 brief with the argument that:

Every theory which leads to loss of country (Heimatloser) is dangerous and must be viewed with many reservations. It is necessary to note that the American Agency in this case does not allege that Santos Rivera simply possessed American nationality, with no other apparent interest but that of keeping a Mexican claim from prospering, and maintains that Santos Rivera lost his Mexican nationality without thinking perhaps of the seriousness in the field of International Law of such a theory which tends to increase the number of individuals without a country.[[98]](#footnote-98)

Mexican lawyers countered the nationality-related motions to dismiss in full force. First, they argued, it was unacceptable that the United States Agency was bringing up the nationality issue for the first time in their reply briefs, a decade into the tribunal’s tenure and well into the pleadings process. If the State Department wanted to file a motion to dismiss on jurisdictional grounds, Mexican lawyers insisted, they should have done so in their original answer; not after reading the Mexican briefs arguing each case.[[99]](#footnote-99)But the United States legal counsel was also mistaken, these lawyers insisted, on purely legal grounds. “The absence of a Mexican from his country for more than ten years cannot be invoked by a foreign government as evidence that he has lost his Mexican nationality,” Guillermo Tamayo argued in his 1936 analysis of the question, because the 1886 *Ley de Extranjería* and 1857 Constitution had been abrogated by the 1917 Constitution. Even if the 1886 law were still applicable, he insisted that “the loss of nationality for the reason articulated should be considered as a punishment or penalty that only the Mexican Government has the right to impose on its nationals for failing to comply with their obligations. In accordance with the Constitution of Mexico in its Articles 14, 16, and 22, this punishment can only be imposed through respective judicial procedure.”[[100]](#footnote-100) Tamayo went on to add that “applying the thesis of automatic loss of nationality through absence from the country would violate the principles of International law,” because treatise writers had long established that one nationality cannot be lost without another one being acquired.[[101]](#footnote-101)

The Mexican Agency insisted that denationalization could only come about through municipal legal actions. The question of nationality could not be decided by outside parties and certainly not by a foreign government. But while Rabasa, Flores, Tamayo and the rest of the Mexican Agency vigorously protested the idea that the United States could determine the nationality of Mexican citizens, the technical questions of jurisdiction raised continuously by State Department lawyers significantly prolonged the period of pleadings, kept the Commissioners from agreeing on decisions, and ultimately contributed to the tribunal’s dissolution in 1938—the subject of the next chapter.

When Ramón Delgado was murdered in the cotton fields that he had cultivated, the local jury determined that his killer had acted in self-defense. FBI investigations confirmed that any harsh measures on the part of the police were part of a legitimate attempt to suppress “lawlessness” in a region transitioning to agribusiness. Before an international tribunal a decade later, judges concluded that if Delgado’s family deserved compensation, it would be calculated though his wages—wages that he been protesting on the day he died. When his family risked their own safety to walk to the local Mexican Consul and report what they had witnessed, they were setting into motion a process that would recover Childress’ actions from the obscurity of secret jury proceedings and suppressed testimonies. They formed part of a wide range of claimants who successfully challenged the pretense that the American justice system offered robust protections for life and property to be emulated the world over. But as they walked through the fields and towards the Mexican Consul that spring morning in 1923, they may have heard their neighbors singing *corridos* of recent events as they reaped the cotton that would soon reach global markets.

*Ya la mecha está encendida*

*muy bonita y colorada*

*y la vamos a pagar*

*los que no debemos nada.[[102]](#footnote-102)*

Now the fuse is lit

very nice and red

and it will be those of us who owe nothing

who will have to pay the price.

1. Oscar Rabasa, Memorial de LOS ESTADOS UNIDOS MEXICANOS en nombre de ADELFA DELGADO DE LA GARZA, DOROTEA DELGADO DE ENRIQUEZ, CECILIA DELGADO VIUDA DE ENRIQUEZ, y AMADA DELGADO DE GUEVARA contra LOS ESTADOS UNIDOS DE AMERICA. Reg. No. 648. Fondo Reclamaciones, Expediente VI.73/242(72:73)/115. Reclamante: Adelfa, Dorotea, Cecilia, y Amada Delgado. Archivo Histórico Genaro Estrada de la Secretaría de Relaciones Exteriores de México (AHSRE), Mexico City. All translations from Spanish are my own. [↑](#footnote-ref-1)
2. See in particular Benjamin Johnson, *Revolution in Texas: How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans Into Americans* (2003); William D. Carrigan and Clive Webb, *Forgotten Dead: Mob Violence Against Mexicans in the United States, 1848-1928* (2013); and María Montoya, *Translating Property: The Maxwell Land Grant and the Conflict Over Land in the American West, 1840-1900* (2002); Katherine Benton-Cohen, *Borderline Americans: Racial Division and Labor War in the Arizona Borderlands* (Cambridge: Harvard University Press, 2009); Linda Gordon, *The Great Arizona Orphan Abduction*; Zaragosa Vargas, *Labor Rights are Civil Rights: Mexican American Workers in Twentieth-Century America* (Princeton: Princeton University Press, 2005); David Montejano, *Anglos and Mexicans in the Making of Texas, 1836-1986* (Austin: University of Texas Press, 1987). [↑](#footnote-ref-2)
3. United Nations, Reports of Arbitral Awards, General Claims Commission (Agreement of September 8, 1923)(United Mexican States, United States of America) Volume IV pp. 7-320 (New York: United Nations, 2006): 11. [↑](#footnote-ref-3)
4. Coates, “Transatlantic Advocates,” 228. [↑](#footnote-ref-4)
5. See Paulsson (2005); Miles (2013); Paparinskis (2014). Remedios Gómez Arnau, in *México y la protección de sus nacionales en Estados Unidos* (México D.F., Centro de Investigaciones sobre Estados Unidos de América, Universidad Nacional Autónoma de México, 1990): 127-128 argues that Mexico’s attempt to protect the rights of its nationals in the late nineteenth and early twentieth centuries remained concentrated in the actions of local consuls. While she mentions the Claims Commission in the context of United States investments in Mexico, the book does not examine the denial of justice claims Mexico brought against the United States. [↑](#footnote-ref-5)
6. Alan Knight, U.S.-Mexico Relations, 1910-1940: An Interpretation (1987): 21. [↑](#footnote-ref-6)
7. Article I, United States-Mexico General Claims Convention of September 8, 1923. [↑](#footnote-ref-7)
8. Kew. FO 115/3205. Mexico 1927. Volume 3204. Foreign Office despatch No. 1407. No 319. 14 December 1927. P 3. [↑](#footnote-ref-8)
9. Friedrich Katz, *The Secret War in Mexico: Europe, the United States and the Mexican Revolution* (Chicago: University of Chicago Press): 1981. [↑](#footnote-ref-9)
10. Robert Freeman Smith, “Estados Unidos y la Revolución Mexicana, 1921-1950” in *Mitos en las relaciones Mexico Estados Unidos* (México, D.F., Secretaría de Relaciones Exteriores: Fondo de Cultura Económica, 1994): 214; Knight, 131. [↑](#footnote-ref-10)
11. Freeman Smith (1994): 216. [↑](#footnote-ref-11)
12. Treaty of Guadalupe Hidalgo, Article XXI. [↑](#footnote-ref-12)
13. See Noel Maurer, *The Empire Trap: The Rise and Fall of U.S. Intervention to Protect American Property Overseas, 1893-2013* (Princeton: Princeton University Press, 2013) for the argument that 1938 marked the “end of empire” when the American government did not force Mexico to pay compensation for most of the oil expropriated from American companies. In T*he Agrarian Dispute: The Expropriation of American Owned Rural Land in Post-Revolutionary Mexico* (Durham: Duke University Press, 2008), John Dwyer explains the favorable terms of the 1941 Global Settlement for Mexico as arising out of Cárdenas’ diplomacy, but does not mention the denial of justice cases that came before the US Mexico General Claims Commission. George Herring, in *From Colony to Superpower: U.S. Foreign Relations Since 1776* (New York: Oxford University Press, 2008) explains the late 1930s “turn to non-intervention” in American foreign policy in terms of large-scale ideological and strategic shifts in global politics. [↑](#footnote-ref-13)
14. Rodolfo O. de la Garza and Karl Schmitt, “Texas Land Grants and Chicano-Mexican Relations: A Case Study,” *Latin American Research Review* 21:1 (1986): 126-127. [↑](#footnote-ref-14)
15. I consider here only Mexican claims against the US originating in US territory. Many more claims came from the Mexican side of the US Mexico Border, and from Vera Cruz during the US invasion and occupation in 1914. There were initially many more than 300 claims like these brought before the tribunal, but for the purposes of expediency, the Mexican government grouped similar cases into omnibus claims. [↑](#footnote-ref-15)
16. Zaragosa Vargas, *Labor Rights are Civil Rights* (2005): 210. [↑](#footnote-ref-16)
17. Montejano (1986): 90. [↑](#footnote-ref-17)
18. Monica Muñoz Martínez, *The Injustice Never Leaves You: Anti-Mexican Violence Texas*. Harvard University Press, 2018. [↑](#footnote-ref-18)
19. “Movement of Mexican Laborers to the United States,” May 7, 1926 Report. Fideicomiso Archivos Plutarco Elias Calles y Fernando Torreblanca, CDEEUM/1926, Expediente 110201: Consulado de Estados Unidos: Correspondencia del Cónsul General Aexander W. Weddell, Legajo 4/9, Inventario 47, Foja 217. [↑](#footnote-ref-19)
20. Expediente VI-73/242 (72:73)/81. Reclamante: Alejandra Andrade de Carrillo, 1925. Archivo Historico de la Secretaría de Relaciones Exteriores de México (AHSRE), Mexico City. [↑](#footnote-ref-20)
21. <…> to Charles Evan Hughes, November 16, 1922. 311.1223. Zarate, Elias. RG 59 Department of State Decimal File 1910-29 From 311.1223 Rivera to 311.124 S A 5/1 Box 3578. Page 1. [↑](#footnote-ref-21)
22. to Charles Evan Hughes, November 16, 1922. 311.1223. Zarate, Elias. RG 59 Deparmtment of State Decimal File 1910-29 From 311.1223 Rivera to 311.124 S A 5/1 Box 3578. Page 2. [↑](#footnote-ref-22)
23. Oscar Rabasa and Jorge Costas Enríquez, Brief of THE UNITED STATES OF MEXICO on behalf of ESTEFANA VILLARREAL ZARATE versus THE UNITED STATES OF AMERICA, Claim No. 369. March 26, 1936. General Claims Commission, Mexican Claims Against U.S. Docket 369. Box 27, Folder Docket 369 Pleadings. P 9. [↑](#footnote-ref-23)
24. 311.223-Zarate, Elias V. November 20, 1922. RG 59 Department of State Decimal File 1910-29 from 311.1223 Rivera to 311.124 S A 5/1 Box 3578. November 14, 1922. Annex to: to Matthew Hanna, Diciembre 15 de 1922. 311.223. Zarate, E.E. p. 2. [↑](#footnote-ref-24)
25. 11.223-Zarate, Elias V. November 20, 1922. RG 59 Department of State Decimal File 1910-29 from 311.1223 Rivera to 311.124 S A 5/1 Box 3578. November 14, 1922. Annex to: to Matthew Hanna, Diciembre 15 de 1922. 311.223. Zarate, E.E. p. 2. [↑](#footnote-ref-25)
26. 11.223-Zarate, Elias V. November 20, 1922. RG 59 Department of State Decimal File 1910-29 from 311.1223 Rivera to 311.124 S A 5/1 Box 3578. November 14, 1922. Annex to: to Matthew Hanna, Diciembre 15 de 1922. 311.223. Zarate, E.E. p. 3. [↑](#footnote-ref-26)
27. Oscar Rabasa and Jorge Costas Enríquez, Brief of THE UNITED STATES OF MEXICO on behalf of ESTEFANA VILLARREAL ZARATE versus THE UNITED STATES OF AMERICA, Claim No. 369. March 26, 1936. General Claims Commission, Mexican Claims Against U.S. Docket 369. Box 27, Folder Docket 369 Pleadings. [↑](#footnote-ref-27)
28. Oscar Rabasa and Jorge Costas Enríquez, Brief of THE UNITED STATES OF MEXICO on behalf of ESTEFANA VILLARREAL ZARATE versus THE UNITED STATES OF AMERICA, Claim No. 369. March 26, 1936. General Claims Commission, Mexican Claims Against U.S. Docket 369. Box 27, Folder Docket 369 Pleadings. Pages 27-28. [↑](#footnote-ref-28)
29. See Ida B. Wells-Barnett, *Southern Horrors: Lynch Law in All Its Phases* (New York: Age Print, 1892); Jacquelyn Dowd Hall, *Revolt Against Chivalry: Jessie Daniel Ames and the Women's Campaign Against Lynching* (New York: Columbia University Press, 1979); and Crystal Nicole Feimster, *Southern Horrors: Women and the Politics of Rape and Lynching* (Cambridge, Mass.: Harvard University Press, 2009). [↑](#footnote-ref-29)
30. William D. Carrigan and Clive Webb, *Forgotten Dead: Mob Violence Against Mexicans in the United States, 1848-1928* (2013): 6. [↑](#footnote-ref-30)
31. Anslemo Mena, “Datos sobre los trabajos de proteccion desarrollados por la embajada de mexico en washington, en el año de 1931,” 14 de agosto de 1931. Page 6. SRE IV/241(08)(73-0)1 IV-545-5. Departamento Consular, Año de 1931. Proteccion. Asunto: Estados Unidos, Embajada. Remite remorandum del Consejero Jurídoco de esa oficina sobre materia de protección a los mexicanos delincuentes en ese país. [↑](#footnote-ref-31)
32. Anslemo Mena, “Datos sobre los trabajos de proteccion desarrollados por la embajada de mexico en washington, en el año de 1931,” 14 de agosto de 1931. Page 11. SRE IV/241(08)(73-0)1 IV-545-5. Departamento Consular, Año de 1931. Proteccion. Asunto: Estados Unidos, Embajada. Remite remorandum del Consejero Jurídoco de esa oficina sobre materia de protección a los mexicanos delincuentes en ese país. [↑](#footnote-ref-32)
33. Anselmo Mena, “Memorandum del Consejero Juridico,” 16 de marzo de 1931. SRE IV/241(08)(73-0)1 IV-545-5. Departamento Consular, Año de 1931. Proteccion. Asunto: Estados Unidos, Embajada. Remite remorandum del Consejero Jurídoco de esa oficina sobre mateira de protección a los mexicanos delincuentes en ese país. Pages 1-2. [↑](#footnote-ref-33)
34. de la Garza and Schmitt, 127. [↑](#footnote-ref-34)
35. “Political and Economic Conditions in Mexico During September, 1926.” From American Consul General Alexander W. Weddell. September 28, 1926. Page 477. Fideicomiso Archivos Plutarco Elias Calles y Fernando Torreblanca, CDEEUM/1926, Expediente 110201: Consulado de Estados Unidos: Correspondencia del Cónsul General Alexander W. Weddell, Legajo 9/9, Inventario 47, Foja 467.

    . [↑](#footnote-ref-35)
36. “Political and Economic Conditions in Mexico During September, 1926.” From American Consul General Alexander W. Weddell. September 28, 1926. Page 477. Fideicomiso Archivos Plutarco Elias Calles y Fernando Torreblanca, CDEEUM/1926, Expediente 110201: Consulado de Estados Unidos: Correspondencia del Cónsul General Alexander W. Weddell, Legajo 9/9, Inventario 47, Foja 467. P 477. [↑](#footnote-ref-36)
37. Eduardo Suárez, *Comentarios y Recuerdos, 1926-1946* (México: Editorial Porrúa, 1977). [↑](#footnote-ref-37)
38. Miles (2013): 53. [↑](#footnote-ref-38)
39. Neer Decision. United Nations, Reports of Arbitral Awards, General Claims Commission (Agreement of September 8, 1923)(United Mexican States, United States of America) Volume IV, 61. For work on the internationalist legal visions of John Basset Moore and his contemporaries, see Juan Pablo Scarfi, *El imperio de la ley: James Scott Brown y la construcción de un orden jurídico interamericano* (Buenos Aires: Fondo de Cultúra Económica, 2014); Coates (2010); and Becker Lorca, (2014). [↑](#footnote-ref-39)
40. United Nations, Reports of International Arbitral Awards, General Claims Commission (Agreement of Sept. 8, 1923)(United Mexican States, Unites States of America). Volume IV pp. 7-320 (2006): 61. [↑](#footnote-ref-40)
41. Reports of International Arbitral Awards, 61-62. [↑](#footnote-ref-41)
42. Reports of International Arbitral Awards, 65. [↑](#footnote-ref-42)
43. The United Mexican States on behalf of Teodoro García and María Apolinar Garza v. The United States of America, Docket 292, page 9. Box Awards and Decisions, Folder Opinions and Decisions: 2/14/1926-7/31/1931; US and Mexico General Claims Commission, RG 76; NARA, College Park. For discussion of this case in the context of historical memory of and activism around anti-Mexican violence in Texas, see Monica Muñoz Martínez, *The Injustice Never Leaves You*. [↑](#footnote-ref-43)
44. Ibid., page 4. [↑](#footnote-ref-44)
45. The United Mexican States on behalf of Teodoro García and María Apolinar Garza v. The United States of America, Docket 292, page 9. Box Awards and Decisions, Folder Opinions and Decisions: 2/14/1926-7/31/1931; US and Mexico General Claims Commission, RG 76; NARA, College Park. [↑](#footnote-ref-45)
46. Edwin Borchard, “Important Decisions of the Mixed Claims Commission United States and Mexico,” *The American Journal of International Law* 21:3 (July 1927): 519. [↑](#footnote-ref-46)
47. Ibid., 16. [↑](#footnote-ref-47)
48. No. 55 Bert Hunt to The Mexican Claims Committee, Department of State. January 15, 1935. 411.12P/944. Pages 2-3. RG 59 Department of State Decimal File 1930-39 From 411.12 P/769 to 951. Box 1885. [↑](#footnote-ref-48)
49. Gene H. Hackworth, R. Walton Moore and Wilber J. Carr to Cordell Hull, February 8, 1935. 411.12P/984. Citation RG 59 Department of State Decimal File 1930-39 From 411.12 P/769 to 951. Box 1885 [↑](#footnote-ref-49)
50. 411.12 P/937. RG 59 Department of State decimal File 1930-39 From 411.12 P/769 to 951. Box 1885. [↑](#footnote-ref-50)
51. Bert Hunt, The Mexican Claims Committee, Department of State. February 20, 1935. Decimal File 411.12 P/951. RG 59 Department of State decimal File 1930-39 From 411.12 P/769 to 951. Box 1885. [↑](#footnote-ref-51)
52. Oscar Rabasa, THE UNITED MEXICAN STATES on behalf of CONCEPCION CARRASCO DE GONZALEZ, JESUS GARCIA, VICTORIA JIMENEZ DE GARCIA, LIBRADA M. JACQUEZ, EULALIA GONZALEZ, JUANA BONILLA, RITA JAQUEZ, SEVERIANO MORALES, ALEJANDRA NIEVES, FRANCISCA MORALE, PABLO JIMENEZ y LUIS JIMENEZ, Docket Nos 561, 655, 873, 1081, 1040, 1041, and 3040, pages 17-18. General Claims Commission, Mexican Claims Against U.S. Dockets 561. Box 51, Folder Pleadings. NARA College Park. [↑](#footnote-ref-52)
53. Oscar Rabasa and Guillermo E. Tamayo, Alegato de LOS ESTADOS UNIDOS MEXICANOS en nombre de FRANCISCO C. LOPEZ, contra LOS ESTADOS UNIDOS DE AMERICA, Reclamación número 2914, page 18. General Claims Commission, Mexican Claims Against U.S. Dockets 2912-2914. Box 182, Folder Docket 2914 Pleadings. NARA College Park. [↑](#footnote-ref-53)
54. Bert L. Hunt, Gerald Monsman and B.M. English, Reply Brief of the United States in the case of THE UNITED MEXICAN STATES ON BEHALF OF MERCEDES CAMPOS VDA. DE DUARTE VS. THE UNITED STATES OF AMERICA, page 58. Docket No. 279. General Claims Commission, Mexican Claims Against U.S. Dockets 279-281. Box 4, Folder Docket 279 Pleadings. Page 16. [↑](#footnote-ref-54)
55. See for example Richard Brooks and Carol Rose, *Saving the Neighborhood*: *Racially Restrictive Covenants, Law, and Social Norms* (Cambridge: Harvard University Press, 2013). [↑](#footnote-ref-55)
56. Oscar Rabasa, Agent and Vicente Sanchez Gavito, Jr., Attorney, Brief of THE UNITED MEXICAN STATES on behalf of MAXIMINA CHABOYA versus THE UNITED STATES OF AMERICA, Claim No. 539, page 8. General Claims Commission, Mexican Claims Against U.S., Dockets 538-539. Box 39, Folder Pleadings. National Archives and Records Administration of the United States, College Park, Maryland. [↑](#footnote-ref-56)
57. J. Reuben Clark, Jr., Agent of the United States and Charles Kerr, Counsel. Annex 1, page 6. Answer of the United States in the case of THE UNITED MEXICAN STATES on behalf of Maximina Chaboya v. THE UNITED STATES OF AMERICA, Docket No. 539. General Claims Commission, Mexican Claims Against U.S. dockets 538-539. Box 39, Folder Pleadings. NARA College Park. [↑](#footnote-ref-57)
58. Oscar Rabasa, Agent and Vicente Sanchez Gavito, Jr., Attorney, Brief of THE UNITED MEXICAN STATES on behalf of MAXIMINA CHABOYA versus THE UNITED STATES OF AMERICA, Claim No. 539, page 8. General Claims Commission, Mexican Claims Against U.S., Dockets 538-539. Box 39, Folder Pleadings. National Archives and Records Administration of the United States, College Park, Maryland. [↑](#footnote-ref-58)
59. Oscar Rabasa, Agent and Vicente Sanchez Gavito, Jr., Attorney. Brief of THE UNITED MEXICAN STATES on behalf of MAXIMINA CHABOYA versus THE UNITED STATES OF AMERICA, Claim No. 539, page 2. General Claims Commission, Mexican Claims Against U.S. Dockets 538-539. Box 39, Folder Pleadings. NARA College Park. [↑](#footnote-ref-59)
60. Bartolomé Carvajal y Rosas and Anselmo Mena, Brief of THE UNITED MEXICAN STATES in the name of LUISA AND JUANA HERNANDEZ vs. THE UNITED STATES OF AMERICA, Docket No. 212, page 5. June 23, 1930. General Claims Commission, Mexican Claims Against U.S. Dockets 212-223. Box 1, Folder Docket 212 Pleadings. RG 76, NARA, College Park. [↑](#footnote-ref-60)
61. Luisa Hernández, Memorial of THE UNITED MEXICAN STATES on behalf of LUISA AND JUANA HERNANDEZ vs. THE UNITED STATES OF AMERCA, page 6. Docket 212. June 13, 1925. General Claims Commission, Mexican Claims Against U.S. Dockets 212-223. Box 1, Folder Docket 212 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-61)
62. Hernández Memorial, 6. [↑](#footnote-ref-62)
63. Vargas (2005): 22. [↑](#footnote-ref-63)
64. Roberto Cordova and U. Sanchez Gavito, Brief for THE UNITED MEXICAN STATES on behalf of CESARIO ORTIZ, JUAN JOSE BERMEA, MANUEL ZAMORA, ALBERTO GOMEZ, HIGINIO FLORES, JOSE MORALES, BALDOMERO LINARES AND OCTAVIANO ESCUTIA versus THE UNITED STATES OF AMERICA. Dockets Nos. 871, 876, 877, 878, 879, 880, 881 and 883, page 2. October 9, 1936. RG 76 General Claims Commission, Mexican Claims Against U.S. Dockets 871-872, Box 86, Folder Pleadings. NARA College Park. [↑](#footnote-ref-64)
65. Ibid., 19. [↑](#footnote-ref-65)
66. Ibid., 16. [↑](#footnote-ref-66)
67. Adelfa Delgado de la Garza to Benito Flores, 8 de agosto de 1930. Expediente VI.73/242(72:73)/115. Reclamante: Adelfa, Dorotea, Cecilia y Amada Delgado. Fondo Reclamaciones, AHSRE. [↑](#footnote-ref-67)
68. Benito Flores and Ismael M. Vázquez Rúbrica, Memorial of THE UNITED MEXICAN STATES on behalf of ANGELA IBARRA DE GOMEZ and her children GUADALUPE, PEDRO, DELFINA, GENARO, BRAULIO, ROMAN, JULIANA, REYNALDO and GILBERTO GOMEZ vs. THE UNITED STATES OF AMERICA, Docket No. 536, pages 2-3. Signed Angela Ibarra Vda. de Gómez and Ismael M. Vázques, Cónsul of Mexico at Laredo, Texas, U.S.A. does hereby certify that the above signature, Angela Ibarra Vda., de Gómez, was affixed by Jesus Ibarra, her brother, due to the fact that she does not know how to read or write. July 19th, 1925. RG 76 General Claims Commission, Mexican Claims Against U.S. Dockets 534-536. Box 37 Folder Pleadings. NARA College Park. [↑](#footnote-ref-68)
69. Oscar Rabasa and Jose S. Gallastegui, Brief of THE UNITED MEXICAN STATES on behalf of ANGELA IBARRA WIDOW OF GOMEZ and her children GUADALUPE, PEDRO, DELFINA, GENARO, BRAULIO, ROMAN, JULIANA, REYNALDO and GILBERTO GOMEZ versus THE UNITED STATES OF AMERICA, Docket No. 536, pages 4-5. October 19, 1935. RG 76 General Claims Commission, Mexican Claims Against U.S. Dockets 534-536. Box 37, Folder Docket 536 Pleadings. [↑](#footnote-ref-69)
70. Bert Hunt, Memo to the Secretary of State, June 17, 1935, Page 2. RG 76, General Claims Commission, Mexican Claims Against U.S. Dockets 212-223. Box 1, Folder Docket 212 Correspondence. RG 76, NARA, College Park. [↑](#footnote-ref-70)
71. Ibid., 3. [↑](#footnote-ref-71)
72. Ibid., 4. [↑](#footnote-ref-72)
73. Ibid., 5-6. [↑](#footnote-ref-73)
74. Ibid., 6. [↑](#footnote-ref-74)
75. See in particular Bert L. Hunt, Albert F. Kunze, and Benedict M. English, Reply Brief of the United States in the case of THE UNITED MEXICAN STATES on behalf of Manuela A. Garcia, widow of Gutierrez, Adela Gutierrez and Francisca Peña Gutierrez, vs. THE UNITED STATES OF AMERICA, Docket 323, 20. RG 76, General Claims Commission, Mexican Claims Against U.S. Docket 323. Box 23, Folder Pleadings. NARA College Park; Bert L. Hunt, Gerald Honsman, and Benedict M. English, Reply Brief of the United States in the case of THE UNITED MEXICAN STATES on behalf of Martin Posada vs. THE UNITED STATES OF AMERICA, Docket 875, 43. General Claims Commission, Mexican Claims Against U.S., Dockets 872-875. Box 87, Folder Pleadings Docket 875; Benedict M. English and Gibbs Baker Jr., Reply Brief of the United States in the case of THE UNITED MEXICAN STATES on behalf of Antonio, Maria, Eugenia and Ernestina Zamarripa vs. THE UNITED STATES OF AMERICA, Docket 375, 36. October 28, 1935. General Claims Commission, Mexican Claims Against U.S., Dockets 373-375. Box 30, Folder Pleadings Docket 375; and Bert L. Hunt, Gibbs Baker, Jr., and Benedict M. English, Reply Brief of the United States in the case of THE UNITED MEXICAN STATES on behalf of Estefana Villareal Zarate vs. THE UNITED STATES OF AMERICA, Docket 369. May 19, 1936. General Claims Commission, Mexican Claims Against U.S. Docket 369. Box 27, Folder Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-75)
76. Roberto Córdova and Federico Mariscal, Brief of THE UNITED MEXICAN STATE on behalf of LORENZO T. ARRAS AND ESTHER ARRAS versus THE UNITED STATES OF AMERICA, Docket No. 717, 9-10. n.d. General Claims Commission, Mexican Claims against U.S. Dockets 717-718. Box 75, Folder Pleadings. Record Group 76, NARA College Park. [↑](#footnote-ref-76)
77. B. Carbajal y Rosas and Anselmo Mena, Brief of THE UNITED MEXICAN STATES in the name of LUISA AND JUANA HERNANDEZ vs. THE UNITED STATES OF AMERICA, Docket No. 212, 7. June 23, 1930. General Claims Commission, Mexican Claims Against U.S. Dockets 212-223. Box 1, Folder Docket 212 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-77)
78. Benedict M. English and C.M. Bishop, Reply Brief of THE UNITED STATES in the case of THE UNITED MEXICAN STATES on behalf of Donanciano, Eulogia, and Manuela Martinez vs. THE UNITED STATES OF AMERICA, Docket 874, 32. General Claims Commission, Mexican Claims Against U.S. Dockets 872-875. Box 87, Folder Docket 874 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-78)
79. Bert L. Hunt, Draft Reply Brief of the United States in the case of THE UNITED MEXICAN STATES on behalf of Florencio Saenz, Widow of Garcia, Octaviano Garcia, America Garcia, Rosa Estela Garcia and M. Concepción Garcia vs. THE UNITED STATES OF AMERICA, Docket 223, 16. General Claims Commission, Mexican Claims Against U.S. Dockets 212-223. Box 1, Folder Docket 223 Drafts. Record Group 76, NARA College Park. [↑](#footnote-ref-79)
80. Philip Nichols, *The Law of Eminent Domain: A Treatise on the Principles Which Affect the Taking of Property for the Public Use* (Albany: M. Bender, 1909): 665. [↑](#footnote-ref-80)
81. For analysis of this transformation, see Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge: Cambridge University Press, 1998); John Witt, *The Accidental Republic: Crippled Workingmen, Destitute Widows, and the Remaking of American Law* (Cambridge: Harvard University Press, 2004); Jonathan Levy, *Freaks of Fortune: The Emerging World of Capitalism and Risk in America* (Cambridge: Harvard University Press, 2012); and Morton Horwitz, *The Transformation of American Law, 1870-1960: The Crisis of Legal Orthodoxy* (New York: Oxford University Press, 1992). [↑](#footnote-ref-81)
82. Oscar Underwood, Memorandum Opinion, THE UNITED MEXICAN STATES on behalf of CANDELARIA and ISMAEL GARCÍA vs. THE UNITED STATES OF AMERICA, Docket No. 280, General Claims Commission United States of America and United Mexican States, 11. Appraisals of Claims by Commissioner Underwood, 1935-37. Box 1 Folder Docket 280 Drafts-Memos Candelaria and Ismael Garcia. RG 76 United States and Mexican Claims Commissions, General Claims Commission, United States and Mexico, 1924-1937. NARA College Park. [↑](#footnote-ref-82)
83. Oscar Underwood, “Memorandum on Measure of Damages,” 1. Box 1, Untitled Folder. Appraisals of Claims By Commissioner Underwood; US and Mexico General Claims Commission, 1924-37. RG 76, NARA College Park. [↑](#footnote-ref-83)
84. Bert L. Hunt, B.H. Oehlert, Jr., and B.M. English, Reply Brief of the United States in the case of THE UNITED MEXICAN STATES on behalf of Genaro Arredondo y Guadalupe Mendez viuda de Arredondo and their children, Genaro, Eleuterio, Emilio, Nemesio, Estefano and Antonio vs. THE UNITED STATES OF AMERICA, Docket No. 1025, 18. General Claims Commission, Mexican Claims Against U.S. Dockets 1023-1025. Box 112, Folder Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-84)
85. Roberto Córdova and Oscar Treviño Ríos, Counter Brief in the case of THE UNITED MEXICAN STATES on behalf of GENARO ARREDONDO, GUADALUPE MENDEA VDA. DE ARREDONDO, AND GENARO, ELEUTERIO, EMILIO, NEMESIO, ESTEFANO AND ANTONIO ARREDONDO, v. THE UNITED STATES OF AMERICA, Docket No. 1025, 37. General Claims Commission, Mexican Claims Against U.S. Dockets 1023-1025. Box 112, Folder Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-85)
86. Benedict English and H. M. Bishop, Reply Brief of the United States in the case of THE UNITED MEXICAN STATES on behalf of Maximo Ramirez and Alberta Favela de Ramirez vs. THE UNITED STATES OF AMERICA, Docket No. 315, 30. General Claims Commission, Mexican Claims Against U.S. Dockets 314-314. Box 18, Folder Docket 315 Pleadings. RG 76, NARA College Park. For further cases in with the US Agency made similar arguments, see General Claims Commission, Mexican Claims Against U.S. Dockets 2902 and 450; 3318; 1283; 344; 279; and 1264. [↑](#footnote-ref-86)
87. Brief of THE UNITED MEXICAN STATES on behalf of FLORENCIA SAENZ, WIDOW OF GARCIA, OCTAVIANO GARCIA, AMERICA GARCIA, ROSA ESTELA GARCIA AND M. CONCEPCION GARCIA, Vs. THE UNITED STATES OF AMERICA, Docket No. 223, page 10. General Claims Commission, Mexican Claims Against U.S. Dockets 212-223. Box 1, Folder Docket 223 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-87)
88. Bert L. Hunt, Benjamin H. Oehlert, Jr., and Benedict M. English, Reply Brief of THE UNITED MEXICAN STATES on behalf of Virginia Estrada Viuda de Rivera, Santos, Flavio and Alicia Rivera. vs. THE UNITED STATES OF AMERICA, Docket No. 344, page 79. General Claims Commission, Mexican Claims Against U.S. Dockets 433-367. Box 25, Folder Docket 344 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-88)
89. Bert L. Hunt, Answer of the United States in the case of THE UNITED MEXICAN STATES on behalf of CECILIA BUZO VDA. DE AMEZQUITA vs. THE UNITED STATES OF AMERICA, Docket No. 1032, page 5. General Claims Commission, Mexican Claims Against U.S. Dockets 1030-1033. Box 104, Folder Docket 1032 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-89)
90. Bert L. Hunt and Benjamin H. Oehlert, Jr., Reply Brief of the United States in the case of THE UNITED MEXICAN STATES on behalf of SOLEDAD GARCIA VDA. de CANO vs. THE UNITED STATES OF AMERICA, Docket No. 558, pages 25-26. General Claims Commission, Mexican Claims Against U.S. Dockets 557-558. Box 49, Folder Docket 558 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-90)
91. See for example Linda Kerber, “Towards A History of Statelessness in the America” in Mary L. Dudziak and Leti Volpp, eds., *Legal Borderlands: Law and the Construction of American Borders* (Baltimore: Johns Hopkins Press, 2006): 135 and Patrick Weil, *The Sovereign Citizen: Denaturalization and the Origins of the American Republic* (Philadelphia: University of Pennsylvania Press, 2013). [↑](#footnote-ref-91)
92. Bert L. Hunt, Edward L. Metzler, and Benedict M. English, Reply Brief of the United States in the case of THE UNITED MEXICAN STATES on behalf of Sixto Quintanilla vs. THE UNITED STATES OF AMERICA, Docket 320, pages 9-10 .October 28, 1935. General Claims Commission, Mexican Claims Against U.S. Dockets 320-321. Box 21, Folder Docket 320 Pleadings. [↑](#footnote-ref-92)
93. Bert L. Hunt to Frank H. Crockett, Inspector in Charge, United States Immigration Service, Laredo, Texas, September 25, 1935, page 3. General Claims Commission, Mexican Claims Against U.S. Docket 323. Box 23, Folder Docket 323 Correspondence. RG 76, NARA College Park. [↑](#footnote-ref-93)
94. Roberto Córdova and Alfredo del Valle Gomez, Brief of THE UNITED MEXICAN STATES on behalf of JUAN ORTIZ CAVAZOS, IRINEO VILLANUEVA AND LUISA VILLANUEVA (Filed in the Memorandum in the name of JUAN ORTIZ CAVAZOS) versus THE UNITED STATES OF AMERICA, Docket 2920, 7. September 2, 1936. General Claims Commission, Mexican Claims Against U.S. Dockets 2919-2921. Box 185, Folder Docket 2920 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-94)
95. Oscar Rabasa (Agent) and J. Costas Enriquez (Attorney), Brief of THE UNITED MEXICAN STATES on behalf of CAYETANO L. GONZALEZ versus THE UNITED STATES OF AMERICA, Docket No. 2928, pages 7-8. November 30, 1935. Record Group 76 General Claims Commission, Mexican Claims Against U.S., Dockets 2927-2929. Box 189, Folder Docket No. 2928 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-95)
96. Bert L. Hunt, Benjamin H. Oehlert, Jr., and Benedict M. English, Reply Brief of the United Mexican States on behalf of Virginia Estrada Viuda de Rivera, Santos, Flavio and Alicia Rivera vs. The United States of America, Docket No. 344, page 19. General Claims Commission, Mexican Claims Against U.S. Dockets 433-367. Box 25, Folder Docket 344 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-96)
97. Bert L. Hunt, Edward L. Metzler and Benedict M. English, Reply Brief of the United States in the case of THE UNITED MEXICAN STATES on behalf of Sixto Quintanilla vs. THE UNITED STATES OF AMERICA, Docket 320, page 17. October 28, 1935. General Claims Commission, Mexican Claims Against U.S. Dockets 320-321. Box 21, Folder Docket 320 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-97)
98. Oscar Rabasa, José S. Gallástegui, and Vicente Sánchez Gavito JR., Counter Brief of the United Mexican States in the case of THE UNITED MEXICAN STATES on behalf of Manuela Garcia Widow of Gutierrez, Adela Gutierrez and Francisca Peña de Gutierrez, in their own right and on behalf of their children, Alicia, Manuel, Amparo and Anacleto Gutierrez versus THE UNITED STATES OF AMERICA, Docket 323, page 16. January 8, 1936. General Claims Commission, Mexican Claims Against U.S. Dockets 323. Box 23, Folder Docket 323 Pleadings. RG 76, NARA College Park. [↑](#footnote-ref-98)
99. Oscar Rabasa to Bert L. Hunt. 7 de octubre de 1935. Expediente III/242(73:72)/III-2307-1-VIa Parte. Fondo Reclamaciones, AHSRE. [↑](#footnote-ref-99)
100. Extracto de Reclamación Mexicana, 1. Registro Num. 544. Reclamante-Felix Marta. Expediente VI.73(G)/242(72.73) 1931-544. Fondo Reclamaciones, AHSRE. [↑](#footnote-ref-100)
101. Extracto de Reclamación Mexicana, 1. Registro Num. 544. Reclamante-Felix Marta. Expediente VI.73(G)/242(72.73) 1931-544. Fondo Reclamaciones, AHSRE. [↑](#footnote-ref-101)
102. Stanza from the “Los sediciosos corrido,” reflecting on the ambivalent legacy of the 1915 anti-colonial Sedicioso Uprising in South Texas. The standard English translation is “and it will be those of us who are blameless/who will have to pay the price,” but the literal translation would be “and it will be those of us who owe nothing/who will have to pay the price.” See Américo Paredes, *A Texas-Mexican Cancionero: Folksongs of the Lower Border* (Austin: University of Texas Press, 1995): 71. [↑](#footnote-ref-102)