



*The History and Legacy of State Responsibility for Rebels 1839-1930: Protecting Trade and Investment against Revolution in the Decolonised World*  
K.J. Greenman

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WORLD**

**SYNOPSIS**

This thesis traces the emergence and contestation of the rules of state responsibility for rebels during the nineteenth and early twentieth centuries. It begins with a series of mixed claims commissions involving Latin American states which took place between 1839 and 1927 and then moves through the scholarly debates that proliferated particularly from the turn of the twentieth century onwards. It finishes with the League of Nations Codification Conference at The Hague in 1930 where a group of Latin American states, in coalition with the former states of Austria-Hungary, blocked the agreement of a convention on state responsibility. The thesis argues that the rules of state responsibility for rebels were the product of intervention in Latin America, and in particular its turn to arbitration, and the contestation thereof, in the context of a struggle over the transition from old colonialism to new imperialism in the region: its integration into the global economy and the re-ordering of political and economic relations after decolonisation.

The thesis looks at how the mixed claims commissions arose following the disruption of periods of capitalist expansion by revolution or civil war. The question of state responsibility for rebels became a problem for international law as Latin America was integrated into the global economy. The rules of state responsibility for rebels were a site of struggle over what political and economic relations between Latin America and the imperial powers, both new and old, would look like after decolonisation. Would US and European access to Latin America markets and natural resources be guaranteed against revolution and civil war and how? Would the newly independent states of Latin America be allowed to control and change

the conditions – in terms of allocating the risk of harm caused by rebels – upon which they allowed or invited foreign trade and investment into their countries?

The commissions were established in the context of intervention to protect foreign investment, framed and legitimised in terms of enforcing state responsibility under international law. The commissions existed side by side with bombardment, blockade, invasion and occupation as means of coercing the settlement of alien protection claims and were imposed by the threat or use of force. Arbitration played an important role in US foreign policy during this period and was used by the US as a strategic tool for asserting its imperial interests in Latin America. At the same, it was also instrumentalised by Latin America states to further their interests. Once established, however, the commissions, as (quasi-)legal bodies with formal rules of procedure, had a certain degree of autonomy. The arbitral awards coming out of the commissions provided the materials that particularly US scholars would later seek to rationalise into a set of rules. Latin American international lawyers, however, sought from the beginning to resist intervention (be it diplomatic, military or legal) on the basis of enforcing state responsibility for rebels. By the early twentieth century this dynamic of ongoing resistance and development had driven the emergence of a flourishing, if profoundly disputed, sub-field of international law. The legal debates that contested state responsibility for rebels were structured around opposing understandings of the relationship of the international to the national: was the standard of protection against rebels owed by states to foreign nationals a domestic or international one and was it adjudicated by domestic or international authority?

This research is thus a contribution to our understanding of how international law was produced in the colonial encounter and its aftermath, and how international law has played a role in economic ordering after decolonisation not just in the twentieth century but in the nineteenth too. It is also a story of resistance: of how formerly-colonised states used their new

institutional power at the League of Nations to defeat international legal rules they felt were biased against them. However, despite their demise after 1930, the rules of state responsibility for rebels had an afterlife. The thesis finishes by considering the contemporary significance of this story and how it might form the basis of a critical intervention in contemporary international law as it pertains to responsibility for rebels. It argues that it enables the fragmented parts of state responsibility for rebels to be reassembled, revealing how international law continues to prioritise the protection of foreign investment against rebels in the decolonised world.