

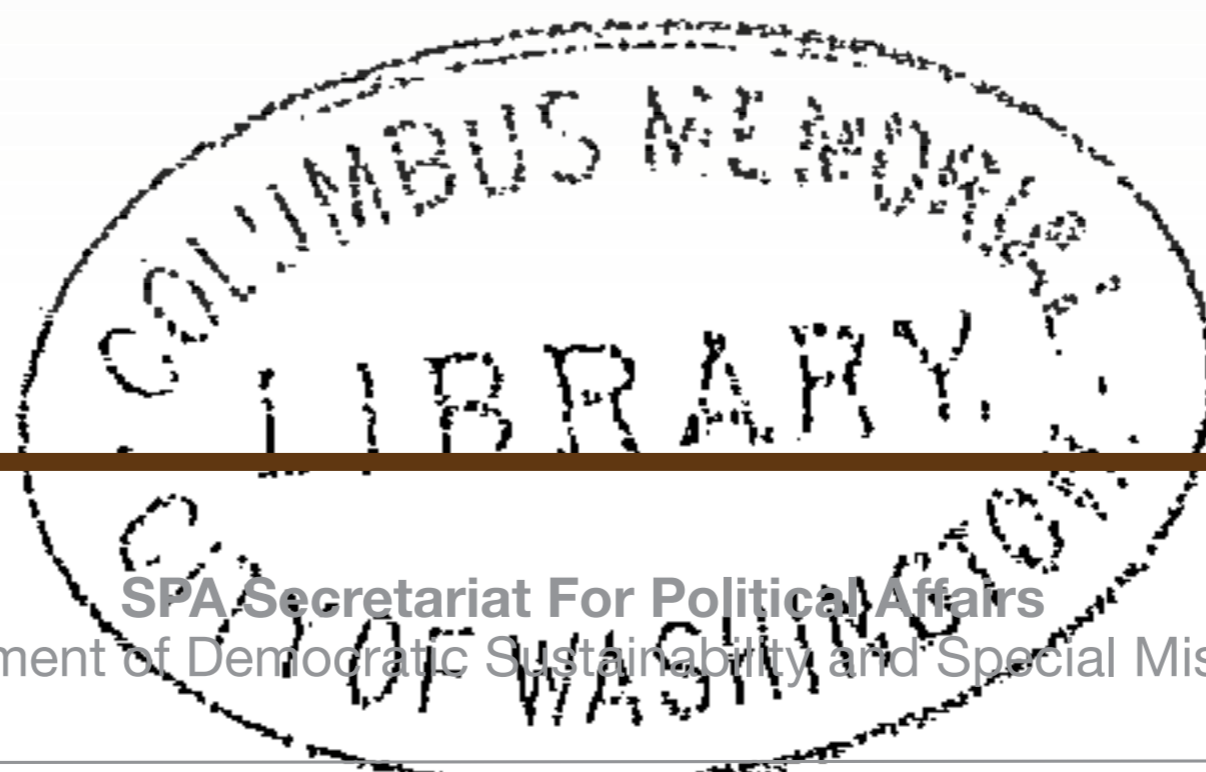
# CENTRAL AMERICA AND ITS PROBLEMS

An Account of a Journey from the Rio Grande  
To Panama, with Introductory Chap-  
ters on Mexico and Her Rela-  
tions to Her Neighbors

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CONVENTION FOR THE ESTABLISHMENT  
OF A CENTRAL AMERICAN  
COURT OF JUSTICE

ARTICLE I

The High Contracting Parties agree by the present Convention to constitute, and maintain a permanent tribunal which shall be called the "Central American Court of Justice," to which they bind themselves to submit all controversies or questions which may arise among them, of whatsoever nature and no matter what their origin may be, in case the respective Departments of Foreign Affairs should not have been able to reach an understanding.

ARTICLE II

This Court shall also take cognizance of the questions which individuals of one Central American country may raise against any of the other contracting Governments, because of the violation of treaties or conventions, and other cases of an international character; no matter whether their own Government supports said claim or not; and provided that the remedies which the laws of the respective country provide against

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such violation shall have been exhausted or that denial of justice shall have been shown.

ARTICLE III

It shall also have jurisdiction over cases arising between any of the contracting Governments and individuals, when by common accord they are submitted to it.

ARTICLE IV

The Court can likewise take cognizance of the international questions which by special agreement any one of the Central American Governments and a foreign Government may have determined to submit to it.

ARTICLE V

The Central American Court of Justice shall sit at the City of Cartago in the Republic of Costa Rica, but it may temporarily transfer its residence to another point in Central America whenever it deems it expedient for reasons of health, or in order to insure the exercise of its functions, or of the personal safety of its members.

ARTICLE VI

The Central American Court of Justice shall consist of five Justices, one being appointed by

each Republic and selected from among the jurists who possess the qualifications which the laws of each country prescribe for the exercise of high judicial office, and who enjoy the highest consideration, both because of their moral character and their professional ability.

Vacancies shall be filled by substitute Justices, named at the same time and in the same manner as the regular Justices and who shall unite the same qualifications as the latter.

The attendance of the five Justices who constitute the Tribunal is indispensable in order to make a legal quorum in the decisions of the Court.

## ARTICLE VII

The Legislative Power of each one of the five contracting Republics shall appoint their respective Justices, one regular and two substitutes.

The salary of each Justice shall be eight thousand dollars, gold, per annum, which shall be paid them by the Treasury of the Court. The salary of the Justice of the country where the Court resides shall be fixed by the Government thereof. Furthermore each State shall contribute two thousand dollars, gold, annually toward the ordinary and extraordinary expenses of the Tribunal. The Governments of the contracting Republics bind themselves to include their respective contributions in their estimates of ex-

penses and to remit quarterly in advance to the Treasury of the Court the share they may have to bear on account of such services.

### ARTICLE VIII

The regular and substitute Justices shall be appointed for a term of five years, which shall be counted from the day on which they assume the duties of their office, and they may be re-elected.

In case of death, resignation or permanent incapacity of any of them, the vacancy shall be filled by the respective Legislature, and the Justice elected shall complete the term of his predecessor.

### ARTICLE IX

The regular and substitute Justices shall take oath or make affirmation prescribed by law before the authority that may have appointed them, and from that moment they shall enjoy the immunities and prerogatives which the present Convention confers upon them. The regular Justices shall likewise enjoy thenceforth the salary fixed in Article VII.

### ARTICLE X

Whilst they remain in the country of their appointment the regular and substitute Justices shall enjoy the personal immunity which the respective laws grant to the magistrates of the

Supreme Court of Justice, and in the other contracting Republics they shall have the privileges and immunities of Diplomatic Agents.

#### ARTICLE XI

The office of Justice whilst held is incompatible with the exercise of his profession, and with the holding of public office. The same incompatibility applies to the substitute Justices so long as they may actually perform their duties.

#### ARTICLE XII

At its first annual session the Court shall elect from among its own members a President and Vice-President; it shall organize the personnel of its office by designating a Clerk, a Treasurer, and such other subordinate employees as it may deem necessary, and it shall draw up the estimate of its expenses.

#### ARTICLE XIII

The Central American Court of Justice represents the national conscience of Central America, wherefore the Justices who compose the Tribunal shall not consider themselves barred from the discharge of their duties because of the interest which the Republics, to which they owe their appointment, may have in any case or question.

With regard to allegations of personal interest, the rules of procedure which the Court may fix, shall make proper provision.

ARTICLE XIV

When differences or questions subject to the jurisdiction of the Tribunal arise, the interested party shall present a complaint which shall comprise all the points of fact and law relative to the matter, and all pertinent evidence. The Tribunal shall communicate without loss of time a copy of the complaint to the Governments or individuals interested, and shall invite them to furnish their allegations and evidence within the term that it may designate to them, which, in no case, shall exceed sixty days counted from the date of notice of the complaint.

ARTICLE XV

If the term designated shall have expired without answer having been made to the complaint, the Court shall require the complainant or complainants to do so within a further term not to exceed twenty days, after the expiration of which and in view of the evidence presented and of such evidence as it may *ex officio* have seen fit to obtain, the Tribunal shall render its decision in the case, which decision shall be final.

ARTICLE XVI

If the Government, Governments, or individuals sued shall have appeared in time before the Court, presenting their allegations and evidence, the Court shall decide the matter within thirty days following, without further process or proceedings; but if a new term for the presentation of evidence be solicited, the Court shall decide whether or not there is occasion to grant it; and in the affirmative it shall fix therefor a reasonable time. Upon the expiration of such term, the Court shall pronounce its final judgment within thirty days.

ARTICLE XVII

Each one of the Governments or individuals directly concerned in the questions to be considered by the Court has the right to be represented before it by a trustworthy person or persons, who shall present evidence, formulate arguments, and shall, within the terms fixed by this Convention and by the rules of the Court of Justice do everything that in their judgment shall be beneficial to the defense of the rights they represent.

ARTICLE XVIII

From the moment in which any suit is instituted against any one or more Governments up



to that in which a final decision has been pronounced, the Court may at the solicitation of any one of the parties fix the situation in which the contending parties must remain, to the end that the difficulty shall not be aggravated and that things shall be conserved in *statu quo* pending a final decision.

ARTICLE XIX

For all the effects of this Convention, the Central American Court of Justice may address itself to the Governments or tribunals of justice of the contracting States, through the medium of the Ministry of Foreign Relations or the office of the Clerk of the Supreme Court of Justice of the respective country, according to the nature of the requisite proceeding, in order to have the measures that it may dictate within the scope of its jurisdiction carried out.

ARTICLE XX

It may also appoint special commissioners to carry out the formalities above referred to, when it deems it expedient for their better fulfilment. In such case, it shall ask of the Government where the proceeding is to be had, its co-operation and assistance, in order that the Commissioner may fulfil his mission. The contracting Governments formally bind themselves to obey and to enforce

the orders of the Court, furnishing all the assistance that may be necessary for their best and most expeditious fulfilment.

### ARTICLE XXI

In deciding points of fact that may be raised before it, the Central American Court of Justice shall be governed by its free judgment, and with respect to points of law, by the principles of International Law. The final judgment shall cover each one of the points in litigation.

### ARTICLE XXII

The Court is competent to determine its jurisdiction, interpreting the Treaties and Conventions germane to the matter in dispute, and applying the principles of international law.

### ARTICLE XXIII

Every final or interlocutory decision shall be rendered with the concurrence of at least three of the Justices of the Court. In case of disagreement, one of the substitute Justices shall be chosen by lot, and if still a majority of three be not thus obtained other Justices shall be successively chosen by lot until three uniform votes shall have been obtained.

ARTICLE XXIV

The decisions must be in writing and shall contain a statement of the reasons upon which they are based. They must be signed by all the Justices of the Court and countersigned by the Clerk. Once they have been notified they can not be altered on any account; but, at the request of any of the parties, the Tribunal may declare the interpretation which must be given to its judgments.

ARTICLE XXV

The judgments of the Court shall be communicated to the five Governments of the contracting Republics. The interested parties solemnly bind themselves to submit to said judgments, and all agree to lend all moral support that may be necessary in order that they may be properly fulfilled, thereby constituting a real and positive guarantee of respect for this Convention and for the Central American Court of Justice.

ARTICLE XXVI

The Court is empowered to make its rules, to formulate the rules of procedure which may be necessary, and to determine the forms and terms not prescribed in the present Convention. All the decisions which may be rendered in this respect shall be communicated immediately to the High Contracting Parties.

ARTICLE XXVII

The High Contracting Parties solemnly declare that on no ground nor in any case will they consider the present Convention as void; and that, therefore, they will consider it as being always in force during the term of ten years counted from the last ratification. In the event of the change of alteration of the political status of one or more of the Contracting Republics, the functions of the Central American Court of Justice created by this Convention shall be suspended *ipso facto*; and a conference to adjust the constitution of said Court to the new order of things shall be forthwith convoked by the respective Governments; in case they do not unanimously agree the present Convention shall be considered as rescinded.

ARTICLE XXVIII

The exchange of ratifications of the present Convention shall be made in accordance with Article XXI of the General Treaty of Peace and Amity concluded on this date.

PROVISIONAL ARTICLE

As recommended by the five Delegations an Article is annexed which contains an amplification of the jurisdiction of the Central American

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Court of Justice, in order that the Legislatures may, if they see fit, include it in this Convention upon ratifying it.

ANNEXED ARTICLE

The Central American Court of Justice shall also have jurisdiction over the conflicts which may arise between the Legislative, Executive and Judicial Powers, and when as a matter of fact the judicial decisions and resolutions of the National Congress are not respected.