

EXHIBIT

A

Rebuttal Report of Dr. F. Arturo Rosales,

This report outlines the history of Mexican origin people in the State of Arizona, one which has been characterized by racial and ethnic repression. My academic background provides me with the expertise to conduct the research for this project and to write the following report. I should add that while much of my experience which qualifies me to write this report has national and even international breadth, I have always included the experience of Mexican people in Arizona in my studies.

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My present academic position is professor of history at Arizona State University (ASU). I received a Ph.D. from Indiana University in 1978, an M.A. from Stanford University in 1972 and in 1969, I earned a B.A. at Arizona State University. Before returning to ASU in 1980, I was an assistant professor at the University of Houston. My publications and research experience on the experience of Mexicans and Mexican Americans in the United States has been extensive ever since writing a dissertation in 1977 on Mexican immigration to the Chicago area and the emergence of Mexican *colonias* in that city. Since then I have published seven books. While at the University of Houston, I co-edited with Barry J. Kaplan *Houston: A Twentieth Century Urban Frontier* (Port Washington: Associated Faculty Press, 1983), a book which contains a large section on the experience of the city's Mexican population. During 1981-82, as executive director of the NEH-funded Association of Southwestern Humanities Councils, I co-edited with David Foster and contributed to *Hispanics and the Humanities and the Southwest* (Tempe: Center for Latin American Studies, Arizona State University, 1984) a directory of humanities resources dealing with Hispanics in the Southwest. In April of 1996, my book *Chicano! The History of the Mexican American Civil Rights Movement* (Houston: Arte Público Press, 1996) a companion text to a Public Broadcasting System television series of the same name, was named in 1997 an Outstanding Book on Human Rights in North America by the Gustavus Myers Foundation. In addition, after seven years of researching Mexico City and Washington, D.C. archives and writing, I published *"Pobre Raza!": Violence, Justice and Mobilization Among México Lindo Immigrants, 1890-1936* (Austin, University of Texas Press, 1999) a book that analyzes the justice system and Mexican immigrants at the beginning of this century. Since then Arte Público Press has published two more of my works: *Testimonio: A Documentary History of the Mexican American Struggle for Civil Rights* in 2000, and in 2006, *A Dictionary of Latino Civil Rights History*. I am now working on a new book, tentatively titled "Entering Mexico: Repatriates, Tourists, Unwanted Immigrants and Colonization Pipe Dreams, 1920-1940." My publication record also includes 30 journal articles and essays, 20 book reviews, 5 book chapters and over 20 entries in history encyclopedias and dictionaries.

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My extensive public and academic service also equips me to provide this report. I have been director of many public programs funded by the Arizona Humanities Council and served as a participant or organizer in numerous others. I have presented in public fora throughout Arizona for ten years as a speaker for the Humanities on the Road project, a program funded by the Arizona Humanities Council. I have also worked as a consultant for numerous National Endowment for the Humanities funded projects through their Public Programs Division, which deal with historical exhibitions in museums, libraries, and public schools. Presently I am on the advisory committees for the "Reality Works" radio project, called "Race and Reconciliation," and on the "American Lynching: A Documentary Feature" project. My curriculum vitae is attached as Exhibit I to this report.

I have contracted with the Mexican American Legal Defense and Education Fund to write this report at a rate of \$100 an hour.

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THE REPORT

This report will view the discrimination history of United States residents of Mexican descent in Arizona. This includes native born citizens, naturalized citizens, legal resident immigrants and undocumented immigrants. The study delineates five areas of discrimination and violations of civil rights.

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- LAND AND PROPERTY RIGHTS
- POLITICAL DISENFRANCHISEMENT
- THE JUSTICE SYSTEM AND POLICE RELATIONS
- CIVILIAN MISTREATMENT OF MEXICANS
- GENERAL SEGREGATION
- SCHOOL SEGREGATION
- DISCRIMINATION IN THE WORKPLACE

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HISTORICAL BACKGROUND

Today approximately 1,600,000 Hispanics live in the state of Arizona out of a total population of six million—over 90 percent of this Hispanic grouping is of Mexican descent. The population grew to this proportion because of vegetative demographic growth and immigration during the late 20th century. The dramatic increase in the Hispanic population simply reflects the overall growth trend of the state, which in the beginning of the 20th century consisted of population of only 150,000 persons; of that, approximately 12 percent were ethnically Mexican.¹

Arizona was part of the vast area ceded to the United States by Mexico after that nation lost the Mexican American War. The Treaty of Guadalupe Hidalgo, signed at the end of the war, granted Mexicans who remained in United States territory the constitutional rights of citizens and ostensibly protected their property, culture and religion, and gave them the right to vote. The territorial acquisition delineated in the Treaty of Guadalupe Hidalgo did not include the area that is now southern Arizona and southwestern New Mexico, a region extending from present-day Yuma along the Gila River (25 miles south of Phoenix) all the way to the Mesilla Valley, where Las Cruces, New Mexico is situated. Under pressure from

¹ USCensusBureau, "State & County QuickFacts," Available at <http://quickfacts.census.gov/qfd/states/04000.html>; "Population of Arizona," *New York Times*, October 19, 1900, p. 5.

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the Americans, General Antonio López de Santa Anna sold this region to the United States during his return to power in 1853. The Gadsden Treaty perimeters gave Mexicans in the purchased territory the same rights provided by Treaty of Guadalupe Hidalgo.² The majority (1,000) of Mexicans lived in the section of the agreement which pertains geographically to Arizona in region in the valleys carved out by the Santa Cruz and the San Pedro Rivers.

LAND AND PROPERTY RIGHTS

While the Treaty of Guadalupe Hidalgo granted constitutional rights to Mexicans who remained in the new political jurisdiction of the United States, most of the guarantees were not upheld. As a result, the economic and political fortunes of Southwest Mexicans declined considerably during their experience with United States rule. Provisions in the Treaty of Guadalupe Hidalgo regarding land holdings safeguarded Hispanic properties, but Southwest land values rose as the Anglo population increased and as the area became more economically developed. Inevitably, intense land competition followed and Mexican property was coveted by developers and Anglo farmers. Thus, divesting Mexicans of their property assumed wholesale proportions throughout the 19th century.³

Even though all Mexican properties in the Gadsden Purchase were purportedly protected by the same promises made regarding the protection of Mexican properties in the Treaty of Guadalupe Hidalgo, the Gadsden Treaty made it more difficult to confirm titles by stipulating that they would be valid only if confirming evidence was found in Mexican archives.⁴ M. Escalante, the Mexican consul in Tucson in 1878 wrote to the Mexican foreign minister accusing Arizona land speculators and squatters of defrauding Mexican landowners of their property in clear violation of land protection clauses of the Treaty of Guadalupe Hidalgo and

²James E. Officer, *Hispanic Arizona, 1536-1858*, (Tucson: University of Arizona Press, 1989), p. 133.

³See Suzanne Forrest, *The Preservation of the Village: New Mexico's Hispanics and the New Deal* (Albuquerque : University of New Mexico Press, 1989) and David J. Weber, *Foreigners in Their Native Land; Historical Roots of the Mexican Americans*, (Albuquerque: University of New Mexico Press, 1973) for an excellent description of the this process.

⁴Ray H. Mattison, "Early Spanish and Mexican Settlements in Arizona," *New Mexico Historical Review* Vol. 21, no. 4 (October 1946): 290.

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the Gadsden Purchase Treaty. According to Escalante, in 1854 the U.S. Congress gave the General Surveyor of the Territory of New Mexico and Arizona the power to resolve land disputes involving Mexican titles, but in the twenty four years of the existence of that policy Mexicans in Arizona lost thousands of acres because titles which had been granted during the eras of Spanish or Mexican rule were not honored.⁵

The federal government also became involved in the usurpation of Mexicans' land. In 1869, preparations were made to expand the Gila Indian Reservation and the federal government surveyed the properties of homesteaders so they could be compensated if their claims to the land were valid. United States Army surveyors believed that 2,500 acres belonging to twenty farmers and speculators were affected; seventeen of the claimants were Mexicans. The federal report described many of the Mexicans as interlopers whose bids were not legitimate because they were opportunistically claiming land for its compensation value. The Anglos and Europeans, however, were portrayed by the surveyors as more deserving.⁶ As a result most of the Mexican claimants were disqualified from compensation.

The declining status of Arizona Mexicans was also signaled by rapid land loss among Valley of the Sun (Phoenix area) Mexican farmers. This was especially true during the depression caused by the Panic of 1873, a banking crisis which resulted in riots throughout the country and in which Mexicans were forced to leave the Phoenix area after a rash of lynching of Mexicans took place.⁷ Between 1870 and 1900 the number of Mexican farmers in Maricopa County declined from seventy-nine to about thirty, even though the Mexican

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⁵M. Escalante, Mexican Consul in Tucson, Arizona, to Mexican Secretary of the Foreign Ministry, August 6, 1878, Archivo Histórico de la Secretaría de Relaciones Exteriores (AHSRE) 11-2-106, in Angela Moyano Pahissa (ed.), *Protección Consular a Mexicanos en los Estados Unidos* (México: Secretaría de Relaciones Exteriores, 1989), pp. 28-30.

⁶ United States. House of Representatives, 41st Congress, 3d Session, *Survey of Pima and Maricopa Reservation*, pp 1-17.

⁷ Nancy Cohen, *Reconstruction of American Liberalism, 1865-1914* (Chapel Hill: University of North Carolina Press, 2002), pp. 122-124; Bradford Luckingham, *Minorities in Phoenix: A Profile of Mexican American, Chinese American, and African American Communities, 1860-1992* (Tucson: University of Arizona Press, 1994), p. 18.

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population increased twelve-fold during the three decades.

The most dramatic example of Mexican land loss was the take-over of large tracts of irrigated properties in west Tempe by W. Wormser in the 1890s. Wormser, a merchant, obtained a 7,000 acre farm south of the Salt River by foreclosing on a number of farmers after they could not pay for seed, tools, and other supplies that were advanced at an earlier date. Many of these usurped farmers were the Mexicans who built the San Francisco Canal, a major infrastructure improvement along the Salt River.⁸ According to Douglas Kupel, the City of Phoenix water historian, Wormser purposely foreclosed so that he could take the title to Mexican lands.⁹

POLITICAL DISENFRANCHISEMENT

In Arizona, which was part of the New Mexican territory until 1863, Mexicans experienced a dilution of political and economic power as more Anglos moved into an industrializing Arizona.¹⁰ This was especially true in the southern part of the territory, around Tucson, the area purchased with the Gadsden Treaty in 1853. Tucson became the territorial capital after Arizona separated from New Mexico in 1863, but Anglos soon moved it to Prescott because of the political power held by Mexicans in southern Arizona.¹¹ According to the study by the sociologist Martha Mencheca, Arizona legislators adopted for their new territorial constitution codes taken from California's state charter which restricted citizenship and electoral eligibility requirements allowing only white males and white Mexican males, a vast minority, to vote. This measure disqualified American Indians, mestizos,¹² and Mexican

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⁸Charles Goldman v. Pedro Sotelo, *Arizona Reports*, Vol. 8 (1901- 1904), 114.

⁹Interview by Author with Douglas Kupel, History Consultant, 1992.

¹⁰The effort for separation from the Mexico territory was itself motivated by the desire not to be dominated by New Mexico which had a very large Mexican population. See B. Sacks, "The Creation of Arizona Territory," *Arizona and the West* 5, no. 1 (Spring 1963): 48-49.

¹¹Weber, David J. *Foreigners in Their Native Land; Historical Roots of the Mexican Americans*, (Albuquerque: University of New Mexico Press, 1973), p. 144.

¹²*mestizo* (mixed Indian and Spaniard)

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Indians from the electoral process. In 1877, legislators passed additional laws in which non-whites were disqualified from voting on the basis of race, from serving as justices of the peace and from practicing law; only white males were allowed to enter those professions.¹³

Beginning in the 1880s, the building of railroad transportation to the American Southwest and northern Mexico drastically reduced the need for Southwest pre-industrial crafts and beast-powered merchant transportation, activities where Mexicans predominated. In addition, irrigation projects financed through the Newlands Reclamation Act of 1903 expanded the acreage which could be put under cultivation. These innovations dramatically changed the economies of Arizona, greatly stimulating the immigration of Mexican laborers. At the same time, modernization brought in a new influx of Anglos, who did not need to cooperate with Mexicans.¹⁴ As a consequence of this demographic change, the antipathy Anglo Americans felt toward Mexicans was exacerbated, increasing the incidence of discrimination and the resistance to provide them political influence and opportunity.

Prescott, in northern Arizona, became the territory's new capital, purposely away from Mexicans, and as Phoenix became more important, that city became the capital.¹⁵ The historian Manuel Servín points out that:

...between 1865 and 1909 the Mexican-American population of the territory was represented by Francisco León (1865 and 1871), Esteban Ochoa (1868, 1871, and 1877), Jesús Elías (1868 and 1875), Juan Elías (1871 and 1873), Ramón Romano (1871), José María Redondo (1873, 1875, and 1877), M. G. Samaniego (1877, 1881, 1891, and 1895), N. González (1899 and 1903), and Alfred Ruiz (1905). Thus it is patent that as far as pre-state Arizona was concerned Mexican-American representation and participation in the governmental administration of the territory greatly diminished after 1877.¹⁶

¹³Martha Menchaca, "Chicano Indianism: A Historical Account of Racial Repression in the United States," *American Ethnologist*, Vol. 20, No. 3. (Aug., 1993), pp. 583-603.

¹⁴Luckingham, *The Urban Southwest: A Profile History of Albuquerque-El Paso-Phoenix-Tucson* (El Paso: Texas Western Press, 1982), p. 19.

¹⁵Weber, *Foreigners in Their Native Land*, p. 144.

¹⁶Manuel Servín, "The Role of Mexican-Americans in the Development of Early Arizona," in *An Awakened Minority: The Mexican-Americans*, 2nd ed., Manuel Servín, editor (Beverly Hills: Glencoe Press, 1974), p. 30.

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According to Eric V. Meeks, a historian at Northern Arizona University, by the latter 1870s Mexican political influence began to wane. In the first Legislative Assembly of Arizona after it became an independent territory from New Mexico, two out of the nine council members were Mexican Americans. By 1885, only one Mexican had been elected to the State Legislature.¹⁷

As Arizona modernized, territorial leaders felt that statehood was necessary for continued growth and prosperity. The question of statehood dragged on in both the Arizona and New Mexico territories throughout much of the late 19th century. The U.S. Congress for a number of reasons remained cool to the idea but in the early 20th century it considered accepting a bid in which both territories would enter the Union as one state. Arizona politicians resisted such an overture primarily because of the extensive Hispanic influence in New Mexico. One congressman who opposed joint statehood with New Mexico stated: "Can Arizona as a single state control it better by itself, or shall we join the Mexican greasers [of New Mexico] to Arizona and let them control it?"¹⁸ According to the Arizona historian H.A. Hubbard, a form of anti-Hispanic sentiment formed in the territory during this period as rumors spread that:

...jointure would mean that in Arizona no schools could be conducted in English. Groups of Anglo-Saxon school children in Arizona with appropriate placards paraded the streets in mute and pathetic appeal against the impending outrage. Then there were the courts. In New Mexico the courts were held in Spanish. To Arizonans jointure was interpreted to mean that, when their territory became a state joined with New Mexico, no case would be tried except before a Spanish-speaking judge.¹⁹

James H. McClintock, the journalist and high ranking Arizona government official, proudly proclaimed in a *Los Angeles Times* opinion piece in 1906 that one of the assets

¹⁷Eric V. Meeks "Border Citizens: Race, Labor, and Identity in South-Central Arizona, 1910-1965," (Ph.D. Dissertation: The University of Texas, 2001), pp. 52-53.

¹⁸Weber, *Foreigners in Their Native Land*, p. 145.

¹⁹H. A. Hubbard, "Arizona's Struggle against Joint Statehood," *The Pacific Historical Review*, Vol. 11, No. 4, (Dec., (December 1942), p. 421.

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possessed by Arizona making it deserving of separate recognition was the relatively small Hispanic population. As he put it “...only 12 percent of Arizona’s population is Mexican or Spanish in surname.”²⁰

Dr. Eric Meeks notes that after Arizona attained statehood in 1912, Anglos waged an anti-immigrant campaign which “was characterized by increasingly racist rhetoric and a series of proposals that would restrict Mexican immigrants’ political rights and the right to work in Arizona.”²¹ In 1912, the new state constitution restricted non-citizens from working on public projects. Then in 1914, the legislature enacted the “eighty per-cent law” in which eighty percent of the employees in businesses that had five or more employees had to be “native-born citizens of the United States.” After a U.S. District Court declared the law unconstitutional, the Arizona legislature passed the Claypool-Kinney bill, an act which prohibited the employment of non-English speakers in the state’s mining industry. According to Professor Meeks, this was a deliberate attempt to circumvent the court decision which declared the “eighty per-cent law” unlawful.²²

In addition, after Arizona became a state, access to the ballot box for Mexican Americans became even more limited as antipathy to all people of Mexican origin grew and immigration increased during the first two decades of the 20th century. A coalition of craft unions, small farmers and merchants led by the governor of the state, George Hunt, launched an anti-immigrant campaign characterized by a proposal that restricted Mexican Americans’ political rights and the right to work in Arizona. Arizona voters passed a literacy law in 1909 that disqualified non-English speakers from voting in state elections.²³ The act specifically singled out Mexicans:

...every citizen of the United States and every citizen of Mexico who shall have elected to become a citizen of the United States..._who, not being prevented by

²⁰“Arizona,” *Los Angeles Times*, August 19, 1906, VII6...

²¹ Meeks, “Border Citizens: Race,” p. 52.

²² *Ibid.*, p. 88.

²³ *Ibid.*, p. 87.

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physical disability from so doing, is able to read the Constitution of the United States in the English language in such a manner as to show he is neither prompted nor reciting from memory, and to write his name, shall be deemed to be an elector of the state of Arizona.²⁴

Mexican Americans in Arizona recognized very early in the 20th century that obstacles to full participation in the political process remained and subsequently started community organizations, such as the Latin American Clubs of Arizona, Inc., as a response.²⁵

Their campaigns ran into many obstacles, however. The limitations of voter registration as a strategy for political empowerment, for example, can be seen in a South Tucson campaign in the mid-1930s. There, the majority of the residents were Mexican or Mexican American, yet local property-holders and entrepreneurs were mainly non-Mexicans. The latter group led a campaign to incorporate South Tucson as an independent municipality to avoid annexation by the City of Tucson, which would have meant higher property taxes and licensing fees. Once incorporated, the Pima County Board of Supervisors appointed five white property-holders to serve as the new town's city council, but Mexican residents, with help from the Latin American Club, organized a voter registration campaign with the goal of electing a majority Mexican American city council in South Tucson's first election, held in April of 1937. Despite these efforts, only one Mexican American was elected to the council. As Eric Meeks points out, "...the literacy test requirement, combined with a local requirement of property ownership, excluded many Mexican Americans from voting in the election."²⁶

Voting restrictions against Mexican Americans in Arizona continued throughout the 20th century. Literacy requirements and a sixth grade education were still preconditions to voter

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²⁴Quoted in Luckingham, *Minorities in Phoenix*, pp. 48-49.

²⁵F. Arturo Rosales, *A Dictionary of Latino Civil Rights History* (Houston: Arte Público Press, 2006), p. 179.

²⁶Meeks, "Border Citizens," pp. 267-268

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registration in Arizona as late as 1966 and remained on the books until 1972.²⁷ Also in 1966, elaborate residency requirements for voter registration- such as having to live one year in the state, six months in the same city, and thirty days in the same precinct and county- confused many potential voters, including Mexican Americans.²⁸ In addition, potential voters were required to register at the county recorder's office, which was only open during business hours, limiting access for many working people.²⁹

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Also, many Arizona voters were prevented from casting ballots to vote because they were purged from the rolls. This occurred when the voter failed to cast a ballot in a primary and a general election or if the voter did not vote in two consecutive elections. Voters were not subsequently informed of the purge or of the need to re-register. Research has shown these practices can have a disproportionate effect on Hispanics and Native Americans voters.³⁰

In 1970, Arizona Congressman Morris K. Udall, writing in the publication *Congressman's Report*, addressed discriminatory practices in the Arizona election system and acknowledged "the unfortunate emphasis on 'reading the constitution in English,' which has often been used to intimidate our Spanish-speaking and Indian minorities."³¹

²⁷"Secretary of State. " Arizona Election Code, 1966." *Constitution of the State of Arizona*, (Compiled and Issued By Secretary of State, 1977), p. 29.

²⁸United States Commission on Civil Rights, *Rights Act, Unfulfilled Goal*, Washington, DC, September, 1981. Available at <http://www.law.umaryland.edu/marshall/usccr/documents/cr12v944a.pdf>

²⁹Susan L. ENDOX, "Blame It on the Whether: Whether or Not Arizona Residents Registered and Voted in the 1960s, Arizona and the Voting Rights Act of 1965," p. 7, paper given at the Arizona History Convention, Safford, Arizona, April 23, 2004.

³⁰Ibid.

³¹Morris K. Udall, "Our Really Silent Majority," *Congressman's Report*, July 23, 1970 Vol. IX, No. 2. Available at <http://www.library.arizona.edu/exhibits/udall/congrept/91st/700723.html> Available at <http://www.library.arizona.edu/exhibits/udall/congrept/91st/700723.html>. Up until recently these restrictions were still in affect in Arizona. In the 1980s preregistration deadlines were shortened and mail-in registration was allowed. A motor voter program in 1992 allowed for registering while renewing a driver's license. The same program ended the practice of purging from the registration list those who did not vote in the last election. In 1995, the National Voter Registration Act required that states allow persons to register at the motor vehicle and other state offices. Berman, *Arizona Politics*, p.77.

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Intimidation of Mexican American voters can also be seen in Operation "Eagle Eye," a national project in 1964 designed to challenge the legality of a voter's registration at the polling site.³² In Arizona, one method used by the operation was to mail letters to all registered voters in South Phoenix, a majority Hispanic and African American area, using the addresses from voter registration records. Returned letters were then taken to the corresponding polling place on the date of the election; as voters stood in line waiting to vote they were challenged on the grounds that they did not live at the address listed in the voter rolls, voiding their registration.³³ The challengers would also approach Mexican Americans to determine if they could competently read the U.S. Constitution. One poll watcher remembers that these tactics caused lines at polling places to back up, prompting many waiting in line to leave.³⁴

In a study on Arizona politics, the political historian David Berman indicates that Anglos sometimes challenged minorities at the polls and asked them to read and explain literacy cards. Intimidators hoped to discourage minorities from standing in line to vote.³⁵ Many of these abuses were curtailed when the United States Congress extended the special remedies of the Voting Rights Act of 1965 to Arizona in 1975.³⁶

Arizona's slow progress to accommodate Spanish speaking voters continued to create

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³² Timothy N. Thurber, "Goldwaterism Triumphant? Race and the Republican Party, 1965-1968," *The Journal of the Historical Society*, Vol. 7 (September 2007), p. 352.

³³ Chandler Davidson, Tanya Dunlap, Gale Kenny, and Benjamin Wise, "Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression—or Both? A Report to the Center for Voting Rights & Protection," (September 2004), pp. 17, 21. Available at http://www.votelaw.com/blog/blogdocs/GOP_Ballot_Security_Programs.pdf.

³⁴ Brian Bork, "Perspective," *Calvin College Chimes*, Available at <http://www-stu.calvin.edu/chimes/2001.04.27/perspectives/story02.shtml>; Dennis Rodd, "Just Our Bill," *Pittsburgh Post-Gazette*, December 2, 2000; Michael Lynch "Noise and Politics," *Social Studies of Science*, Vol. 31, (Jun., 2001), p. 451 and 453, footnote 17.

³⁵ David R. Berman, *Arizona Politics & Government: The Quest for Autonomy, Democracy, and Development* (Lincoln: University of Nebraska Press, 1998), pp. 48-49, 76.

³⁶ Mexican American Legal Defense and Education Fund, *A Voting Rights Act Handbook For Chicanos*, (San Francisco: Mexican American Legal Defense and Educational Fund, 1977) pp. 5, 8-9.

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problems for potential Mexican American voters in Arizona. The U.S. Commission on Civil Rights noted that in November 1974, south Phoenix polling sites revealed few, if any, bilingual workers at polls and only one bilingual election for eight heavily Mexican American precincts.³⁷ In the same election year a poll worker refused a Tucson voter a ballot because he could not find her name on the rolls. Determined to cast her ballot, the rejected voter went to the court house to get proof of her registration. The Commission explained that the poll worker's inability to understand Spanish or even the ability to find Spanish surnames was not uncommon in the Mexican American precincts.³⁸ For example, many Mexican American women use the surname of both parents and then their married surname.³⁹ Hispanic voters whose names could not be found on rolls were often not informed of how to remedy the situation to successfully cast their ballots.⁴⁰

Arizona voting practices affecting Mexican Americans were not limited to registration and the polling place.⁴¹ For example, in the 1960's the State Legislature's reapportionment of districts worked to dilute the Mexican American vote. As discussed in the federal court case *Klahr vs. Goddard and Bolin*, rural districts had far more representatives and senators than the two major metropolitan areas of Tucson and Phoenix, which had 71 percent of the state's

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³⁷*The Voting Rights Act Ten Years After, A Report to the United States Commission of Civil Rights* (January 1975), pp.116-117, 110-111, 85, 93-94. Available at <http://www.law.umaryland.edu/marshall/usccr/documents/cr12v943a.pdf>.

³⁸*Ibid.*, p 103. Federal law now requires that election information must be printed in Spanish and Indian languages. Berman, *Arizona Politics*, p.77.

³⁹Elaine Baca-Rodriquez, "The Impact of the National Voter Registration Act of 1993 in Arizona,"(Ph.D. Dissertation, Northern Arizona University, 2002), p. 126

⁴⁰*The Voting Right Act: Unfilled Goals: A Report of the United States Commission on Civil Rights* (September 1981). Available at <http://www.law.umaryland.edu/marshall/usccr/documents/cr12v944a.pdf>

⁴¹ In fact, following the 1975 extension of Section 5 of the Voting Rights to Arizona, the U. S. Department of Justice has repeatedly objected to proposed election changes that would discriminate against Native American or Latino voters. See Response of the League of United Latin American Citizens to Second Set of Interrogatories by Defendant Arizona Secretary of State, Case No. CV06-01268-PHX-ROS, pp. 5-8.

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population. However, as new districts were created to correct this imbalance, the voting strength of Mexican American districts was curtailed, especially in the Phoenix area. Most Mexican Americans resided in south Phoenix, but through gerrymandering the strength of the community's votes was weakened or diluted.⁴² An additional example of dilution is the 1970 Phoenix Union High School District Board election where Joe Eddie Lopez was a candidate from south Phoenix. He did not win a seat and felt the district's white majority made it impossible for a Mexican American to win in the at-large election.⁴³

THE JUSTICE SYSTEM AND POLICE RELATIONS

Almost as soon as Mexicans encountered Anglos in Arizona during the 19th century their experience with the American justice system was marked by discrimination. Few Mexicans, for instance, served on juries but they were disproportionately sentenced to jail and given longer sentences than their Anglo counterparts. There is record of Mexicans hung by Anglo lynch mobs without the benefit of a trial or representation.⁴⁴ A particularly vicious episode occurred in 1859 when Santa Cruz Valley rancher John Ware was murdered and the constabulary arrested one of his Mexican "peons." Local cowboy Sam Rogers and his gang, known for their cruel treatment Mexicans, kidnapped the imprisoned Mexican and hung him from a tree.⁴⁵

⁴²J. L. Polinard, "Arizona," in Leroy Hardy, Alan Heslop, Stuart Anderson, editors, *Reapportionment Politics : the History of Redistricting in the 50 States* (Beverly Hills, Calif. : Sage Publications, 1981), pp. 36-44.

⁴³Ibid.

⁴⁴ See Menchaca, "Chicano Indianism" for a discussion of how Mestizo Mexicans in Arizona were classified as non-white and not allowed to participate in such public activities as voting or jury duty, pp. 588-589; Rosales, *Pobre Raza!*, p. 140; Antonio Ríos Bustamante, "'Guilty as Hell, Copper Mines, Mexican Miners and Community, 1920-1950: The Spatial and Social Consequences of Mining Town Industry in Arizona." (Chicano Collection, Hayden Library, Arizona State University, n.d.), 44-45.

⁴⁵Rosales, *Chicano! A History of the Mexican American Civil Rights Movement* (Houston: Arte Público Press, 1996), 11-12.

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One newspaper writer in 1872 declared, "The Indian is now a nuisance and the Sonoran⁴⁶ a decided annoyance, but both of these are sure to disappear before civilization as sure as the noonday sun." In the Phoenix area, the slightest hint of Mexican wrongdoing was met with severe reprisals.⁴⁷ At a mass meeting in Phoenix on April 19, 1872, citizens organized for protection against "Sonorans" and elected County Sheriff T.C. Warden as Captain of the Safety Committee. Members of the group decided that all suspicious Mexicans deemed not to have legitimate business in the Valley were to be run out of town.⁴⁸ While on the surface it seemed that a distinction was made between "good" and "bad" Mexicans, according to Pedro Pérez, an immigrant interviewed in the the 1930s, the vigilantes were indiscriminate in deciding which ones were unwelcome strangers:

From 1875 to 1880 a lot of people were hanged for small steals [sic] of any kind and a lot of them were framed in horse stealing, cattle....When this was happening most of the early Mexican families besides ours, that were residing here left town and for awhile [sic] it looked like the future of the town was done for, but after quite a while the people began to come back.⁴⁹

If a Mexican American committed a crime against Anglo Americans in Arizona, the response was predicable. When, during a drunken melee in Phoenix, amid the *Día de San Juan* festival on June 24, 1900, Mexicans killed two Anglos, Governor Murphy condemned the Mexican celebration and the *Arizona Republican* announced that Sheriff D.L. Murray offered an eight-hundred-dollar reward for the "Mexican greaser" killers. Publishers of the local Spanish-language newspaper called for a meeting of all Mexicans in the area to protest

⁴⁶A Sonoran is the name given to Mexicans born in the Mexican state of Sonora which were the majority of immigrants in Arizona during the second half of the 19th century,

⁴⁷Cohen, *Reconstruction of American Liberalism, 1865-1914*, pp. 122-124; Luckingham, *Minorities in Phoenix*, p. 18.

⁴⁸*Arizona Weekly Miner*, November 16, 1872; Arizona newspapers are replete with stories of this warfare which was interpreted as simple banditry by Mexicans from Sonora; See also Rosales, "Lost Land" Origins of Mexicans in the Salt River Valley of Arizona, 1865-1910," p. 20.

⁴⁹"Related Story of Pedro Pérez, 1933," Federal Writers Project File, Arizona Department of Library, Archives and Public Records.

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the reaction of the government officials. Later that year, the state legislature banned future celebrations of the Mexican holiday.⁵⁰

Tensions between Mexicans and law enforcement ran high when encounters with police resulted in death. In 1920 the Mexican Consul sent in a report of Mexicans killed in altercations with the police. According to this study, between 1910 and 1920 at least twelve Mexicans were killed in arrest attempts and according to the Consul, most of these police homicides could have been averted.⁵¹ John Welch, a half Mexican, and longtime police chief in the archetypical mining town of Miami, had an especially fearsome reputation. In December 1931, Mexican Consul Luis Castro lamented that a Cochise County grand jury acquitted the officer after he shot to death Martín López y de la Torre.

The disproportionate application of capital punishment to Mexicans was a great concern at the beginning of the 19th century. In the 1910s, every person executed at the new state prison at Florence was Hispanic, even though several Anglo Americans had received death sentences. During a two-year capital punishment respite, seventy-nine killings took place in contrast to forty-seven, in 1915-16. Arizona voters, motivated by this dramatic rise in murders, reinstated capital punishment in November 1918. Of nineteen killers convicted during the grace period, only four were Mexicans. Nonetheless, with the reinstatement of the death penalty the first person executed was a Mexican.⁵²

Mexicans often complained about interrogation tactics employed by the police with Mexican detainees. Questionable interrogation tactics of Mexicans occurred in the mining town of Greaterville, Arizona, during April 1915. Pima County Deputies Fenter and Moore visited the León family home to interrogate three brothers--José María, Francisco, and

⁵⁰L. A. Navarro, Phoenix consul to Secretaría de Relaciones Exteriores (SRE), June 30, 1900, AHSRE, 12-7-238.

⁵¹Report of Mexicans Killed Between 1911-1919, Compiled by the El Paso Consulate, Juan Jose Duarte, May 19, 1919, Archivo Histórico de la Secretaría de Relaciones Exteriores (AHSRE)11/19/24, hereafter known as "Report" (with victim's name and date incident took place).

⁵²Thomas E. Sheridan, *Los Tucsonenses: The Mexican Community in Tucson, 1854-1941*, Tucson: University of Arizona Press, 1986), p. 174.

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Hilario--whom they suspected had killed a Mrs. Loreta Yañez and stolen her cattle. The brothers vehemently denied the accusations so the deputies tried to coerce a confession--by hanging them until the brothers passed out. Hilario died immediately. José María was left out in the desert for twenty-one hours and when found was taken to his Greaterville home until a doctor could be summoned. Francisco, not as incapacitated, managed to find his way home. Sheriff Thomas Forbes in Tucson assured incensed Mexican community leaders he would conduct a full investigation. The area newspaper reported that José María died a week later from meningitis caused by oxygen starvation.⁵³

Widespread publicity of the brutality resulted in a trial in which the deputies were found guilty of second degree murder and sentenced to prison. The swift action which at first pleased the Arizona Mexican community, ended in bitter disappointment. On February 13, 1917, the Arizona governor and the Board of Pardons and Paroles pardoned and released the former deputies.⁵⁴

CIVILIAN MISTREATMENT OF MEXICANS

Civilian mistreatment of Mexicans was a constant source of despair for Mexicans and their leaders. Sometimes it took place through mob violence as happened in May of 1912 when Anglo miners invaded a *Cinco de Mayo* festival in Twin Buttes, about 40 miles from Tucson, and attacked the Mexican workers. They then tore down and destroyed the Mexican flags on display for the holiday. In a similar episode during September of the same year a group of Phoenix, Arizona Anglos invaded a Mexican independence celebration, which sparked a riot in which both ethnic groups suffered injuries. The following year, during the July 4th celebration, Anglo revelers tore down the Mexican flags at the consulates' offices in Tucson and Douglas, Arizona.⁵⁵

In a Mexican government study of American civilian attacks on Mexicans during the 1910s, Arizona came in a close second to Texas. Out of 150 incidents documented by the Consul, 36 took place in Arizona. For example, W. H. Heltrip murdered Jesús Arias during January 1913 in Yuma,

⁵³This story is detailed in a series of articles in *El Tucsonense*, April 9, 28, 30, 1915, May 1, 1915. See also *Los Angeles Times* April 23, 1915.

⁵⁴Rosales, *Pobre Raza!, Violence, Justice and Mobilization Among México Lindo Immigrants, 1890-1936* (Austin, University of Texas Press, 1999), pp. 85-86.

⁵⁵*Ibid.*, pp. 110-111.

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claimed self-defense, and authorities did not charge him. A bartender of "Austrian descent" on November 12, 1912, beat a drunken Tomás Soto when he created a disturbance at a bar in the mining town of Miami. The next morning Soto's body was found a few yards from the saloon, but the bartender fled and could not be found, according to local authorities.⁵⁶

Common also was for Anglos not to be subjected to charges of negligence in spite of supporting evidence. According to the Mexican consul in Phoenix, Thomas Walker, of the Arizona Cotton Growers Association, ran over Juan José Duarte on May 19, 1919 with his automobile, killing the Mexican pedestrian. He was not cited by Phoenix police. The Mexican community was incensed as witnesses stated Walker was speeding down the avenue Duarte was crossing and did not bother to slow down. The community believed it was Walker's influence that kept the police from investigating.⁵⁷

Also, a military build-up along the border during the Mexican revolution led to many altercations between Mexicans and army personnel. In Arizona, American soldiers killed José Pérez and M. Ortiz on November 21, 1913 during a Miami riot between Mexicans and Army personnel. The local Sheriff was informed but he arrested no one, according to a Mexican protest letter. Also in Miami, a U.S. army truck ran over David Herrera, killing him on October 15th, 1917. The soldiers were stationed in the area to quell strikes in which hundreds of miners had been arrested. The Mexican community, skeptical of any explanations offered by authorities, felt the driver deliberately hurled the vehicle at Herrera.⁵⁸

Such violations of the civil rights of Mexicans have continued into recent years. In the late 1970's, two brothers and their father, all members of the wealthy Hannigan family, were accused of robbing and torturing three Mexican farm workers who had entered the United States illegally. The Hannigans, who owned extensive ranching land and a bevy of Dairy Queens, were tried for intercepting three undocumented Mexicans crossing their property in southern Arizona near the

⁵⁶"Report," Tomás Soto, November 12, 1912.

⁵⁷"Report," Juan José Duarte on May 19, 1919

⁵⁸"Report," José Pérez and M. Ortiz, November 21, 1913 and David Herrera, Jr., October 15, 1917.

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Mexican border. The Hannigans stripped and tortured the Mexicans with hot poker, burning cigarettes, knives, and a shotgun filled with bird seed. Hours later, the immigrants were set free to return to Mexico naked and bleeding. An all-Anglo jury acquitted the two Hannigan brothers of charges of kidnapping, assault, and robbery; father George died before trial. Following strident protest, federal authorities ultimately charged the Hannigans with obstructing interstate commerce. Patrick Hannigan, but not his brother Thomas, was convicted and sentenced to three year's imprisonment.⁵⁹ Law Professor Steve Bender has documented similar cases along the border. Most have taken place in Arizona.⁶⁰

GENERAL SEGREGATION

Racial segregation was prevalent in the railroad and mining towns of Arizona as railroads spurred modernization after the 1880s. At this time segregation in schools, public facilities, and housing increased for a number of reasons. The threat posed by Apaches ended in the late 19th century and the need for a cooperative self-defense no longer bound Mexicans and Anglo Americans. Secondly, the economic livelihood of the region's Mexican elite based in freighting and open-range ranching eroded with the influx of American capital and technology. Concurrently, new industries imported their own skilled workers and management personnel while Mexican Americans and Mexican immigrants were relegated to semi-skilled and unskilled positions in the new Anglo American owned mines and railroads. By 1910 Mexicans became imbedded in racially-ordered class system.⁶¹

The existence of segregation is widely discussed in studies of mining in Arizona. As the mining companies established labor camps and company towns they designed them along strict segregated parameters.⁶² For example, in 1916 the New Cornelia Copper Company resuscitated old copper

⁵⁹ Steve Bender, *Greasers and Gringos: Latinos, Law, and the American Imagination*, (New York: New York University Press, 2003), p. 131.

⁶⁰ *Ibid.*, p. 130.

⁶¹ Meeks "Border Citizens," p. 43; Joseph Park, "The History of Mexican Labor in Arizona during the Territorial Period," (M.A. thesis, University of Arizona, 1961), pp. 219-220.

⁶² These studies are too numerous to put in this footnote but see for example, Linda Gordon, *The Great Arizona Orphan Abduction*, (Cambridge: Harvard University Press, 1999);

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mines in the mining town of Ajo and immediately laid out the plans to segregate its Native American, "Mexican," and "American" (Anglo) residents by establishing the Mexican settlement in the northwestern portion of town. For recreational purposes the company built two dance halls and sponsored dances for the non-Mexicans on several week-nights while only Sunday was reserved for the Mexican event. In a 1977 interview with Alberto Sotelo, a former Ajo resident, he remembered segregation permeating life for Mexicans. As a child he and the other "Mexican children attended separate schools, could only swim in the town pool on limited days after the 'American' families had used it and before the pool was cleaned, and were restricted to a certain section of the local movie theatre."⁶³

A result of extensive modernization of the agriculture owing to railroads and federally financed irrigation projects was the massive immigration of Mexicans to the Salt River Valley, where Phoenix is located. As a result of this influx, Phoenix acquired the largest contiguous *barrios* in all of Arizona.⁶⁴ In 1930 almost 8,000 Mexicans were concentrated and segregated in a small area in the south side bounded by 11th Street to the east, 16th avenue to the west, the edge of the Salt River to the south, and Washington St. to the north. There, barrios emerged with such names as Milpitas (small fields) or Cuatro Milpas (four fields).⁶⁵

According to a study by the Phoenix Housing Authority and the WPA, as late as 1941,

James R. Kluger, *The Clifton-Morenci Strike: Labor Difficulty in Arizona, 1915-16* (Tucson: University of Arizona Press, 1970); Meeks "Border Citizens"; Philip J. Mellinger, *Race and Labor in Western Copper: The Fight for Equality, 1896-1918* (Tucson: University of Arizona Press, 1995); Joseph Park, "The History of Mexican Labor in Arizona during the Territorial Period." (M.A. thesis, University of Arizona, 1961).

⁶³Meeks "Border Citizens," p. 85. For a description of the similar conditions that existed in the Clifton-Morenci district, see Kluger, 20-23.

⁶⁴*Barrio* simply means a neighborhood in Spanish-speaking countries, but in the United States urban areas, it is applied to Mexican American or other Hispanic neighborhoods which are distinguishable from other parts of the city. See Daniel D. Arreola, "Urban Ethnic Landscape Identity," *Geographical Review*, Vol. 85, No. 4, (Oct., 1995), pp. 518-534.

⁶⁵Pete Rey Dimas, "Progress ~~And~~ ~~And~~ a Mexican American Community's Struggle For Existence: Phoenix's Golden Gate Barrio," (Ph.D. Dissertation, Arizona State University, 1991), passim.

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most Mexicans in south Phoenix were living in dire poverty. The average income of Mexican families (1,200 in survey) was \$589 a year. The study disclosed that 70 percent of the homes were considered uninhabitable and lacked inside plumbing, electricity, and adequate doors or windows.⁶⁶

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Perhaps the most infamous case of segregation occurred in Tempe. This involved the segregation of Mexicans at Tempe Beach, in reality a swimming complex which was built by the influential Hayden family and other local investors in the 1920s. The developers picked a site in Tempe along the wide Salt River which began to dry up by the end of the decade because of upstream damming and built what became known as Tempe Beach, the "brilliant star in Tempe's crown." While city fathers and other boosters touted this achievement with pride they decided that its benefits would only be available to Mexicans on a separate and part-time basis; they could use the facility once a week. As a historian of Tempe, Scott Solliday, said, "[t]he swimming pool was basically closed for Hispanics. There was one night a week, and it was the night before they drained the swimming pool and filled it with fresh water. And so obviously, aside from the fact that they were not allowed to use the swimming pool most of the time, just the implications that we have to drain the pool after you're done swimming was really such a vicious insult to the people here in Tempe."⁶⁷ In the 1940s, Mexican Americans in Tempe and Phoenix, along with the League of United Latin American Citizens (LULAC) Council 110, and the American Legion Thunderbird Post 41, a Mexican American veteran's group, along with Tempe Mexican veterans led a campaign to pressure the Tempe Chamber of Commerce, which leased the site from the city, to desegregate the swimming complex. In 1946, Tempe Beach was desegregated.⁶⁸

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⁶⁶Dimas, "Progress And A Mexican American Community's Struggle For Existence," pp. 37 and 52; Bradford Luckingham, *Phoenix: The History of a Southwestern Metropolis* (Tucson: University of Arizona Press, 1989), p. 122; *Phoenix Gazette*, May 3, 1941.

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⁶⁷Quote from "Tempe's Hispanic Heritage." Available at Eight/KAET broadcasts from the campus of Arizona State University
<http://www.azpbs.org/arizonastories/seasontwo/hispanicheritage.htm>

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⁶⁸Christine Marín, "LULAC and Veterans Organize for Civil Rights in Tempe and Phoenix, 1940-1947." Available at
<http://www.cervantesvirtual.com/servlet/SirveObras/68016185989478386754491/p0000001.htm>

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Another example of segregation in Arizona took place in Phoenix and concerned housing for veterans. Soldiers after World War II returned to Phoenix and to a housing shortage that forced the city to construct emergency housing. Officials selected three separate sites in order to build 150 family units near the downtown area; one for Anglo Americans, another one for Mexican Americans, and the third for African American veterans. The site chosen for Mexican Americans was located on what had been an old city dump but Anglo American families would be in a cleaner, more attractive part of the city. American Legion Thunderbird Post 41 protested this separation and demanded before the city council that housing for Mexican American veterans and their families be located in an integrated unit on the same ten acres of land where the Anglos' unit was planned. The Anglo veterans formed the Garfield Property Owners Protective Association in order to prevent integration. Such an arrangement, they protested, would lower property values and result in an increase in the crime rate and incidents of rape would rise. A protracted debate ensued, and the Mexican Americans veterans ultimately took the matter to the Arizona Supreme Court. On December 11, 1946 the Court ruled that the City of Phoenix must integrate the housing units.⁶⁹

Segregation in Arizona was also facilitated through federal programs. In the 1930s young Mexican Americans were exposed to the larger Anglo society through such New Deal agencies as the Civilian Conservation Corps (CCC) and the National Youth Administration (NYA), both designed to enroll young people and keep them off the streets during this era of massive unemployment. Nonetheless, discrimination in these new deal programs was prevalent in Arizona.⁷⁰ CCC overseers only recruited a small portion of Mexican Americans to join the Corps and even though the program did not have an official segregation policy when it came to Mexicans, officials housed them in separate barracks because of complaints from white Arizonans.⁷¹

SCHOOL SEGREGATION

Segregation in Arizona public schools became more prevalent as immigration from Mexico

⁶⁹ Ibid; See also American Legion Post 41 Website, <http://www.azpbs.org/arizonastories/seasontwo/americanlegionpost.htm>

⁷⁰ Rosales, *Chicano!*, p. 99.

⁷¹ Meeks, "Border Citizens," pp. 210-211.

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increased in the early 20th century. For example, the Navajo County school superintendent purposefully segregated Mexican students from their Anglo peers from the turn of the century until the 1930s.⁷²

Segregation was particularly pervasive in Arizona mining towns, not only in the public schools but in almost every aspect of community life as well. For the first decade of the 20th century, children in the mining community of ~~Clifton-Morenci~~ attended “four elementary schools segregated both internally and between schools: North Clifton, mixed but with separate classes for Mexicans and Anglos; South Clifton all Anglo; and two Chase Creek schools, one Anglo and one Mexican,” according to the historian Linda Gordon. She adds that when low attendance dictated the two Chase Creek schools merge to economize, the district continued to spend extra money to segregate the Mexican and Anglo students.⁷³ Similarly, in another mining community, Ray-Sonora, Mexican and Anglo children attended separate schools- the Sonora School for the Mexicans and the Ray School for the Anglos-even though their parents worked for the same mining company.⁷⁴

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In a 1916 report that surveyed 427 rural school districts in Arizona, U.S. Bureau of Education researchers indicated, “[i]n practically all Cities in Arizona and in [rural] graded schools large enough to make adjustments, the non-English children are segregated for the first two, three, or four grades.” The Bureau study recommended that this practice continue because it would be in the best interest of both races and advocated a curriculum for the Mexican schools that featured English, practical problems in arithmetic and pre-vocational training.⁷⁵

In the mining town of Douglas, Arizona, vocational training was emphasized in the Mexican schools, as Anglo housewives wanted Mexican girls to become better maids.⁷⁶ In the spring of

⁷²Gordon, *The Great Arizona Orphan Abduction*, p. 194.

⁷³Ibid., p. 194.

⁷⁴ Laura K. Muñoz, “Desert Dreams: Mexican American Education in Arizona” (Ph.D. Dissertation, Arizona State University, 2006), p. 103

⁷⁵Educational Conditions in Arizona, “State Study” ATHJ, no 1 (February 1917: 11-13, quoted in Muñoz, “Desert Dreams,” p. 105.

⁷⁶Ibid., pp. 112-113.

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1916, Helen Roberts, professor at Tempe Normal School (now Arizona State University) and Grace Gainsley of Pirtleville School in Douglas introduced "special vocational work" for Mexican children. When Roberts became principal of Tempe's Eighth Street school for Mexicans, which was run by the Tempe Normal School, she instituted these vocational courses. While many Mexican parents did not want their children to attend these segregated facilities, officials strictly enforced truancy laws and the parents were arrested, fined or threatened with jail.⁷⁷ In Bisbee during 1920, in order to segregate the Mexican from the Anglo students, a new school was built with 10 classrooms; the designers slated five for industrial education.⁷⁸

The first successful desegregation court case involving Mexican Americans in Arizona, *Romo v. Laird*, occurred in Tempe, Arizona, in 1925. The suit was brought by Adolfo Romo on behalf of his four children, who were attending Eighth Street Elementary School, a training laboratory for Tempe Normal School. Anglo children had attended the Eighth Street facility since Tempe was settled in the late 19th century because it was the only school in the town. However, in the early 20th century agricultural sectors in central Arizona modernized and the population of both non-Mexicans and Mexicans increased. Trustees of the Tempe School District # 3 then built the Tenth Street School in 1915 but did not allow Mexican children to attend, citing their lack of English proficiency. Romo, whose wife was half Anglo, felt that his English-speaking children did not belong in a segregated facility and attempted to enroll them in the new school, but was refused by school officials. He then sued the school district in Maricopa County Superior Court, and Judge Joseph S. Jenckes ordered that the Romo children be allowed to enroll and attend.⁷⁹

Jenckes ruled against segregation because the district violated the 1913 Arizona Civil Code that required school districts to provide all school children in the state an equal education. Referencing the Eighth Street School's practice of having students serve as instructors, the judge found that "the defendants [had] failed in their duty to the plaintiff in not providing teachers of as high a standard

⁷⁷Ibid.

⁷⁸Ibid., p. 122

⁷⁹Rosales, *A Dictionary of Latino Civil Rights History*, pp. 390-391.; David Ray Garcia, "The Romo Decision and Desegregation in Tempe," (Honor's Thesis, Arizona State University, 1993).

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of ability and qualifications to teach the children of the plaintiff in the said Eighth Street School...." The Romo children and other Mexican Americans were allowed to enroll in the new school as a result, but Tempe school officials continued to segregate other Mexican American children whose parents did not complain.⁸⁰

In 1938 the Latin American Club became involved in an intensive campaign to end segregation in the twin mining towns of Globe-Miami. The Conquistadores, an Arizona State Teacher's College Mexican American organization, joined them in this effort. The leadership of the two organizations continued their desegregation efforts in the 1952 *Sheely v. González* case. In the *Sheely v. González* decision, the court abolished segregation in Tolleson. Though the case served as a major legal victory and set a precedent for school desegregation throughout Arizona, most school districts failed to comply with similar court rulings. School officials resisted compliance with these judicial mandates, and the state neglected to enforce them, and Mexican American students continued to attend racially isolated schools.⁸¹

In 1978 Latino and black parents won a federal class-action lawsuit against Tucson Unified School District (TUSD). Their challenge was premised on the racial isolation that resulted from the migration of Anglos away from central Tucson to suburban areas of the city in the 1960s. The plaintiffs argued that the primarily minority inner city schools did not provide the same educational opportunities and were deteriorated compared to the newer, predominately Anglo schools. Thus, the plaintiffs argued TUSD had a duty to racially integrate its schools. In 1978 the plaintiffs prevailed and Judge William C. Frey issued a desegregation order in June of that year. As a remedy, the district chose to create magnet schools in the central city sites and to bus minority

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⁸⁰ According to Muñoz, the School Board operated the segregated school until 1945. See "Desert Dreams," p. 184; See also Garcia, "The Romo Decision and Desegregation in Tempe," 23-24; For the legal particulars of the case see Superior Court of the State of Arizona in and for the County of Maricopa, Adolfo Romo, Plaintiff vs. William E. Laird, J.H. Daniel and I.F. Waterhouse as members of and constituting the Board of Trustees of Tempe School District No. 3 and G.W. Persons, Superintendent of Tempe School District No. 3, Defendants, No. 21617, Judgement, Judgment and Findings of Fact and Order, October 5, 1925.

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⁸¹ Muñoz, "Desert Dreams," p. 266 p. 185-186; see also United States Commission on Civil Rights, "Mexican American Education Study, Report 1: Ethnic Isolation in the Public Schools of the Southwest," Chapt. 2, April 1971. Available at <http://www.law.umaryland.edu/marshall/usccr/documents/er12m1573rp1.pdf>

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students to predominantly white schools. The District remains under court supervision today.⁸³

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MODERN EDUCATION ISSUES

Language and pedagogical issues have also been a source of concern in the Mexican American community. Until 1972, Guadalupe, Arizona, special educators administered IQ tests written solely in English to Yaqui Indian and Mexican American children who spoke little or no English, even though a case challenging similar practices toward Mexican-American children terminated that practice in California. The Guadalupe Organization, Inc. learned through extensive publicity about the California effort and initiated a suit against the local school district which ended the practice after a court review was sought by the plaintiffs who filed a suit against the Tempe Elementary School District.⁸⁴

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The civil rights of English Language Learners (ELL) were strengthened in 1974 when Congress passed the Equal Educational Opportunity Act (EEOA), which stated that:

.....no state shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin by...the failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.⁸⁵

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This measure requires educational institutions to provide the necessary resources to overcome linguistic and/or cultural barriers that prevent students from equal participation in instructional programs. Arizona established laws for ELL programs almost immediately but it was not until 1986 that the Arizona State Legislature required school districts to provide special instruction for ELLs. It also established ELL teacher qualifications and reporting requirements for school districts. The increasing number of ELLs coupled with increased

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⁸³Chris Limberis, "Desegregation Dispute: Has TUSD's Desegregation Efforts Driven Students to Charter Schools?" April 21, 2005, *TucsonWeekly*. Available at <http://www.tucsonweekly.com/gbase/Currents/Content?oid=oid%3A67993>.

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⁸⁴Richard A. Berk; William P. Bridges; Anthony Shih, "Segregation of Poor and Minority Children into Classes for the Mentally Retarded by the Use of IQ Tests, *Michigan Law Review*, Vol. 71, No. 6. (May, 1973), pp. 1212-1250.

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⁸⁵Quoted in Angela Marie Randolph, "Advocating English for English Learners: Flores v. Arizona, a Case Study," (Ph.D. Dissertation, Arizona State University, 2005), pp. 4-5.

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student accountability made it difficult for school districts, specifically the Nogales School District, to comply with the requirements. Initially, school districts received approximately \$50 dollars per ELL beginning in the 1989-1990 school year to comply with the teaching the English requirement.⁸⁶ In 1992, Southern Arizona Legal Aid filed the *Flores* case, a class action lawsuit in federal court on behalf of parents of ELLs. Seeking to force the state to improve programs for ELLs, the plaintiffs contended in part that "the state is in violation of federal law by failing to provide Arizona school districts with the revenues necessary to instruct LEP students." The plaintiffs also claimed that the Arizona Department of Education failed to ensure that schools were providing adequate programs for ELLs.⁸⁷ Charges of inadequate funding stemmed from the failure of the Arizona Department of Education to meet the level of funding necessary to maintain ELL programs, a cost per pupil which the Department had arrived at through its own studies. Even though the complaint was filed in 1992 it was not until 1999 that it received a hearing. In January of 2000 the federal judge who presided over the case ruled that Arizona was in violation of the federal Equal Opportunity Act because its funding for ELL programs was "arbitrary and capricious."⁸⁸

In 2004 the state had not yet complied with the mandate according to a number of federal court overviews.⁸⁹ Today, the *Flores vs. Arizona* case continues to pivot around the issue of how much money is sufficient to meet federal requirements to provide an equitable education for all students. On February 22 of this year, a federal appeals panel ruled that the funding to comply with Arizona's English-language instruction law was so inadequate that it "may well retard or reverse whatever progress has been made in the instruction of more than 134,000 Arizona children who are struggling to learn English."⁹⁰ The panel set a March 4 court deadline to submit a funding plan for English-language programs, but legislative

⁸⁶ Ibid., p. 22.

⁸⁷ Ibid., p. 9.

⁸⁸ Ibid., p. 31.

⁸⁹ Ibid., Chapter 4, passim.

⁹⁰ *Arizona Republic*, February 23, 2008

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leaders indicated they could not meet this goal and asked for an extension until April 18,

2008.⁹¹

DISCRIMINATION IN THE WORKPLACE

Before the Second World War, mainstream unions did not accept many Mexican American workers because they had previously been successful in industries outside of Arizona where few Mexicans worked. They generally neglected Mexican employees, and unions in the agricultural camps, which were often comprised of Mexican American and Mexican immigrant workers, were virtually non-existent or too weak to be effective. By World War II Mexican Americans in Arizona began to participate more fully in unionization, although some industries, such as agriculture, have not unionized at the same pace.

AGRICULTURE

As early as 1908 Mexicans were recruited to come to Arizona to work in agriculture. The main reason was the railroad became an economic boom to the agricultural output of the Valley and by 1907 Phoenix served as a rail hub with lines extending in every direction. The Newlands Reclamation Act of 1902 and the completion of the Roosevelt Dam in 1912 spurred agricultural production, creating an intense demand for Mexican labor.⁹²

While employers fought strenuously for Mexican immigration, they and sympathetic politicians felt that Mexicans should only be tolerated for their physical labor and not afforded the rights of citizens. For example, U.S. Representative Carl Hayden testified on behalf of his cotton constituency and while supporting waiving the provisions of the 1917 Literacy Act (immigrant literacy requirement) for Mexicans, he admitted that Mexicans could be a threat to the American way:

The proper thing to do in the United States is to populate our country with our own kind of people. Whenever there are permanently imported into this country, from any source a class of people who will not, after one or two generations, look the same, act the same, have the same ideals as good citizens as the native born American, that

⁹¹Ibid. pp. 63-70. *Arizona Republic*, February 28, 2008.

⁹²Dimas, "Progress And A Mexican American Community's Struggle For Existence," pp. 39-45.

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sort of people should be excluded from the United States.⁹³

Mexicans tended to stay and work in Valley agriculture year-round by the end of the 1920s, since irrigated crops allowed for year-round work. Farmers in providing housing for Mexican seasonal workers gave preference to families that: "...contained a reserve supply of seasonal workers in addition to the regular breadwinner. Children just beyond the school years furnished an ideal reserve supply from the farm operator's point of view, and they tipped the scale of economic advantage in favor of their home households."⁹⁴

When W. H. Knox, president of the Arizona Cotton Growers Association and Congressman Carl Hayden testified to renew the immigration literacy waivers given to Mexicans at a 1920 congressional committee hearing they struck a delicate balance so as to convince committee members that while Arizona employers wanted Mexicans, they were still interested in maintaining the dominant position of Anglos. He assured the committee that whites lived in Valley towns, while most Mexicans were confined to peripheral agricultural and mining camps and said, "The result of this industry [cotton] is building up a city....Thousands and thousands of acres that have been desert, by pumping plants [have been] put under irrigation and are making homes for thousands of white people."⁹⁵

Mexican agricultural workers were often unsuccessful in their unionizing efforts. At times they defended their interests through informal means, such as traveling in groups or families and insisting on being hired as a unit.⁹⁶ This provided some form of security, but as historian Pete Dimas has pointed out in his dissertation on Mexicans in Phoenix, the position

⁹³United States Congress, *Temporary Admissions of Illiterate Mexican Laborers. Hearings Before the Committee on Immigration and Naturalization. House of Representatives, Sixty Sixth Congress, Second Session on H.J. Resolution 271. January 26, 27, 30 and February 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 1919.* p. 195.

⁹⁴E. D. Tetreau, E. D. Tetreau, *Arizona's Farm Laborers*, Agricultural Experiment Station Bulletin 163. Tucson: University of Arizona, 1939. p.312.

⁹⁵United States Congress, *Temporary Admissions of Illiterate Mexican Laborers. Hearings Before the Committee on Immigration and Naturalization*, p. 195.

⁹⁶Rosales, *¡Pobre Raza!*, p. 109.

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of Mexicans in agriculture made abuses in the workplace harder to defend and often workers found themselves at the mercy of their employers.⁹⁷ For example, in Phoenix, Arizona on May 9, 1912, farm worker José Castro was beaten senseless by his boss, who knocked out most of his teeth. Justice of the Peace Parker, who heard the case ruled that no criminal charges could be filed.⁹⁸ Similarly on October 7, 1919, cotton farmer, C.H. Kunce was accused of beating employee Crispín Ruvalcaba with a tree branch after he had been handcuffed by local constable. The scars from the beating were still visible days after. Maricopa County Attorney R.A. Jarrot and Judge C.D. Wheeler characterized the assault as a "Brutal Job" according to the *Arizona Republican*. Kunce pleaded guilty and was tried by a justice of the peace and fined. The constable, Charles Beckham pleaded not guilty and was freed.⁹⁹

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MINING

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According to several historians, mistreatment of Mexican Americans in Arizona was widespread. One of the biggest abuses was wage segmentation. Eric Meeks' dissertation provides insight as to why Arizona Mexican Americans were not paid the same as their Anglo counterparts.

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By the turn of the century, there was a clear, multi-tiered, racialized class structure in Arizona's mines. This racial hierarchy was readily apparent in the wage levels in the Clifton-Morenci-Metcalf mining district of southeastern Arizona. In the Clifton mines in 1909, ninety-four percent of native-born workers who were identified as "white" earned three and a half dollars per hour or more. Immigrant groups identified by the Immigration Service as "white" – primarily from North America and Northern Europe – earned comparable amounts.

In stark contrast, ninety three per cent of Mexican workers earned between one and a half

⁹⁷Dimas, "Progress And A Mexican American Community's Struggle For Existence ," pp. 31-64.

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⁹⁸"Report," Jose Castro, May 9, 1912.

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⁹⁹ Ygnacio Bonillas, Mexican Ambassador to Robert Lansing United States Secretary of State, October 28, 1919; *Ibid.*, Lansing to Bonilla, January 18, 1920, National Archives, Record Group 59, File 311.1221 R94.

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and two and a half dollars, with less than one per cent earning more than three and half dollars.¹⁰⁰

The Mexican consulate service often served as a broker for Mexicans and their employers. Consuls were supposed to maintain distance when labor conflicts involved compatriots, but they nonetheless monitored procedures to prevent legal violations. When Cochise County officials jailed four thousand Mexican participants in the 1917 Arizona copper mine strikes, the Mexican consul in Douglas, Ives Levelier, helped get hundreds of strikers released. Consuls also objected to dangerous and unhealthy working conditions. Miner's consumption, also known as "black lung," affected Mexican miners so disproportionately that the Mexican consul in Globe, Arizona, Gustavo G. Hernández, wrote in May of 1918, to the Arizona State Federation of Labor and Governor George W. P. Hunt, asking that management be made to comply with state regulations requiring ventilation of mining shafts for an end to the conditions which caused this disease. "It strikes me that the number of Mexicans who are sick [more] than any other nationality....," the consul wrote. Mexicans were more susceptible to black lung because they operated "pluggers" where most of the deadly dust was inhaled.¹⁰¹

The most intensive institutional union efforts involving Mexicans took place in Arizona mines, with workplace danger and dual wages as the main concerns of Mexican miners. Owing to these conditions, in 1903, a number of strikes in the mining regions of Clifton-Morenci were repressed by local police, the Arizona militia, and Arizona Rangers at the behest of the mine owners and local politicians.¹⁰² The same methods were employed against striking Mexican miners in Globe-Miami and Bisbee as well.¹⁰³

¹⁰⁰ Meeks "Border Citizens," p 83.

¹⁰¹ Rosales, *Testimonio: A Documentary History of the Mexican American Struggle for Civil Rights* (Houston: Arte Público Press, 2000), pp. 230-231.

¹⁰² Weber, *Foreigners in Their Native Land*, 219; Mellinger, *Race and Labor in Western Copper*, 42-48.

¹⁰³ Rosales, *¡Pobre Raza!*, 174-175.

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During extensive labor organizing activity in 1914 by the Western Federation of Miners, employers and local officials conducted harassment campaigns to intimidate workers. In August a posse of Americans fought a pitched battle with Mexican union organizers after they were accused of stealing a horse near Ray. In a battle that the *Los Angeles Times* called "Race War in Arizona," four Americans and two Mexicans were killed after the Mexican "bandits" took refuge in a canyon cabin and the Americans assaulted the building. "After the first brush between horse thieves and posse, Ray citizens drove all the Mexicans out of town," said the *New York Times*. The dead Americans were two law officers and two employees at the Ray Consolidated Company. The *Arizona Republican* identified the Mexicans as wood cutters and unionists who hauled wood for mining operations. Mining company officials considered Pedro Smith, one of the dead Mexicans, and Ramón Villalobos, the only survivor of the shootout, to be union agitators. The Mexican community suspected that the "horse stealing" charge was trumped-up in order to jail these alleged "troublemakers." Villalobos, who was hanged two years later for his part in this killing, became a *cause celebre* as compatriots tried to save him from the gallows.

Job discrimination was common throughout the Depression and into the war years. For example, in 1941 the constitution of the Brotherhood of Locomotive Firemen and Enginemen in Tucson explicitly barred the promotion of non-whites to positions such as firemen and brakemen stating that "Mexicans, Indians, or those of Indian or Spanish-American extraction are not eligible" for these positions.¹⁰⁴ A doctoral student from the University of Chicago conducting a sociological study of Mexicans in Tucson during the late 1940s interviewed the Department head at Tucson's Southern Pacific Railway office who told him, "I haven't hired any Mexicans, not because I'm prejudiced, but because... I think our own boys should have a chance first." The investigator also reported that telephone companies would not generally hire Mexican women because of "their accent in speaking English." In addition, a cab dispatcher told him, "Why, those damn, dirty Mexicans, I wouldn't have them around me at all. We just don't like them. We wouldn't have a Mexican driver."¹⁰⁵

¹⁰⁴ Quoted in Meeks, "Border Citizens," p. 210.

¹⁰⁵ Previous three quotes are *Ibid.*

Employment discrimination has continued to affect Arizona Mexican Americans in recent years. Municipal employees have been in the forefront of protesting in the courts. For example, in 1997, a former Scottsdale police officer sued the city, claiming he was fired for exposing racism in the department. A jury awarded him \$100,000. Then, the following year, Tempe worker, Daniel Dominguez, a 35 year city employee who remembered co-workers calling him "taco vendor" and other derogatory names, joined a dozen current and former city employees in filing a federal lawsuit, alleging systematic racial discrimination in Tempe's Public Works Department. Plaintiffs, who filed their petition in April of 2002, claimed Hispanics were passed over for promotions and subjected to unfair discipline procedures.¹⁰⁶ The suit dragged on for three years but in July of 2005, "a federal jury awarded nine Hispanic men \$2.4 million for enduring years of racism while they worked for the city."¹⁰⁷

CONCLUSION

Discrimination against Mexican Americans in Arizona has existed since the Treaty of Guadalupe Hidalgo absorbed the area north of the Gila River in 1848 and the Gadsden Treaty in 1853 acquired the rest of what is now Arizona from Mexico. After conducting this study I conclude that Mexican Americans in Arizona have experienced a history of discrimination in voting and registration. In addition persons of Mexican origin have had to endure discrimination in other areas such as property rights, employment and education. I believe that this discrimination has hindered and continues to hinder the ability of Mexican Americans to fully participate in the political process in Arizona.¹⁰⁸

March 7, 2008

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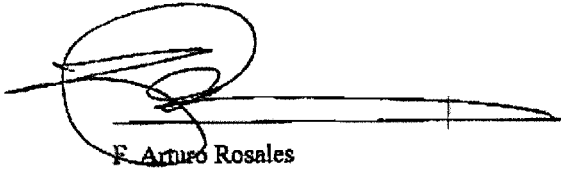
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¹⁰⁶ Arizona Republic, April 9, 2002.

¹⁰⁷ Arizona Republic, July 1, 2005.

¹⁰⁸ See, for example, Luckingham, *Minorities in Phoenix*, p. 70.



F. Arturo Rosales

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