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Mexican Lawlessness: Genocide and Massacre in Julián Herbert's *La casa del dolor ajeno*

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Abstract

This article examines Julián Herbert's *La casa del dolor ajeno: crónica de un pequeño genocidio en La Laguna* (2015), which deals with a massacre of 300 Chinese people in Torreón, Mexico, in 1911. This *crónica* in novelized form weaves together the history of Chinese immigration to Mexico with contemporary violence and the author's own experiences of research and writing. I bring Herbert's imaginative interpretation of the past into conversation with the Mexican Constitution and penal codes that were in force during the massacre, and at the time Herbert was writing. I compare his treatment of the initial reports to late 19th and early 20th-century ideas of a right to life, work and citizenship and relate his 21st-century reflections to 20th century concepts of genocide. The article concludes that this weaving together of past and present exposes the violence of capitalism that preys on vulnerable people.

Keywords

Genocide; memory; law; Mexico; Chinese immigration

Julián Herbert's 2015 work *La casa del dolor ajeno: crónica de un pequeño genocidio en La Laguna* portrays a 1911 massacre of approximately 300 Chinese and Chinese-descendent people on the streets of Torreón, an industrial city in the state of Coahuila; the events around the massacre unfold throughout the La Laguna region, which spills over into the neighboring state of Durango. Herbert's work states that ordinary people executed the massacre and then blamed it on revolutionary conflict. He reaches this conclusion by conducting interviews and reading historical interpretations of the events from the early 21st century and by seeking out newspaper reports and archival material from the early 20th century. His work also compares this massacre to current violence in Northern Mexico commonly attributed to drug cartels.

La casa del dolor ajeno has received multiple positive reviews. In 2015, *El Siglo de Torreón* highlighted the importance of Herbert's connections between past and present violence, and lauded him for the way he pushed readers out of a falsely gained sense of peace about the past ("*La casa del dolor ajeno*"). Other reviewers, such as Juan Carlos Talavera, concur, highlighting that the massacre was not a random act of violence but one condoned by those in power. The way that this novel recreates

a historical event and emphatically states that it was not committed by revolutionary forces, then, is a key intervention against the violences of capitalism committed by everyday people every day.

Herbert's representation of the massacre in *La casa del dolor ajeno* establishes that capitalism contains ongoing catastrophes like genocide, which come about at an enormous cost to human life. In this vein, I argue that the massacre of Chinese people in Torreón was a consequence of systems that implicitly foster and condone violence and not an example of "lawlessness" in Mexico. I contextualize this argument by discussing the violence of capitalism, the ways other scholars have compared literary and legal discourse in other literary traditions and a brief discussion of the novel's genre. I then compare Herbert's portrayal of the massacre to Mexico's then-current 19th-century constitutional laws and Penal Code, particularly its concepts of murder and foreign naturalization and his reflections on the ongoing nature of violence to 21st-century concepts of genocide.

The Violences of Capitalism

Capitalism perpetuates violence in such a way that, according to political scientist Garry Leech, it can be defined as structural genocide. This is hard to prove and few are held accountable. Leech argues that genocide, or targeted overt violence "perpetrated against any group or collectivity on political grounds can result from structural violence" (Leech 18-19). In other words, genocide is a violence that is enacted along already existing social inequalities based on systems like race, gender or ethnicity (Leech 18-19). He adds that that this genocide "is 'intentional' when an act 'knowingly' results in death on a mass scale" (Leech 19). At the same time, it is difficult to assess how intentional an act was, who had this intention, and whether they were knowledgeable about its consequences, because laws are designed to blame and prosecute individuals, not an entire capitalist system. Some examples of genocide might have a responsible individual and this individual might still not be prosecuted.

The state also has an important role. I define the State as an entity beyond a single branch of government, which decides how, and under which circumstances, to enforce the Constitution and the laws that arise from it. This understanding follows Carl Schmitt, who famously stated that the "Sovereign is he who decides on the state of exception" (5).¹ In other words, the state is powerful enough to decide if or when to pay attention to the law. Giorgio Agamben has revisited Schmitt's ideas and, important for studying Herbert's work, he notes that a state of exception does not necessarily mean a dictatorship or the declaration of a state of emergency. It can also be any "space devoid of law . . . in which all legal determinations . . . are deactivated" (50). The State, then, decides how to enforce the law.

Literary and Legal Discourse

The work of Imani Perry, scholar of African-American culture and former law professor, has also studied situations that could also be termed exceptional—when the law was enforced in ways we would now recognize as unjust, and where what should have been the exception was the rule. Much of her work explores questions of legality, power and responsibility in US literature, including the article “Black Arts and Good Law: Literary Arguments for Racial Justice in the Time of Plessy” (2008). She analyzes the legal exclusion of African-American people in the United States at the turn of the 20th century. She compares a series of novels to the landmark Plessy v. Ferguson case, which upheld the notion of “separate-but-equal” treatment for African-American people. Her arguments are pertinent for my discussion of literary and legal portrayals of inclusion and exclusion of a much smaller minority, Chinese people in Mexico, in roughly the same time period. Perry explains that the law and the legal framework give space to argue for “an accepted truth about racial equality” (73). On the other hand, she notes that literature offers “a provoking interrogation of the possibilities of form and process in a democratic space” (Perry 73). In other words, novels, essays and other writing imagined another reality using many of the same tools as the law. These works of art imagined another future for African-American people “by challenging the interpretation of the rules by exposing and narrating a broader set of facts set forth for interpretation” (Perry 76). Interpretation and imagination also influence my reading of *La casa del dolor ajeno*.

Indeed, Herbert’s work is an imaginative reconstruction of history. It comes out of the Latin American tradition of metafictional representation from the later decades of the 20th century.² Herbert’s title itself is metafictional, referring to the Torreón soccer stadium’s nickname, “La casa del dolor ajeno.” The stadium, like Herbert’s work, refers to Torreón’s past and present. It was officially named after its sponsor, Corona, and was known for its team, Santos Laguna, and for its rabid and sometimes violent fans. They had such a fierce reputation that fans of other teams were afraid to enter the stadium because their team would likely lose.³ In the fighting that would typically follow a soccer match, they might even lose their teeth (Herbert, *La casa del dolor* 63). The stadium thus represented an emotional and a physical “dolor ajeno” for those not from Torreón. In 2009, the old stadium closed and the new home, also sponsored by Corona, was given the official nickname “Templo del desierto.” According to Herbert, the stadium painted over any references to the former nickname as part of a campaign to promote peace in soccer fan culture. This naming and renaming, according to reviewer Juan Carlos Talavera, reminds us that Torreón’s soil, like Mexico’s, contains generations of cadavers

and that its history involves significant pain. The novel's title, then, alludes to the ways that soccer officials manipulated its past to create a vision for its future.

19th-Century Laws and 20th-Century Massacre

The massacre took place in 1911, a year after the Mexican Revolution began, and it is commonly attributed to the forces of Francisco I. Madero. Yet, as Herbert takes great pains to demonstrate, local people led the massacre. They covered up their own role in these events by blaming a faction of Revolutionary soldiers and recurring to existing stereotypes of Chinese people.

La casa del dolor ajeno's account of increasing negative stereotypes, which corresponded with growing Chinese immigration in the Americas, concurs with historians' assertions. Elliot Young's *Alien Nation: Chinese Migration in the Americas from the Coolie Era through World War II* (2014) notes that after the 1857 Constitution, Mexico allowed any immigrant to enter. Many emigrated from China to Mexico. After several decades of this immigration to Mexico, in 1882, Porfirio Díaz's government began to explicitly encourage Chinese immigration (Young 106). Historian Grace Peña-Delgado's *Making the Chinese Mexican: Global Migration, Exclusion, and Localism in the U.S.-Mexico Borderlands* (2012) adds that in this period, Chinese immigrants adapted so well to Mexico that they considered themselves Mexican. This provoked significant hatred from other people in Mexico (Peña-Delgado 103). Those living in Northern Mexican states, particularly Coahuila, then retaliated with anti-Chinese actions. Herbert explains that many Chinese people came to Mexico to eventually enter the United States and that both countries came to increasingly depend on Chinese labor (Herbert, *La casa del dolor* 18). In 1911, stereotypes of Chinese corruption came to a head with massive unemployment (Herbert, *La casa del dolor* 81, 147).

This combination meant that blatant hatred exploded. Herbert recreates the massacre and explains that “los colonos asiáticos fueron sacados a la calle y ejecutados a tiros, golpes y machetazos” (Herbert, *La casa del dolor* 199). In spite of the violence enacted against them, “No existe . . . un solo dato positivo que permita afirmar que la comunidad china lagunera estuvo interesada en dar pelea a las tropas,” that is, there is no concrete evidence that Chinese person in Torreón was violent towards those who were killing people in the streets (Herbert, *La casa del dolor* 172). Essentially, people in Torreón enacted violence against defenseless people. This was not an isolated incident. Even after the massacre and triumph of the Revolution with the 1917 Constitution, violence against Chinese people continued (Herbert, *La casa del dolor* 249). In fact, by the 1930s, Chinese immigrants were being accused of bringing infectious and contagious diseases such as syphilis, trachoma and tuberculosis to Mexico

(Young 207, 215). The 1911 events, then, were part of a long history of so-called decent people acting against Chinese immigrants and their descendants in Mexico.

It is important to keep this arc of violence in mind as we begin to look at the Mexican laws that outline if, and when, it is ever appropriate to kill other people and those laws that explain how foreigners might become Mexican. In 1911, to the best of my knowledge, legal concepts came from the 1857 Constitution, revised until 1901, and from the 1871 Federal Penal Code, which was revised in 1883. In the exceptional situation of the Revolution, the laws may not have been applied. Still, I refer to the Constitution and the Penal Code because they would have been familiar to the journalists portraying the massacre in newspapers and to bureaucrats writing reports, memos, letters and other types of documents about the events. Examining them closely shows us the extent to which “gente decente” were willing to pretend that they had not broken any laws and to rewrite events so that they could avoid acknowledging their own participation in a brutal act of violence.

The Constitution and Penal Code were based on 18th and 19th-century French and American liberalism and they make it clear that men have multiple rights.⁴ For instance, the first article of the Constitution states that “El pueblo mexicano reconoce que los derechos del hombre son la base y el objeto de las instituciones sociales” (“Constitución federal” 5). Nothing was to prevent men from working, from writing or from expressing their opinions through writing (“Constitución federal” 5). The Constitution’s sixteenth article adds that no one should be “molestado en su persona, familia, domicilio, papeles y posesiones, sino en virtud de mandamiento escrito de la autoridad competente” (“Constitución federal” 6). It establishes that were this to happen, people would have a right to fight back. The Constitution goes on to explain that the government is the only entity that can apply any kind of sanction or punishment.⁵ This means that the Constitution would prevent groups of citizens from taking power into their own hands. Thus, echoing other constitutions and laws from the time period, Mexico clearly established that no one should be a victim of a crime nor should the people arbitrarily enforce laws.

The 1883 revision to the 1871 Federal Penal Code enacted many of these ideals. It was in force throughout the country.⁶ The Code goes into detail about appropriate punishments for various crimes. Article 1098 describes penalties for a rebellion that would target a specific group and so is most relevant to the massacre of Chinese people in Torreón: “Cuando se concierte que los medios de llevar a cabo una rebelión sean el asesinato, el robo, el plagio, el despojo, el incendio ó el saqueo, se impondrán á los conspiradores cinco años de reclusión y multa de 100 á 1,500 pesos” (“Código penal

para el Distrito Federal” 238). The divide between this theoretically good law and lived reality under Díaz’s rule was as wide, or wider, than it is today.

The laws, and this gap between law and enforcement, also pertain to foreign immigration. The 1857 Constitution gave foreigners, including Chinese people, ways to become Mexican. For instance, Article 30 stated that anyone who was born to Mexican parents or to naturalized foreigners had the right to Mexican nationality. Foreigners could also become Mexican without going through a formal naturalization process. The Constitution established that anyone who acquired property in Mexico, or who had children in Mexico could become Mexican, as long as they did not express a desire to retain their own nationality (“Constitución” 8). It added that foreigners had the same rights as Mexicans, except that they could be expelled from the country were they to commit a capital offense. Therefore, killing a group of people because they are not Mexican would go against these constitutional decrees. It might even mean that since the massacred people—largely small business owners—would have been eligible for Mexican citizenship, they surely had the same rights before the law as those who brutally murdered them.

Herbert’s non-fictional work details the events, without recurring to legal discourse. Indeed, none of the reports he cites acknowledge that Chinese people had rights in Mexico, or that they may have been able to claim these rights because they were Mexican. This may be because under Porfirio Díaz, hardly anyone could exercise their rights; it may also be because of widespread prejudice. Indeed, the closest Herbert comes to acknowledging legal discourse is when he criticizes a foundational report on the massacre by Rafael Ramos Pedrueza. In Herbert’s view, it is “una lectura jurídicamente concienzuda que se atiene a los hechos, ignora el contexto y recurre . . . al enigma de la violencia perpetrada por una masa anónima para dar una explicación que no involucre a la gente decente” (23). He ignores this report’s relationship with the law in order to advance his thesis that decent people committed the massacre.

Herbert also contests the way that newspaper reports attribute the massacre to the Revolution; in so doing, he shapes their almost neutral language of murder into descriptions of a genocide. This reporting, he implies, would have allowed the so-called decent people to pretend that they were not part of a violent act that killed some and deprived a group of others of their rights. *La casa del dolor ajeno* states that the first printed reference to the massacre is from May 16, 1911, when “Uno de los sobrevivientes se las ingenió para huir de Torreón . . . y se trasladó a Monterrey o a Saltillo, desde donde envió a Ciudad Porfirio Díaz un cable dirigido al empresario Wong Chan Kin narrando el pequeño genocidio” (21). “Pequeño genocidio” is Herbert’s terminology, not the

telegram's. This demonstrates a twenty-first century legal interpretation of the events. This telegram's timing, as Herbert goes on to explain, was unfortunate. It was sent only six days before Porfirio Díaz was to be officially removed as president. Therefore, it was unlikely that anyone with power would act in the Chinese community's favor. In spite of the revolutionary chaos, a few days after Kin received the telegram in Mexico City, US and Mexican newspapers began to report on the massacre. Several published articles stated that Maderista troops had assassinated 224 Chinese and 7 Japanese people (22). These articles perpetrate the myth that Madero's soldiers were to blame. The Mexican press, which, in his view: "se debatía entre una indignación histórica . . . una defensa a rajatabla del maderismo . . . y un humorismo cínico y racista" (22).⁷ He then compares this hysteria to reports in the English-language *The New York Times*. This newspaper, in Herbert's retelling, claimed "que el doctor Lim había muerto linchado" (22). The use of the word "linchado" was so striking that I sought out the source in Herbert's bibliography, "Killed in Torreon Number Hundreds." Not only is it an incorrect citation, but the correct article, "Rebels Kill Chinese Banker," does not employ the term, "lynching." Herbert interprets the way the article described Dr. Lim as being dragged with a rope around his neck until he died in this way. Herbert's vocabulary, then, overtly names this as a racially-motivated murder rather than simply a violent act committed by any revolutionary faction.

A careful reading of the Penal Code and Constitution, then, enhances our understanding of the initial reports on the massacre, and representations of it. It shows us that the reports on the massacre did not take legal language into account, nor do they appear influenced by the obvious crime that had taken place. Herbert's contemporary interpretation of the initial reports does not outline a relationship between what he calls hysteria, defending maderismo, and Mexican law. Indeed, even describing a lynching fails to explore how the events in Torreón directly contravene the liberal discourse about how each person has a right to life, and a right to work. That being said, *La casa del dolor ajeno* is not a complete historical account—nor does it try to be. It may ignore reports in newspapers or in the four *legajos* of files in the archive of the Mexican Ministry of Foreign Affairs that would have interacted with legal discourse to a greater extent. The ways that *La casa del dolor ajeno* recreates initial reporting of the events, thus suggests that Chinese people were not considered part of Mexico.

Late 20th and Early 21st-Century Considerations

Herbert also engages with interpretations of the massacre from the past three decades. International concepts of genocide, including its Mexican interpretation, are the unnamed foundation of this perspective. The current Mexican Federal Penal Code defines genocide in ways that are consistent

with the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide. It explains that genocide is a crime “con el propósito de destruir, total o parcialmente a uno o más grupos nacionales o de carácter étnico, racial o religioso, perpetrarse por cualquier medio delitos contra la vida de miembros de aquellos, o impusiese la esterilización masiva con el fin de impedir la reproducción del grupo” (“Código penal federal”). The Penal code, then, specifically mentions attacks on bodily integrity or health of ethnic, racial or religious groups. This explanation and the penalty, between four and forty years, are more pointed than federal or state laws regarding homicide. They state that “Al responsable de cualquier homicidio simple intencional que no tenga prevista una sanción especial en este Código, se le impondrán de doce a veinticuatro años de prisión” (“Código penal federal”). The Coahuila State Code adds specific penalties for murdering journalists (“Código penal de Coahuila”). The current federal code’s inclusion of genocide, beyond laws about murder, is also telling. Mexico is a country that fails to implement its laws, not a country that fails to have laws.

Herbert’s analysis of the recent interpretations of the massacre do not touch on genocide. He lauds Juan Puig’s 1992 historical account for being the most accurate; yet, he criticizes Puig for his dedication to the archive. In Herbert’s view, Puig’s “metodología es ajena a los discursos interdisciplinarios. Su interpretación es quirúrgica pero carece de amplitud” (31). Herbert offers more praise for Marco Antonio Pérez Jiménez, who takes business people, landowners and political leaders’ anti-Chinese sentiment and xenophobia into account as he narrates the massacre (32).⁸ It, too, refuses to characterize the events as anything other than killing (Pérez Jiménez). These perspectives, and Herbert’s engagement with them, do not explore the legality of genocide, or illegality of murder, other than the basic acknowledgement that killing another is wrong.

Herbert also gains a populist perspective by talking to taxi drivers. One taxi driver almost concurs with official discourse that blames Madero’s troops by blaming another faction of Revolutionary troops: “Y mi general [Villa] no se andaba con mamadas. Se los chingó [a los chinos] por culeros” (35). This celebrates the Villistas’ contribution and dismisses Chinese immigrants with derogatory slang. Another taxi driver does not seem to be aware that this was an historical event, because he responds: “Han de haber sido los Zetas, ¿no? Esos weyes son los que matan a todos” (92). It seems unlikely that the rich and powerful of the 1910s were the precursors of the Zetas cartel—but their violence against largely powerless people is the same. Herbert’s interpretations of these reflections is similarly distant from legal discourse. His attempt to uncover the truth behind the massacre and the truth about how people speak about the massacre and Chinese people in Mexico does not suggest that these events were isolated or that they were part of a tradition of a lawless

Mexico. This massacre was the result of the violent logic of capitalism that retaliates against any attempt at legal or regulatory restraint.

The similarities between past and present return as Herbert reflects on his final interview. After conducting it, he travels to a famous suspension bridge in Ojuela, Durango, with his then-wife Mónica and their son Leonardo. They walk across the bridge and Herbert reflects that that day they did not cross “una ciudad, no La [comarca de] Laguna, no un pequeño genocidio, no el puente de Ojuela: el puente del horror. México, le llaman” (263).

Conclusions

This connection between past and present, I believe, centers on the fact that Mexico does not implement its laws to benefit its population. This is coupled with the people’s failure to understand that the law exists to protect them. Mexico’s consistently repressive governments and its army of bureaucrats have typically wielded the law against the people it is meant to protect. This is exacerbated by the fact that throughout the 20th century, the majority of these bureaucrats were trained with a *licenciatura* degree in law. As a result, lawyers worked closely with the bureaucratic implementation of the state’s written and unwritten policies. In addition, until very recently, legal issues were settled in a bureaucratic fashion.⁹ Mexican people, then, participated in an alternative system where they might take the law into their own hands or be victims of vigilante-style justice.

How then should we reflect on the rule of law in Mexico? Would these reflections have helped in 1911, or would they help nowadays? I am doubtful. The possibility for justice is, as always, heavily impacted by Mexico’s neighbour to the north. As Herbert states in his autobiographical novel *Canción de tumba*, “todo el tiempo se habla de lo problemático que es la frontera de México para Estados Unidos debido al tráfico de drogas. Nunca se menciona lo peligrosa que es la frontera de Estados Unidos para México debido al tráfico de armas” (*Canción de tumba*, 189). This violence will never and indeed can never be addressed because it must be erased. Present-day violence, like the 1911 massacre, is a symptom of systemic violence. Herbert’s *La casa del dolor ajeno* explains it in the following way: “Reprimir (y aun: exterminar) a un grupo determinado de la población tomando como pretexto el bien público y el orden, no es otra cosa (incluso cuando se trata de delincuentes) que una ilusión esquizoide: la legislación subrepticia del caos” (224). More than a reflection on genocide, Herbert’s literary non-fiction offers us the opportunity to reflect on what Leech describes as structural genocide and the specific inability of capitalist society to apply the laws it designs to create justice.

This performance of the law is, effectively, a system of control, which helps us *gente decente* feel as though we are beyond the fray. We must think beyond the stereotype of lawless and use literary non-fiction like *La casa del dolor ajeno* to consider how we might challenge the capitalist structures' potential for mob-style justice, genocide, the performance of the law and give rise to ever-expanding spheres of violence.

Notes

¹ For an explanation of these concepts in plain language and the US context see Amanda B. Edgell's "The State of Exception, Sovereignty, and the National Emergencies Act."

² See for example Jimena Ugaz's criticism of notions of history and violence in Argentine writer Ricardo Piglia's work or Lauro Zavala's *Las ironías de la ficción y la metaficción en cine y literatura*.

³ I would insert a footnote with the following text: "Herbert is from a lower socioeconomic class and is likely familiar with soccer culture from that perspective, as seen throughout his autobiographical text, *Canción de tumba*. It is important to note that soccer fans in many teams in the Americas strive to maintain team reputation through violence. An exhibit in the Museo Casa Arocena explores the ways that the team from Torreón cultivated a particular version of this reputation (*Goles y pasiones*).

⁴ For more information about liberal discourse and current political situations, see for example Ruth Abbey's *The Return of Feminist Liberalism* sheds light on liberalism and issues of gender and work, and Debra L. DeLaet *U.S. Immigration Policy in an Age of Rights*. Both engage with the history and influence of liberal ideas.

⁵ The 1917 constitution similarly guarantees various freedoms, such as freedom from slavery and freedom of the press, as well as rights to education, the right of equality before the law, rights to assembly and so on ("República de México").

⁶ In this time period, some states adapted the laws to their own realities, but Coahuila and Durango, where the massacre took place, did not.

⁷ I would likely concur with Herbert's interpretations of Mexican newspapers, although they may lack a historian's rigorous use of footnotes. I cannot confirm this because I have never been able to access newspapers from Durango or Coahuila from the 1920s, in spite of several attempts.

⁸ This thesis was defended in 2006. It is an excellent work about the massacre, but it refuses to characterize it as anything other than killing.

⁹ This model, officially implemented in 1929, meant that in a court case, a judge oversaw investigation, introduced evidence, called witnesses and experts and sentenced the accused (Anzzolin 2).

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