Conflict, Institutions, and Public Law: Reflections on Twentieth Century America as a Developing Country
Justice Mariano-Florentino Cuéllar, California Supreme Court

During the early 20th century the United States struggled with intense labor conflict, unstable institutions, geographic fragmentation, and economic uncertainty and dislocation. These difficulties form a backdrop for major questions of constitutional structure and statutory implementation arising between roughly 1918 and the aftermath of World War II. Substantively, these questions implicated labor regulation, federal control of industry, and social insurance. In terms of legal doctrine and process, they encompassed separation of powers, federalism, and administrative procedure. As the country's legal arrangements evolved in these areas, institutional changes rooted in both law and politics facilitated growth in state capacity and greater channeling of disputes into courts and agencies. By reflecting on the larger context of societal conflict and institutional change playing out at the time, we can better understand the constitutional and statutory changes occurring during the evolution of the United States into a geopolitical power, as well as its subsequent struggles over civil rights and its continuing challenges in adapting its institutions to changing conditions while preserving their integrity.