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Non-marital Civil Union Proposed in Peru

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A bill that would legalize non-marital civil unions for same-sex couples has split Peruvians into two camps: those viewing such unions a civil rights issue and others who say it is an attack on the family.

Congressman Carlos Bruce, leader of the Concertación Parlamentaria bloc, presented a bill Sept. 12 to establish a legal institution of non-marital civil unions between same-sex couples in recognition of gay and lesbian civil rights and end existing discrimination against that sector of the population.

"The bill would recognize natural and civil rights of more than a million people who expect to be treated as equal citizens of our country and not experience any discrimination," Bruce wrote in El Comercio.

In various media outlets, Bruce said his bill would give couples the right to hold community property with inheritance rights for first-degree relatives. The concept of civil union, however, would not be considered marriage or cover the adoption of children.

"It will provide the survivor in same-sex relationships legal protection for their property and guarantees for wealth created together. This corrects the current injustice, where a surviving partner is stripped of joint property by the heirs of the deceased," Bruce wrote in another column in El Comercio.

The proposed law also would provide protection for health insurance, pension benefits, and representation in emergency situations. It would guarantee same-sex civil-union partners visitation rights in hospitals and health centers as well as in making decisions regarding emergency surgery when a partner is unable to express his/her own decision.

Archbishop opposes bill

Lima's Archbishop Juan Luis Cardinal Cipriani rejected the proposed law. "I do not agree; I don't believe the people want it. I don't believe it represents the majority nor do I think that it excludes anyone," he said in his weekly radio program. Anyone who wants their civil rights within a relationship can make contracts, he said, but he opposes making "a caricature of marriage and destroying that institution."

Same-sex civil-union advocates maintain the cardinal is not considering the fact that, in practice, rights of succession take precedence over any civil contract.

In an apparent reference to Bruce, the cardinal said, "Whoever makes alternative choices—that's his own problem and he can do whatever he wants on his own. But I don't think we have elected officials to legitimize their own life choices. It doesn't seem right to me."

Bruce responded to Cipriani's comments in an opinion piece in La Primera: "You can state your ideas, but there is no way you should intervene in personal issues, something that to me seems in very poor taste, especially coming from a cardinal. We live in a democracy, and I respect the rights of others. I hope that others also respect rights of minorities that are being discriminated against."
A national urban poll published in La República indicated that 65% of Peruvians oppose passage of the proposed civil-union bill. The firm GFK reported that its poll showed only 26% of those polled favored the bill. The least opposition, however, came from society’s highest socioeconomic strata (A and B sectors) with 37% approval; Lima residents, 32% approval; and young people (18-to-24-year-olds), 36% approval.

"It seems to me that this 26% at the national level does not reflect reality," Bruce said, "but as the debate develops, more people will begin to change their minds."

A new national urban poll published in El Comercio Oct. 21 shows that although 65% of Peruvians don’t agree with same-sex civil unions in principle, 49% oppose the bill currently before Congress. In addition, the poll, carried out by the firm IPSOS, showed that the level of opposition drops when people are asked about specific rights that the law would give homosexual couples.

Some 58% said they believe gay couples should be able to hold their economic assets in common and thus have inheritance rights. The same percentage said partners should also be able to make emergency health decisions for a partner unable to express his/her will. Likewise, 64% said they believed same-sex partners should have access to health insurance if the provider allows spouses to be covered.

The Defensoría del Pueblo, an autonomous constitutional agency created in 1993 to protect Peruvians’ constitutional rights, issued a press release that said proposals to establish same-sex non-marital civil-union status have been designed to guarantee fundamental rights to an important group of citizens. "For that reason, this institution calls for the authorities and society in general to engage in an open debate on the initiative, based on recognition of a person and respect for their dignity, the ultimate purpose of society and the state, according to the Constitution and international human rights agreements," the press release said.

Most of the myriad opinion pieces on this issue the Peruvian press has published recently favor the bill. In late September, writers Mario Vargas Llosa and Santiago Roncagliolo, and Diego García Sayán, president of Inter-American Court of Human Rights (IACHR), issued a public statement titled "Yes to Equality." The declaration in support of the proposed civil-union law was signed by other well-known artists and intellectuals and published in leading Peruvian newspapers.

On Oct. 16, Fujimorista Congressman Julio Rosas of Fuerza Popular (FP), who is a member of an evangelical church, presented a bill to cover various legal loopholes regarding social security, community property, and inheritance between people for both same-sex couples and heterosexual couples.

"We believe that the type of family the [Bruce bill] would create is an affront to the Peruvian Constitution because our Constitution recognizes the family as the base and bedrock of society and matrimony between a man and a woman as a fundamental institution of society," Rosas said.

Along the same lines, Congressman Carlos Tubino, also of the FP, said Bruce’s proposal would be "the tip of the iceberg concealing other aims, such as the adoption of children and questioning the core of the family."

Ex-congressman Luis Solari, who was prime minister in 2002 during the administration of former President Alejandro Toledo (2001-2006), said, "In our legal framework, matrimony and unions are, in essence, between a man and a woman."
In response to criticism against the bill, Bruce said his proposal "will strengthen families because it creates a new kind of family that will combine their assets, have more disposable income, and pay more taxes. And something very important: they will be happier because they have the right to be."

For Giovanny Romero of the Movimiento Homosexual de Lima (MHOL), the initiative is one step on the long road to equality. Nevertheless, he told La República, it is not enough because it keeps same-sex couples in a second-class category by negating matrimony. "It denies us full equality," he said.

The civil-union proposal—the fourth such imitative to date since 1993—has gone to the congressional Comisión de Justicia, where it will be debated next March. If approved, it will be sent to the full legislature for consideration. Meanwhile, the discussion continues and is considered by many as one step forward in the recognition of rights for gays and lesbians.

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