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Chamber Of Deputies Overwhelmingly Approves Constitutional Changes Reaffirming Separation Of Church And State

by LADB Staff

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The conflict between the Catholic Church and Mexico's political parties, primarily the Partido Revolucionario Institucional (PRI) and the Partido de la Revolucion Democratica (PRD), surfaced again early this year after bishops openly endorsed a move by the federal attorney general's office (Procuraduria General de la Republica, PGR) to overturn Mexico City's gay-marriage laws. The bishops' recent outspoken statements opposing gay marriage prompted federal legislators to question whether the Catholic Church or any other religious body should have such a strong influence on the Mexican political process. This controversy led the Chamber of Deputies to introduce an initiative to reform the Mexican Constitution to specifically designate Mexico a secular state. The measure to amend Article 40 of the Mexican Constitution was approved by an overwhelming 363 to 1, with eight abstentions.

The Senate must still discuss this amendment, which would then go to the states for ratification. Some PAN members offer token opposition. There was very little opposition to the initiative to declare Mexico a secular state, with the overwhelming majority of members of the lower house in agreement with the need to insert language in the Mexican Constitution that prevents the creation of a state religion. "I think it is healthy to make this statement explicit," said PRI Deputy Cesar Augusto Sandino. "This creates a principle that can be applied to all legal structures in our republic." The legislation's main champion was PRD Deputy Juventino Castro, who chairs the constitutional-issues committee (Comision de Puntos Constitucionales) in the lower house. Castro, who served in the Mexican high court (Suprema Corte de Justicia de la Nacion, SCJN) in 1995-1997, said the primary purpose of the legislation was to ensure that religious interests do not set the parameters that determine the legitimacy of a law. The initiative even gained support from the vast majority of the 143 PAN deputies.

The PAN has sided with the Catholic Church on many controversial social issues. "A secular state precludes incorporating an official religion," said PAN Deputy Gustavo Hernandez. Some PAN legislators attempted without success to add language to the legislation reaffirming the right of free speech for religious groups. In the end only one PAN member, Deputy Gregorio Hurtado, cast a nay vote, while eight others who opposed the initiative abstained from voting. With the easy approval in the Chamber of Deputies, proponents anticipate a similar vote in the Senate. Sen. Carlos Navarrete, president of the Senate, said the upper house would listen to all points of view during a hearing scheduled in mid-February. Although the lower house was generally united in promoting changes to Article 40, the center-left parties were adamant about sending a strong message to the Catholic Church and the Evangelical Christian denominations that they should not interfere with the legislative process. "This is merely the first response to the insolence demonstrated by the hierarchy of the [Catholic Church]," said Deputy Porfirio Munoz Ledo, a member of the Partido

del Trabajo (PT). He expressed hope that the Congress would soon consider other changes to the Constitution to further strengthen the principle of separation of church and state, particularly Article 130.

Roberto Blancarte, a researcher at Colegio de Mexico, said strengthening Article 130 would be more significant than the modifications to Article 40 because it offers an opportunity to more clearly delineate the separation between church and state and emphasize the role as a secular body. The changes to Article 40 only add the word "secular" to a clause that says that Mexico is a representative, democratic, and federal republic. Jose Woldenberg, a respected electoral jurist who once led the Instituto Federal Electoral (IFE), also stressed the need to strengthen the definition of Mexico as a secular state. In an interview with the Mexico City daily newspaper, Woldenberg said only a secular state can guarantee the coexistence of diverse viewpoints in Mexican society.

Catholic Church calls effort "overkill" Many critics say, however, that the legislators are engaged in an exercise in overkill by trying to modify the Constitution because the document already provides adequate protection. "As Catholics and as Mexicans, we have no interest in having Mexico declared a Catholic country," said Gustavo Sanchez Prieto, a spokesperson for the Chihuahua Archdiocese. "We only ask for respect for the freedom of Catholics or members of any other religious entity to express themselves." Hugo Valdemar Romero, director of communications for the Mexico Archdiocese, expressed regret that the language to amend Article 40 of the Constitution was not accompanied by a statement recognizing religious liberty. "No one disputes the convenient and healthy separation of the church and the government," said Valdemar. "What is questionable is the definition of laicism as anti-religious, and specifically anti-Catholic, an attitude that tries to regulate the church in matters concerning its evangelizing and social mission."

Some Protestant Evangelical churches joined their Catholic counterparts in criticizing congressional efforts to curb their freedom of expression. "In a modern and democratic Mexico, it is not right to put a muzzle on some Mexicans," said Arturo Farela, president of the Confraternidad Nacional de Iglesias Cristianas Evangelicas (Confraternice). "We have to move forward, not backward. We want laws where all of us can participate in the consolidation of democracy." Valdemar and other members of the Catholic hierarchy criticized members of the PAN for going along with legislators from other parties in supporting the vote to change Article 40. Catholic Church has historic tensions with PRI & PRD A tension has existed for many years between the Catholic Church and elected officials from the PRI and the PRD.

The Catholic bishops have especially been at odds with those parties regarding issues such as abortion rights, gay marriage, and drug trafficking (SourceMex, February 11, 2004 and April 11, 2007). In 2003, several bishops were accused of violating Mexico's electoral laws when they urged Mexican Catholics not to support candidates who endorsed same-sex marriage and abortion rights (SourceMex, June 04, 2003, June 14, 2006 and October 25, 2008). The Mexican Catholic Church has also been embroiled directly in controversies related to drug traffickers. In 2003, Cardinal Juan Sandoval Iniguez hinted that high-level PRI officials might have been responsible for the murder of his predecessor, Cardinal Juan Jose Posadas Ocampo of Guadalajara. PRI leaders responded that Posadas' death was a result of mistaken identity in a shootout between two drug-trafficking gangs. Still, the accusation unleashed a personal and bitter feud with former attorney general Jorge

Carpizo, whom Sandoval accused of covering up the Posadas murder (SourceMex, October 01, 2003 and January 30, 2008). There have been other controversies related to the bishops and the drug trade, including accusations that the Catholic Church has knowingly accepted donations from major traffickers (SourceMex, September 08, 2005 and April 23, 2008).

There have been occasions when the Catholic Church hierarchy and the politicians have been on the same page, however, such as the criticism of US policies on immigration (SourceMex, November 20, 2002). And the bishops have not been shy about criticizing PAN-led governments about nonsocial issues. In a press release in mid-February, the Conferencia del Episcopado Mexicano (CEM) joined the chorus of critics questioning whether the Calderon administration's strategy of using the military to fight drug traffickers was appropriate. The CEM said the presence of troops, along with a corrupt judicial system, was creating the potential for massive human rights violations in the country. Controversial Mexico City gay-marriage law at center of dispute The latest tension between the Catholic Church and the Congress is related to the December 2009 decision by the Mexico City legislative assembly (Asamblea Legislativa del Distrito Federal, ALDF) to legalize gay marriage. This would be a step beyond the initiative approved in 2007, when the Mexico City government granted homosexual couples the right to form civil unions (SourceMex, April 11, 2007). Mexico City's gay-marriage law was to take effect in March, but the PGR immediately challenged the measure's legality on the grounds that it violated the Mexican Constitution.

As part of its argument in bringing the case to the SCJN, the PGR said the gay-marriage law gives homosexual couples the right to adopt children, which "violates the principle of legality, because it strays from the constitutional principle of protecting the family." But rather than citing the Mexican Constitution directly, the PGR referred to the Federal Civil Code (Codigo Civil Federal), Articles 146 (dealing with marriage) and 391 (dealing with adoptions). The PGR's move angered the ALDF, Mexico City Mayor Marcelo Ebrard, and federal legislators from all parties except the PAN. The ALDF argued that the law simply gives same-sex couples the rights that heterosexual couples have regarding social security and other benefits. Ebrard said the Calderon government was making a "serious mistake" by challenging the legality of the law and interfering in the affairs of the Mexico City government. "We anticipate that the high court will protect the rights that this law prescribes," said the Mexico City mayor. Other observers said the PGR has no solid ground for its complaint. "Many renowned jurists and specialists...have noted that the changes that legalize gay marriage in Mexico City are clearly protected by the Constitution," the Mexico City daily newspaper La Jornada said in an editorial.

The newspaper, citing respected jurist Elisur Arteaga from the Escuela Libre de Derecho and from Universidad Autonoma Metropolitana (UAM), said the Constitution does not prescribe any models for family and marriage, and, in fact, this task is left up to the various state legislatures and the ALDF. Some critics suggested that the Calderon government was pressured into filing the constitutional challenge by the Mexican Catholic bishops, who have spoken out against the gay-marriage law. The strongest statements have come from Cardinal Norberto Rivera Carrera, archbishop primate of Mexico, who has lashed out at PRD legislators in the ALDF for pushing legislation that ignores the viewpoint of a large segment of their constituents. Rivera's opinion was reflected in an editorial in the archdiocesan weekly newspaper Desde la Fe. "The ALDF, dominated by the PRD, has pushed through many initiatives without conducting a proper legislative debate

and taking into account the opinion of the citizens," said the editorial. "This is the case with a series of laws that are contributing to the dissolution of social values and ethical principles."

A handful of CEM members attempted to dialogue with key federal PRD legislators, including Sens. Carlos Navarrete and Silvano Aureoles and Deputy Guadalupe Acosta Naranjo. "This is the start of a new phase that will allow us to improve institutional relationships with the political parties," said Tlalnepantla Archbishop Carlos Aguiar Retes. But Rivera later nixed further dialogue, accusing some PRD members of dishonesty. In particular, he singled out ALDF legislator Victor Hugo Romo, whom he accused of spreading misinformation that the late Cardinal Ernesto Corripio Ahumada had fathered several children. And in mid-February, the governments of five PAN-led states filed a parallel motion before the SCJN in case the high court finds in favor of Mexico City. The governments of the five states Sonora, Morelos, Jalisco, Guanajuato and Tlaxcala offered their own legal opinions opposing gay marriage and said any ruling in favor of Mexico City should not be applied to them. By filing the motion, the states have positioned themselves to become the next battlegrounds for gay marriage and further conflict between the Catholic Church and local politicians.

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