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Peña Nieto’s Initiative to Legalize Same-Sex Marriage in Mexico Voted Down in Congress

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Category/Department: Mexico
Published: 2017-01-18

President Enrique Peña Nieto’s campaign to legalize same-sex marriage throughout Mexico suffered a major setback when a key committee of the Chamber of Deputies rejected an amendment to the Constitution allowing such unions. Peña Nieto had proposed the constitutional change in an initiative sent to Congress in May 2016 (SourceMex, May 25, 2016).

Without issuing a formal ruling on gay marriage, the high court (Suprema Corte de Justicia de la Nación, SCJN) has also weighed in on the issue. In June 2015, the court published an opinion indicating that any definition of marriage as a union between only a man and a woman is discriminatory and in violation of the Constitution (SourceMex, June 24, 2015). Although the SCJN opinion did not explicitly say that same-sex marriage was legal, it weakened efforts in some states to block same-sex unions.

Resounding defeat

Peña Nieto’s proposal attempted to create a legal framework to legitimize gay marriages, giving same-sex partners access to health, retirement, and other benefits afforded to heterosexual couples. The president’s initiative eventually made it to the constitutional issues committee (Comisión de Puntos Constitucionales), where the measure was defeated by a 19-8 vote, with one abstention, during a vote in early November 2016. The failed vote means that the measure will not be sent to the full Chamber of Deputies for a vote. According to Deputy Édgar Castillo Martínez of the ruling Partido Revolucionario Institucional (PRI), who serves as committee secretary, the decision means that the matter is “totally and definitively concluded,” according to a summary released online by the Chamber of Deputies.

At present, only three jurisdictions—Mexico City and Coahuila, and Quintana Roo states—have approved the legal framework to allow gay marriage (SourceMex, Feb. 17, 2010, and March 18, 2015).

Nine members of the governing Partido Revolucionario Institucional (PRI), five from the conservative Partido Acción Nacional (PAN), and five members of small parties voted against the initiative in the constitutional committee. The eight favorable votes came from six legislators affiliated with the center-left Partido de la Revolución Democrática (PRD) and Movimiento de Regeneración Nacional (Morena) and from two members of the PRI.

The legislators who cast a nay vote included Deputy Cándido Rojas Ochoa of the Partido Verde Ecologista de México (PVEM), who said he voted against the initiative because of the potential for constitutional conflicts and because marriage falls under the jurisdiction of states. “How are you going to support the family if the explanatory memorandum says that procreation is not a decisive element of marriage?” he said.

Other legislators offered more trivial explanations for voting against the measure. Deputy Norma Edith Martínez of the small Partido Encuentro Social (PES) suggested that legalizing marriage...
between members of the same gender would open the door for the “legalization of marriage between a person and a dolphin or a person and a laptop computer.”

Martínez’s comments drew the rebuke of national PES president Hugo Éric Flores, who described them as “unfortunate.” Flores, who opposes same-sex marriage, said in an interview with Sinembargo.com that he opposes any form of discrimination against any minority or population.

Supporters of the measure, including PRD Deputy Guadalupe Acosta Naranjo, suggested that the initiative was turned down because of “political motives.” According to a transcript of the comments during the committee deliberations, Acosta Naranjo emphasized the need to defend the rights of minority groups. “The rights of minorities should not be put to a vote. Rather, they should be expanded and recognized, and it is up to Congress to safeguard them.”

Deputy Benjamín Medrano, one of two PRI members who voted for the initiative, said he supported the measure for two reasons. The first is that as a homosexual, he feels compelled to support the rights of gays and lesbians. Secondly, he pointed the SCJN position paper in 2015, which offered de facto support of gay marriage. “It is not an easy matter for a federal legislator to declare his homosexuality,” Medrano said. “However, it is not difficult for me to recognize that my political party has supported me at all times, and I hope that they respect my decision to cast the vote this way.”

PRI Deputy Ivonne Ortega, who once served as secretary general of her party, alluded to a personal conflict during the decision-making process. She said she is a member of the Catholic Church, and she respects the church’s opposition to gay marriage. However, she pointed out that the Mexican Constitution is the law of the land, and the document protects the rights of all Mexicans, including same-sex couples who want to get married.

**Human rights groups decry vote**

The constitutional committee’s decision drew criticism from several quarters, including the government-affiliated national council to prevent discrimination (Consejo Nacional para Prevenir la Discriminación, CONAPRED). Officials for the council, which is a unit of the Secretaría de Gobernación (SEGOB), said deputies ignored Article 1 of the Constitution, which protects the rights of all Mexicans against discrimination. “We noted that the committee voted against the measure even though CONAPRED, as well as the [semi-independent] national human rights commission (Comisión Nacional de los Derechos Humanos, CNDH) and the Supreme Court, have urged that the initiative be interpreted though the lens of Article 1,” said CONAPRED president Alexandra Haas.

Haas pointed out that Peña Nieto’s initiative intended to harmonize the national legal framework so that all individuals in Mexico could enter into legal marriages without discrimination. “The vote was an important setback to the concept of equality,” she said in an interview with the daily newspaper Reforma.

Enrique Graue, rector of the Mexico’s largest university, the Universidad Nacional Autónoma de México (UNAM), also criticized the outcome of the vote by the congressional committee. Legalizing gay marriage is not only a matter of human rights, he said, but also a step toward enhancing liberty, security, and well-being for some communities in Mexico.

Graue said there is a lack of tolerance in Mexican society, as evidenced by the more than 1,200 murders that were attributed to homophobia over the past decade. The passage of legislation to
codify same-sex marriage “would make us a better society,” the UNAM rector said at a seminar on gay marriage a week after the congressional committee’s vote.

Some members of the gay and lesbian community have suggested that homosexuals form their own political party to protect their interests. “We are demanding that our rights be respected,” said Orlando Pastor Santos, director of the Colectivo Orgullo Gay in Guerrero state.

The issue of gay marriage does not have overwhelming support among the Mexican populace, however. In the weeks leading to the vote in the constitutional issues committee, opponents of the measure, led by the Frente Nacional por la Familia (National Front for the Family, FNF), organized marches around the country that drew tens of thousands of demonstrators.

An estimated 52,000 people marched in the states of Querétaro and Puebla on Sept. 11, a few weeks before the vote in Congress. “At least here in Querétaro, we witnessed the awakening of society in defense of the family and natural marriages between a man and a woman,” local FNF leader José Alcántara said in an interview with Reuters.

After the vote in November, the FNF congratulated the members of the committee for “upholding the values of the majority of the Mexican population by rejecting President Enrique Peña Nieto’s effort to modify the concept of marriage.”

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