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## Freedom of Religion and Public Worship in Mexico: A Legal Commentary on the 1992 Federal Act on Religious Matters

*Jorge A. Vargas*\*

### I. INTRODUCTION

Mexico is a land of contrasts. Discovered and initially populated by the Spaniards in 1519, when Spain was about to reach its peak as the world's major political, economic, and military power, Mexico had no choice but to become a Catholic nation. Under the laws of Castille in force at that time, by mandate of King Charles V, no exploration, discovery or possession of any land in the name of the Spanish Crown was to take effect anywhere in the planet without the direct involvement of the Catholic Church.<sup>1</sup>

Placed at the same level as kings and emperors, and recognized as occupying a superior rank on spiritual matters, the Catholic Church prepared its priests to serve not only as brilliant navigators and cosmographers<sup>2</sup> but, more importantly, as inspired missionaries and devoted promoters of the Catholic religion on a global scale.<sup>3</sup> The sixteenth and seventeenth centuries formed part of an era when explorations for wealth,

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1. In 1492, King Charles V decreed that any expedition authorized to explore the New World had to include religious missionaries with the purpose of "introducing and propagating the Catholic faith among the naturals in those lands." LUIS WECKMAN, *THE MEDIEVAL HERITAGE OF MEXICO* 184 (Frances M. López-Morilla trans., 1992).

2. *See generally* ALVARO DEL PORTILLO Y DÍEZ DE SOLANO, *DESCUBRIMIENTOS Y EXPLORACIONES EN LAS COSTAS DE CALIFORNIA* (2d ed. 1980); HENRY R. WAGNER, *SPANISH DISCOVERIES IN THE SOUTHWEST OF THE UNITED STATES IN THE 17TH CENTURY* (1937).

3. *See* WITNESS: WRITINGS OF BARTOLOMÉ DE LAS CASAS 66 (George Sanderlin trans., 1992).

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knowledge, and souls were a common occurrence.<sup>4</sup> With a population approaching 100 million, of which eighty-nine percent are Roman Catholic,<sup>5</sup> Mexico is the largest Catholic country in the world.

However, many international observers have been unaware that official relations between the government of Mexico and the Catholic Church over the last 140 years have been seeded with mutual suspicion, loaded with chronic tensions, and marked with severe and violent confrontations. Therefore, it is ironic that in the world's largest Catholic country the relations between the government and the Catholic Church have been severely strained.

In general, the antagonism between the Mexican government and the Catholic Church originated because of the immense wealth and unequal political power acquired by the Church over the first three centuries of Mexico's existence as a nation. The Church's wealth and political power became so great that it first challenged, and later openly opposed, the public policies advanced by the government, including its own constitutional nature as a republic, as established by Mexico's Federal Constitution of 1857.<sup>6</sup> The confrontation between these two forces finally culminated in a military campaign in which the Catholic Church and a group of conservatives, with the support of Napoleon III, embraced the establishment of a monarchy in Mexico. This regime was to be headed by Maximilian of Hapsburg, instead of the republican government then led by President Benito Juárez. Yet the republican forces, with the political and military support of President Abraham Lincoln, defeated the French invading forces and the

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4. For a brief historic relation of these three types of Spanish explorations in Mexico, see Jorge A. Vargas, *U.S. Marine Scientific Research Activities Offshore Mexico: An Evaluation of Mexico's Recent Regulatory Legal Framework*, 24 *DENV. J. OF INT'L L. & POL'Y* 1, 7-18 (1995).

5. See U.S. DEP'T OF STATE, *BACKGROUND NOTES: MEXICO* (1997).

6. Article 40 of the Federal Constitution of 1857 provided: "[I]t is the will of the Mexican people to constitute themselves into a federal, democratic, representative Republic composed of free and sovereign States in all that concerns their internal affairs but united in a Federation established according to the principles of this Fundamental law." The text of Article 40 remains the same in the Constitution of 1917. See FELIPE TENA RAMÍREZ, *LEYES FUNDAMENTALES DE MÉXICO, 1808-1991*, at 613 (1991).

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conservative army supported by the Catholic clergy. This defeat, epitomized by the tragic episode of *Cerro de las Campanas* in which Maximilian and his generals Miramón and Mejía were shot in Querétaro in 1867, reestablished the Republic throughout the nation, led by the government of President Juárez.

It was during this period that President Juárez enacted the Reformation Acts (*Leyes de Reforma*).<sup>7</sup> These legislative enactments were designed to deprive the Catholic Church of its immense wealth and political force. This was done by means of a series of decrees which, inter alia, nationalized all ecclesiastical assets, placed acts pertaining to the civil status of individuals—civil marriages in particular—under the control of public authorities and public law, regulated cemeteries and interments, and banned all religious orders.<sup>8</sup> As a direct result of the Reformation Acts, the content of which was reproduced in its entirety in Mexico's Federal Constitution of 1917, a clearly anticlerical legal regime was formulated. This regime imposed severe restrictions on the Catholic Church and established an extreme separation between church and state. It is a regime that, despite the loud and persistent protests advanced by the Vatican since its enactment, remained in force until 1992. The constitutional amendments made in 1992 to Articles 27 and 130 represent a profound change in the content and scope of the former legal regime.<sup>9</sup> From a substantive viewpoint, these changes are so deep in their legal philosophy that observers have characterized them as surprising, unprecedented, and dramatic.<sup>10</sup>

Yet the antagonism between the Mexican government and the Roman Catholic Church has existed for so long that even today, notwithstanding the Act of Religious Associations and Public Worship of 1992,<sup>11</sup> which made unprecedented changes

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7. See President C. Benito Juárez, "Manifiesto del Gobierno Constitucional a la Nación [Public Manifest of the Constitutional Government to the Nation]," July 7, 1859, reprinted in RAMÍREZ, *supra* note 6, at 634-37.

8. See "Leyes de Reforma [Reformation Acts]," (1859-63) reprinted in RAMÍREZ, *supra* note 6, at 638-67.

9. See Diario Oficial de la Federación [hereinafter D.O.], 27 de enero de 1993.

10. See MARTA EUGENIA GARCÍA UGARTE, LA NUEVA RELACIÓN IGLESIA-ESTADO EN MÉXICO [THE NEW CHURCH-STATE RELATION IN MEXICO] (1993).

11. "Ley de Asociaciones Religiosas y Culto Público [Religious Associations Act] [hereinafter RAA]," D.O., 15 de julio de 1992 (text appears in Appendix).

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to Mexico's Federal Constitution, the newly established legal regime on religious matters continues to generate serious doubts and concerns. The policies behind this major legislative development cannot be properly understood unless the reader has a basic notion of the nature and scope of the church-state relations in Mexico prior to the adoption of the Act of Religious Associations and Public Worship of 1992.

## II. THE LEGAL REGIME ON RELIGIOUS MATTERS PRIOR TO THE CHANGES OF 1992

Most observers agree that the legal regime the Mexican government has applied to religious associations in general, but more specifically in its relations with the Roman Catholic Church, has been decidedly anticlerical.<sup>12</sup> For over a century, the official relations between the government and "the Church" (i.e., the Roman, Apostolic, and Catholic Church) have been based on a policy of extreme separation. This legal regime is found in Mexico's Federal Constitution and was enacted in early 1917 by a Constitutional Congress convened in Querétaro at the end of the revolution. Articles 3, 5, 24, 27 and, in particular, Article 130 of this fundamental law, provide the legal policy that Mexico, as a nation-state, officially applies in its relations with churches.

Since its inception, this legal regime has been perceived as highly anticlerical, extreme, unfair, and as imposing very severe restrictions on religious associations. The legal regime's application resulted in devastating economic and political effects on the Catholic Church. As a result of its perceived unfairness, the relations between church and state have followed a difficult path over very rugged terrain during most of this century.

In Mexico, unlike other countries, any reference to words such as church, freedom of religion, public worship, or religious association carries an idiosyncratic connotation that it is associated with the Roman Catholic Church. The reason is simple: for centuries Mexico has been, and continues to be, a

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12. See GUILLERMO F. MARGADANT, *LA IGLESIA ANTE EL DERECHO MEXICANO* [THE CHURCH IN FRONT OF MEXICAN LAW] 163-70, 183-89 (1991).

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predominantly Catholic nation. It is only in recent decades, especially since the end of World War II, that Protestantism and other religious creeds have ventured into Mexico. Within this context, it is logical to expect that official government statements on religious questions, whether by the president of Mexico, the secretary of the interior or the lowest state or local officials, carry the expectation that they have been crafted and directed at the Catholic Church, even though officially couched in the most generic terms. This peculiar connotation also applies to the use and construction of religious words or phrases included in Mexico's domestic legislation, including its Federal Constitution.

Since 1917, when this legal regime was first enunciated, until 1992, when the Constitution was changed to ameliorate the extremeness of its anticlerical policy, the church-state relations may be described as having been highly sensitive, politically uncomfortable and legally distant. From the official perspective of the Mexican government, any interference, involvement, or intrusion on the part of the Church in official or political affairs was deemed to be not only illegal, but politically unacceptable. The Church simply could not go beyond its clearly established legal and political boundaries without incurring severe penalties. From the Roman Catholic Church's viewpoint, the legal and political boundaries established by the Mexican government were not only arbitrary, but also in violation of international principles universally recognized by human rights conventions.<sup>13</sup> From a comparative law perspective, it may be difficult to find a nation other than Mexico where the relations between church and state have been more distant and difficult.

Historically, religious matters have always been under federal jurisdiction in Mexico. Article 73 of the 1917 Federal Constitution, which empowered the Congress to legislate, did not explicitly include power to legislate on religious matters. However, paragraph 30 of Article 73 clarified that Congress had the power "to enact all laws that may be necessary to enforce the foregoing powers . . . and all others granted by this

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13. See W. WENDELL BLANCKE, *JUAREZ OF MEXICO* 128 (1971); JAMES A. MAGNER, *MEN OF MEXICO* 388 (1942).

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Constitution to the Powers of the Union.”<sup>14</sup> Since several articles of the Constitution expressly endowed the “Federal Powers” with exclusive jurisdiction on “matters of religious worship and external discipline,”<sup>15</sup> paragraph 30 may be construed as providing Congress with the power to legislate on religious matters.

Articles 3, 5, 24, 27 and 130 of the Federal Constitution govern religious questions from the viewpoints of education, labor relations, freedom of religion, property prohibitions imposed on religious associations, and the control and intervention exercised by the “Federal Powers” on matters of religious worship, respectively. Taken as a whole, these articles constitute the constitutional policies Mexico adheres to in its relations with religious groups, including the Roman Catholic Church. Thus, the amalgamation of these policies along with the federal regulatory statutes (known in Mexico as *leyes reglamentarias*), enacted in the 1920s and 1930s, that derive from and expand on the content of the Constitution’s articles, forms the legal regime that applies to religious associations.<sup>16</sup>

#### A. Church-State Relations

The major policies that govern church-state relations are found in Article 130 of the Federal Constitution. In general, there are three principles of paramount importance which merit special consideration.

##### 1. *There must be a distinct separation between church and state*

Any religious associations in Mexico are strictly prohibited from intervening in political matters or advancing any public criticism of the government, its official policies, or public officials at the federal, state or local levels. This policy of extreme separation between church and state may be traced back to the “Reformation Acts” (*Leyes de Reforma*), enacted

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14. MEX. CONST. art. 73, ¶ XXX.

15. *Id.*, arts. 130, 27.

16. See Articles 2 and 3 of the RAA, *supra* note 11, which enumerate several of these “regulatory acts.”

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during the administration of President Benito Juárez.<sup>17</sup> The Act of Nationalization of Ecclesiastical Assets of 1859 provided, “[t]here shall be a perfect independence between the affairs of State and those of a purely ecclesiastical nature. The government shall limit itself to protecting with its authority the public worship of the Catholic religion, as well as any other.”<sup>18</sup>

To ensure that religious groups do not interfere with government, the current Constitution mandates that religious acts must take place totally inside the place of worship, with no external manifestations, whether directly or indirectly by means of a publication, radio, or television.<sup>19</sup> In this regard, Article 130 of the Federal Constitution reads: “The Federal Powers shall exercise the supervision and control mandated by law in matters regarding religious worship and public ecclesiastical manifestations. Other authorities shall act as auxiliaries of the Federation.”<sup>20</sup>

## 2. *Mexico is a secular country*

“Congress cannot enact laws establishing or prohibiting any religion.”<sup>21</sup> As a corollary of this principle, the freedom to profess the religion of one’s choice, or the right not to embrace any religion whatsoever, is expressly recognized by Article 24 of the Federal Constitution as a constitutional right (known in Mexico as an “individual guarantee”).

## 3. *Civil status acts are under the exclusive jurisdiction of public authorities*

The second paragraph of Article 130 of the Federal Constitution states that, “[t]he Federal Congress has the exclusive power to legislate in matters of public worship, churches and religious groups.”<sup>22</sup> From the Colonial era until the Reformation Acts in the middle of the nineteenth century, acts pertaining to the civil status of persons in Mexico, such as

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17. See RAMIREZ, *supra* note 6, at 638-67.

18. “Ley de Nacionalización de los Bienes Eclesiásticos [Act of Nationalization of Ecclesiastical Assets],” art. 3, July 12, 1859, *reprinted in* MARGADANT, *supra* note 12, at 260.

19. See MEX. CONST. art. 24.

20. *Id.* art. 130.

21. *Id.* art. 24.

22. *Id.* art. 130.



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adoption, baptism, birth, civil separation, confirmation, death, donations, interment and marriage were under the control of the Catholic Church, with no official intervention. The performance of these acts over several centuries, as well as the steady income generated by them, gradually gave the Church an enormous wealth, which translated into formidable political power.

The enactment of the Reformation Acts in general, and in particular the Civil Registry Act of 1859,<sup>23</sup> were designed to deprive the Catholic Church of these powers. Since then, acts relating to the civil status of individuals have been governed by the applicable Civil Code and strictly conducted under the control of Civil Registry officials.<sup>24</sup>

The severity of the official measures adopted by the Mexican government against the Catholic Church becomes evident when one reads that, "the law does not recognize any legal capacity to those religious associations called churches," as provided by Article 130 of the Federal Constitution, prior to the 1992 amendment. From a legal viewpoint, this provision prevented religious associations in Mexico from entering into any kind of contractual arrangements with third parties, whether legal entities or individuals. In other words, the Catholic Church was prevented from conducting any legal transactions in Mexico. The principal policies contained in the Reformation Acts were eventually incorporated in the Federal Constitution of 1857 by means of an amendment in 1873,<sup>25</sup> and later reproduced in the current Constitution of 1917.

*B. Ministers of Religious Denominations*

Under the legal regime that existed prior to the changes of 1992, religious ministers were considered "persons who practice a profession . . . directly subject to the laws enacted on such

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23. "Ley Orgánica del Registro Civil [Organic Act of the Civil Registry]," July 28, 1859 (enacted by President Juárez), *reprinted in* MARGADANT, *supra* note 12, at 268-69.

24. *See* MEXICAN CIVIL AND COMMERCIAL CODES, arts. 2999-3074 (Abraham Eckstein & Enríque Zepeda trans., 1995).

25. *See* MEX. CONST. arts. 1-4 (1873), *reprinted in* MARGADANT *supra* note 12, at 273.

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matters.”<sup>26</sup> Article 130 adds that “to practice the ministry of any denomination it is necessary to be Mexican by birth,” giving to state legislatures some power to determine, according to local needs, the maximum number of ministers.

Article 130 also imposes additional restrictions: ministers may never criticize the fundamental laws of the nation, have any active or passive vote,<sup>27</sup> nor have the right to associate for political purposes. Meetings of a political character may not take place in temples and the formation of any kind of political associations whose name includes any indication of a religious association is strictly prohibited by the Constitution.<sup>28</sup>

Furthermore, ministers may not inherit nor receive, directly or through a third party, title to an immovable asset occupied by any religious association or charitable institution. By constitutional mandate, ministers are legally incapable of becoming testamentary heirs of ministers of the same denomination or of individuals who are not related to them within the fourth degree.<sup>29</sup>

### *C. Temples and Other Places of Worship*

Article 130 of the Federal Constitution also provides that to dedicate new places of worship open to the public a permit from the Secretary of the Interior (*Secretaría de Gobernación*) must be obtained, with the prior consent of the governor of the state. In every temple there must be an individual in charge of it, who is responsible to the authorities for compliance with the laws on religious matters at the temple and for the objects utilized for religious purposes.

Based upon the so-called “Lerdo Act,” enacted under the administration of President Ignacio Comonfort in 1856, the government nationalized all rural and urban real estate

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26. Under this premise, established by Article 130 of the Federal Constitution, religious ministers are governed by the General Professions Act (*Ley General de Profesiones*). However, this federal statute does not include any provisions applicable to said ministers. The same article provides that no official validation shall be given for any reason to the studies conducted in the establishments devoted to the professional teaching of religious ministers.

27. In Mexico, the right to vote is known as an “active vote.” The right to be voted into office is deemed a “passive vote.”

28. *See* MEX. CONST. art. 130.

29. *See id.*

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properties owned by civil and ecclesiastical corporations in Mexico.<sup>30</sup> A few years later, through another of his Reformation Acts, President Juárez nationalized all ecclesiastical assets.<sup>31</sup> As a result of this, the Catholic Church was deprived of all of the vast immovable assets it owned throughout the Republic, whether they consisted of churches, temples, cathedrals, chapels, convents, seminaries, or congregations.

The same Act banned religious orders, prohibited the establishment or erection of new convents and other religious groups, and mandated that printed material, manuscripts, paintings, antiquities and other objects owned by the banned religious communities be transferred to museums, colleges, libraries and other public establishments.<sup>32</sup>

The legal consequences of this federal statute are still present in Mexico's legal regime toward religious groups. Thus, until the constitutional amendment of 1992, religious groups were not legally permitted to own any real estate in Mexico. Moreover, an immovable asset used for the practice of any religious organization in that country (i.e., churches, temples, chapels, etc.), because of that mere circumstance, became ipso facto the property of the Mexican government, subject to the provisions of the General Act of National Assets (*Ley General de Bienes Nacionales*).<sup>33</sup>

The legal basis for this policy is found in Article 27 of the Federal Constitution which provides:

Religious institutions known as churches, regardless of creed, may in no case have the [legal] capacity to acquire, hold, or administer real property nor hold mortgages thereon; such

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30. See "Ley Lerdo: Decreto del Gobierno sobre Desamortización de Fincas Rústicas y Urbanas que Administren como Propietarios las Corporaciones Civiles o Eclesiásticas de la República [Decree Nationalizing Rural and Urban Real Estate Properties Administered as Owners by Civil and Ecclesiastical Corporations in the Republic]," June 25, 1856, reprinted in MARGADANT, *supra* note 12, at 252-57.

31. See Act of Nationalization of Ecclesiastical Assets, July 12, 1859, reprinted in MARGADANT, *supra* note 12, at 259-263. Pursuant to Article 1 of this Act, "all the assets the secular and regular clergy has been managing through different titles, regardless of the type of properties, rights or shares, name used and purpose given, shall enter the direct ownership (*Domínio*) of the Nation." *Id.* at 260.

32. See *id.* at 260-61 (reprinting Articles 5, 6, and 12).

33. See "Ley General de Bienes Nacionales [General Act of National Assets]," D.O., 8 de enero de 1982 (amended 1994).

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property held at present either directly or through a third party shall revert to the Nation, granting popular action to denounce assets which may be found in such a case. Presumptive evidence shall be sufficient to declare the denunciation well founded. Places of public worship are the property of the Nation, as represented by the Federal Government which shall determine which of those places should continue to be devoted to the same purpose. Bishopsrics, rectories, seminaries, asylums or colleges of religious associations, convents, or any other building built or intended for the administration, propaganda or teaching of a religious cult shall be immediately transferred, as of full right, to the direct ownership (dominio) of the Nation, to be used exclusively for the public services of the Federation or of the States within their respective jurisdictions. All places of public worship hereafter erected shall become the property of the Nation.<sup>34</sup>

*D. Education*

Article 3 of the Federal Constitution governs public education in Mexico. Recognized as a constitutional right, public education in Mexico is free (from pre-school to the university level), national and must be imparted in a manner which is completely removed from any religious doctrine and based upon the accomplishments of scientific progress. Article 3 expressly provides that religious corporations, ministers, or associations which are related to any religious creed, shall not intervene in schools which impart elementary and secondary education, as well as education designed for workers and peasants.<sup>35</sup>

*E. Freedom of Religion*

In Mexico, freedom of religion is a constitutional right guaranteed by Article 24 of the Federal Constitution, which provides:

All are free to profess the religious belief of their choice  
and to practice the ceremonies, devotions, or observances of  
their respective faith, either in places of public worship

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34. MEX. CONST. art. 27, ¶ II.

35. *See id.* art. 3, ¶ IV.

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(*templos*) or in their home, provided they do not constitute a crime or offense punishable by law.

Every religious act of public worship must be performed strictly inside places of public worship, which shall at all times be under the surveillance (*vigilancia*) of the authorities.<sup>36</sup>

*F. Banning of Religious Orders*

Article 4 of the 1917 Federal Constitution banned the existence of religious orders. As seen earlier, the Act of Nationalization of Ecclesiastical Assets of 1859 constitutes the legislative precedent to this prohibition.<sup>37</sup> Accordingly, today the Mexican government does not allow any contract, pact, or agreement to be entered into when its object involves the diminution, loss, or irrevocable sacrifice of any individual's freedom, whether by reason of work, education, or religious vow.<sup>38</sup>

*G. Official Oaths*

Since constitutionally Mexico is a secular state, any invocation to God, or any other expression of a religious creed, is not permitted at any official ceremonies. The same principle applies to the taking of an oath before Mexican courts or public authorities. Thus, Article 130 provides that a simple promise to tell the truth and to fulfill contractual obligations is legally binding on the individual. In the event of failure to do so, the individual in question shall be subject to the corresponding penalties imposed by the law.<sup>39</sup>

As a consequence of the mandates imposed by these constitutional provisions, a number of legal and social idiosyncracies become immediately apparent. For example,

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36. *See id.* art. 24.

37. Article 5 of the 1859 federal statute expressly "suppresses regular monastic orders which exist throughout the Republic, whatever their denomination or advocacy with which they were established, as well as any brotherhoods, sisterhoods or congregations attached to religious communities, cathedrals, parishes or any other churches." Act of Nationalization of Ecclesiastical Assets, July 12, 1859, *reprinted in* MARGADANT, *supra* note 12, at 260.

38. *See* MEX. CONST. art. 4.

39. *See id.* art. 130.

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couples getting married usually have to go through a dual marriage ceremony, one official and legal, conducted before the civil registry official, and a subsequent religious wedding generally performed by a priest or other minister. Government officials are not allowed to invoke the name of God in any official ceremony, nor to attend any religious event in an official capacity. Catholic priests and nuns are prohibited from wearing their religious vestments outside churches or convents and while in public places. Mexican courts and public officials are prohibited from using a Bible or making any religious invocation while taking an individual's oath for judicial or official purposes. Public schools are not allowed to conduct any religious prayers and transmission of religious ceremonies or programs by radio or television is not allowed in the country.

The major legal principles that marked the drastic separation between church and state in Mexico date back to the so-called "Reformation Acts" (*Leyes de Reforma*), enacted in the mid-nineteenth century at the initiative of President Benito Juárez. At the triumph of the 1910 Revolution, the same principles were codified in the Federal Constitution of 1917, notably Article 130, where they have been in force until 1992 when President Salinas de Gortari softened them through a series of constitutional changes.

### III. THE MODERNIZATION OF MEXICO IN THE RELIGIOUS AREA

Mexico's "modernization" of the legal regime governing religious associations, including the relations between church and state, was not an isolated phenomenon. In effect, it formed a part of a comprehensive modernization drive launched by the administration of President Salinas when he took office on December 1, 1988.<sup>40</sup>

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40. See Carlos Salinas de Gortari, Inaugural Address (Dec. 1, 1988) (transcript available at Presidency of Mexico, Office of the Press Secretary to the President). In this address, President Salinas declared:

The modernization of Mexico is essential if we are to meet the demands of the 85 million Mexicans of today. . . . In brief, we need to modernize politics, the economy and society. The modernization of Mexico is, moreover, an absolute imperative. This is the only way we will be able to affirm our sovereignty in a world undergoing profound transformation.

*Id.* at 5.

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Mexico's legal system became a target for this vigorous "modernization" effort. The breadth and depth of the legislative changes that took place during the six years of President Salinas' administration (1988-1994) were impressive: almost fifty amendments to the Federal Constitution in the areas of political reform, agrarian law, indigenous peoples, human rights, economic activities of the state, criminal due process, and church-state relations. In addition, the Mexican Congress passed over 200 legislative bills which changed codes, federal statutes and regulations governing subjects such as economic competition, torture, metrology and normalization, treaty making, customs, foreign trade, corporations, and foreign investment.<sup>41</sup>

In his third State of the Nation report, submitted to Congress on November 1, 1991, President Salinas said:

[I]n Mexico, the present legal situation of the churches stems

from political and economic historical reasons and not from doctrinal differences about religious beliefs . . . Owing to past experience, the Mexican people do not want the clergy to take part in politics or to accumulate material wealth . . . I therefore call for the promotion of a new legal position for the churches in accordance with the following principles: institutionalization of the separation between the State and the churches, respect for the freedom of religion of every Mexican, and for the maintenance of secular education in public schools. We shall promote consistency between what the law decrees and the daily conduct of citizens, taking another step forward toward domestic harmony within the framework of modernization.<sup>42</sup>

President Salinas had two specific objectives when he proposed to change the legal regime of churches in Mexico: (1) strengthen his political legitimacy and international recognition; and (2) be the first president of Mexico to successfully negotiate a legal regime that would replace the

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41. For a legal analysis of some of these major legislative changes, see Jorge A. Vargas, *Mexico's Legal Revolution: An Appraisal of Its Recent Constitutional Changes, 1988-1995*, 25 GA. J. INT'L & COMP. L. 497-559 (1996).

42. Carlos Salinas de Gortari, Third State of the Union Report 59 (Nov. 1, 1991) (transcript available at Presidency of Mexico, Office of the Press Secretary to the President).

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legal framework established by the Federal Constitution of 1917, which was openly rejected by the Vatican since its inception.<sup>43</sup>

Regarding the first objective, it would suffice to recall that the election of President Salinas was marred by public denunciations of electoral fraud advanced by the Revolutionary Democratic Party (*Partido de la Revolución Democrática* or PRD). Cuauthémoc Cárdenas, then PRD's presidential candidate and today's first elected governor of Mexico City, claimed that the election was stolen from him by Mexico's official party, the Revolutionary Institutional Party (PRI).<sup>44</sup> At the international level, President Salinas received global acclaim and special recognition from the Bush administration for the successful negotiation of the North American Free Trade Agreement (NAFTA) and for the development of a new, more practical and mature bilateral relationship with the United States.<sup>45</sup>

Pope Pious XI strongly criticized the papal delegate's expulsion from Mexico in 1924 in his letter *Paterna sane sollicitudo*, dated February 2, 1926. A few months later, in his encyclic *Iniquis afflictisque* (November 18, 1926), Pious XI disapproved of Article 130 of the Federal Constitution of 1917 "for its hostility against the Catholic Church."<sup>46</sup> In order to ameliorate the thorny relations between the Mexican government and the Holy See,<sup>47</sup> both parties entered into a practical oral arrangement in 1929 and then into a *Modus Vivendi* in 1938.<sup>48</sup>

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43. See GARCÍA UGARTE, *supra* note 10, at 12.

44. See Vargas, *supra* note 41, at 510.

45. See ANDRÉS ROZENTAL, LA POLÍTICA EXTERIOR DE MÉXICO EN LA ERA DE LA MODERNIDAD [MEXICO'S FOREIGN POLICY IN THE MODERN ERA] 58-66, 70-78, 131-36 (1993).

46. GARCÍA UGARTE, *supra* note 10, at 13.

47. See E. J. Berbusse, *The Unofficial Intervention of the United States in Mexico's Religious Crisis, 1926-1930*, 23 AM. 28-63 (1965); L. Ethan Ellis, *Dwight Morrow and the Church-State Controversy*, 38 HISPANIC. AM. HIST. REV. 482-505 (1958).

48. For an analysis of this bitter conflict, see MARGADANT, *supra* note 12, at 183-89.



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*A. PRI's Rationales for the Constitutional Changes*

No new legal regime with the Church could have been formulated without first changing the pertinent articles of the Federal Constitution. Thus, on December 10, 1991, PRI's political association "Change XXI" (*Cambio XXI*) submitted to the Chamber of Deputies (*Cámara de Diputados*) a legislative bill to amend Articles 3, 5, 24, 27 and 130 of the Constitution.<sup>49</sup> The PRI's bill advanced many rationales to justify and explain the changes.

*1. Evolving ideas on the church-state relationship in Mexican society*

The Federal Constitution was promulgated on February 5, 1917, and since then the Mexican society has evolved and changed. Conditions have ripened to proceed to an open, informed, and careful revision of the church-state relationship under Mexican law.

*2. Basic principles of a new church-state legal regime*

The new legal regime must respect the following basic principles: (1) absolute respect for the freedom of beliefs; (2) sovereignty of the Mexican State; (3) clear demarcation between civil and ecclesiastical questions; (4) legal equality of all churches and religious associations; and (5) public secular education.

*3. Legal capacity of churches and religious associations*

Although the Federal Constitution does not recognize any legal capacity for churches and religious associations, this does not mean that the government does not have the power to regulate them. Once the absolute supremacy and independence of the state is recognized, the secularization of the Mexican society is guaranteed, and since churches exist as a *de facto* phenomenon, there should be no problem granting churches

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49. For the text of this legislative bill, see GARCÍA UGARTE, *supra* note 10, at 151-80.

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and other religious associations a full legal capacity to engage in all kinds of acts under Mexican law.

4. *Constitutional limitations on holding property*

Once this legal capacity is granted, the property limitations imposed on these associations pursuant to Articles 27 and 130 of the Federal Constitution may be removed, although subject to close government scrutiny.

5. *External manifestations of religion*

Taking into consideration Mexico's new social composition, a larger religious diversity, and the existence of deeply rooted popular traditions, it is neither coherent nor justified to recognize, on the one hand, the freedom of religious beliefs, and to prohibit any external manifestations of such beliefs, on the other. Religious acts of public worship should ordinarily be celebrated within the physical confines of churches and temples, although they may take place, exceptionally, outside places of worship and subject to the applicable legal provisions.

6. *Mexico's secular nature and religious preference*

Mexico's secular nature is incompatible with a preference for a given religious creed. Furthermore, this secular nature also protects the individual who chooses not to have any religious beliefs whatsoever.

7. *Sponsoring religious education*

The Mexican State, as the guardian and protector of the freedom of religion, cannot promote or sponsor any religious education. Public education in Mexico must be secular.

8. *Voting by religious ministers*

The principle that ministers of a religious denomination should not have a "passive vote" (i.e., the right to be elected to a public post) must remain in place. This is based on the inherent nature of the religious ministry which clearly demands it. Regarding the right to an "active vote" (i.e., the right to vote in public elections), this political right should be granted. However, the political participation of the Catholic Church in

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public elections goes openly against the sensitivity of the Mexican people. Accordingly, political associations must not be linked to any religious organization, nor political assemblies be allowed to take place in churches or other places of worship.

*9. Prohibition of inheritance by religious ministers*

The civil nature of all acts pertaining to the civil status of persons must also remain in force, as well as the prohibition for religious ministers to inherit from another minister or private individual.

In sum, the PRI's initiative objectively recognizes the reality that Mexico lives and attempts now to incorporate that reality in constitutional norms that enhance freedom and strengthen Mexico's sovereignty. This results in a new conception of the legal situation applicable to religious associations which does not alter the secular character of the State and its official separation from the churches. The Mexican people would like to live in freedom, as well as to believe and to practice a religion in that freedom. But the Mexican people do not want the participation of religions and churches in political activities, nor their economic preponderance, clearly beyond their religious mission.<sup>50</sup>

*B. Changes to the Federal Constitution on Religious Matters*

The decree containing the formal amendments to Articles 3, 5, 24, 27 and 130 of the Federal Constitution, once the constitutional procedure for amending the Constitution was complied with,<sup>51</sup> was published in the *Diario Oficial* of January 28, 1992.

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50. *Id.* at 151-76. The nine rationales were taken directly from the PRI's initiative for constitutional changes, with adjustments in their text in order to present them as assertions. In some cases, direct translation from the initiative was used while in other cases a paraphrasing style was used.

51. Article 135 of the Federal Constitution, which governs these kinds of changes, was clearly inspired by the United States Constitution. The Mexican procedure mandates that the changes be passed by a two-thirds vote in Congress and be approved by a simple majority of Mexico's thirty-one local legislatures. Congress (or the *Comisión Permanente*, as the case may be) is empowered by the same Article 135 to count the votes of the legislatures and to announce that the amendments in question have been approved.

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*1. Article 3*

Paragraph I of Article 3, as amended, reiterated that public education in Mexico shall be secular, completely separate from any religious advocacy.<sup>52</sup>

*2. Article 5*

The opening paragraph of Article 5 now reads: "The State cannot permit the entering into any contract, covenant or agreement having as its object the restriction, loss, or irrevocable sacrifice of personal freedom, for any reason."<sup>53</sup> The final paragraph, banning the establishment of any monastic orders, was deleted.

*3. Article 24*

Article 24 establishes freedom of religion as a constitutional right. Its final paragraph was revised in these terms: "Religious acts of external worship shall ordinarily take place inside the temples. Those acts which, in extraordinary occasions, may be performed outside the temples, shall be subject to the reglamentary act" (*Ley Reglamentaria*).<sup>54</sup>

*4. Article 27*

The amendment to Article 27 is perhaps among the most significant changes made to the legal regime which Mexico has applied to the Church and other religious associations since its original enactment in the Federal Constitution of 1917. New Paragraphs II and III of Article 27 read:

II. Religious associations established in the terms of

Article 130 and its regulatory act shall have [legal] capacity to acquire, possess or administer, exclusively, the assets which

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52. See D.O., 28 de enero de 1992; see also *supra* note 35 and accompanying text. To perceive the legal substance of these constitutional changes more clearly, the reader may review Part II of this Article.

53. D.O., 28 de enero de 1992; see *supra* note 37 and accompanying text.

54. D.O., 28 de enero de 1992; see *supra* note 36 and accompanying text. Under Mexico's legal system, a "reglamentary act" (*ley reglamentaria*) is a legislative enactment which directly derives from a specific article of the Federal Constitution, expanding or detailing the legal substance of the article in question. Article 130 of the Constitution regulates religious matters. Accordingly, the RAA is the regulatory act of Article 130.

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are indispensable for their object, with the requirements and limitations established by the regulatory act;

III. Charitable institutions, public or private, whose object is to help needy people, scientific research, the dissemination of education, the reciprocal assistance to associates, or any other lawful object, cannot acquire more immovable assets than those indispensable to their object, immediately and directly devoted to it, subject to what the regulatory act determines. . . .<sup>55</sup>

### 5. Article 130

By and large, most of the principles defining the legal regime of churches were found in Article 130. As a result, most of the changes were directed at its text. Some of the major changes include:

The historic principle of separation between church and state guides the norms contained in this article. Churches and other religious associations shall be subject to the law.

It corresponds exclusively to the Congress of the Union to legislate in matters of public worship and of churches and religious associations. The respective regulatory act, which shall be of a public order, shall develop and detail (*concretará*) the following provisions:

a) Churches and religious associations shall have legal capacity (*personalidad jurídica*) as religious associations once they have obtained their corresponding registry. The law shall regulate said associations and determine the conditions and requirements for their corresponding [official] registry (*Registro constitutivo*);

b) The authorities shall not intervene in the internal life of religious associations;

c) Mexicans may participate in the ministry of any creed. Mexicans, as well as foreigners, shall comply with the requirements established by the law to that end;

d) Pursuant to the terms of the regulatory act, ministers of religious denominations cannot serve in public posts. As citizens they shall have the right to vote, but not to be voted for. Those [ministers] who have abandoned their ministry in advance and in the form prescribed by the law, may be elected;

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55. D.O., 28 de enero de 1992; *see supra* notes 33, 34 and accompanying text.

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e) Ministers cannot associate themselves for political purposes, nor conduct any proselytizing in favor or against any political candidate, party, or association. Nor can they in a public assembly, in acts of worship or of religious propaganda, or in publications of a religious character, oppose the laws of the country or its institutions, nor offend (*agraviar*), in any form, the national emblems (*símbolos patrios*).

The formation of any kind of political associations whose title has some word or indication of any kind which relates it to some religious creed is strictly prohibited. No gatherings of a political nature may take place in any temples.

The simple oath to tell the truth and to comply with certain obligations [legally] binds the individual who makes them, subjecting such individual to the sanctions established by the law in case of violations.

Ministers of a cult, their ancestors, descendants, brothers, spouses, as well as the religious associations to which they belong, shall be incapable of inheriting by testament from those individuals whom said ministers have guided or assisted spiritually do not have any parentage within the fourth degree.

The acts pertaining to the civil status of individuals are of the exclusive jurisdiction of the authorities in the terms provided by the laws, and shall have the force and validity mandated by said laws.

Federal, state, and municipal authorities shall have in these matters the powers and responsibilities determined by the law.<sup>56</sup>

### C. *Mexico's Constitutional Changes and the Holy See*

Observers have asserted that these constitutional changes were a surprise to most Mexicans, and that the legal and political rationales for them were not explicit.<sup>57</sup> However, a few political signs during the administration of President Salinas clearly suggested that a major change in the content and scope of the relationship between church and state was already taking place. For example, President Salinas invited eminent members of the Mexican Episcopal Conference and the Apostolic Delegate to the official ceremony of the presidential

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56. D.O., 28 de enero de 1992. Many of these legal principles were reproduced verbatim in the RAA of 1992.

57. See GARCÍA UGARTE, *supra* note 10, at 16.

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transfer of power.<sup>58</sup> In his inaugural speech, President Salinas declared that “his administration was to engage in the policy of modernizing the relations that the Mexican State maintained with religious associations as a consequence of a social necessity.”<sup>59</sup>

A few years later, once the corresponding legal regime had been thoroughly revised, this policy led to the official reestablishment of diplomatic relations between Mexico and with the Holy See in late 1992. When it is recalled that these relations had been interrupted for 133 years, since the passing of the Reformation Acts, the reestablishment of these relations was publicly acknowledged as a significant triumph of Mexico’s diplomacy.<sup>60</sup>

The new policy adopted by the administration of President Salinas toward the Catholic Church was strengthened by the visit of Pope John Paul II to Mexico in May of 1990, which was then reciprocated by President Salinas’ trip to the Holy See in July of 1991.

From an international law viewpoint, the amendments to the Federal Constitution on religious matters and the passing of the 1992 RAA opened the legal avenue which was needed for the formal negotiations which finally led to full diplomatic relations between Mexico and the Holy See in September of 1992.<sup>61</sup>

## IV. COMMENTS TO THE 1992 ACT ON RELIGIOUS ASSOCIATIONS

With the official publication of the Act of Religious Associations and Public Worship, Mexican law added a new branch—“Mexican Ecclesiastical Law.”<sup>62</sup>

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58. See ROZENTAL, *supra* note 45, at 132.

59. *Id.*

60. See *id.* at 131. It should be pointed out that on February 11, 1990 President Salinas and Pope John Paul II reached an understanding in which Mexico and the Holy See would exchange “personal representatives” endowed with the immunities and privileges equivalent to diplomatic agents. However, it was agreed that these appointments “neither implied the recognition of the Catholic Church in Mexico, nor the establishment of diplomatic relations.” *Id.* at 134.

61. See *id.* The relations between Mexico and the Holy See were established at the level of Embassy and Apostolic Nunciature, respectively, in the persons of Ambassador Agustín Téllez Cruces, former Chief Justice of Mexico’s Supreme Court, and Monsignor Girolamo Prigione, Papal Nuncio.

62. See JOSÉ LUIS SOBERANES FERNÁNDEZ, SECRETARÍA DE GOBERNACIÓN,

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Another innovation which became clearly associated with this federal statute was the direct involvement of Mexico's four major political parties, (1) PRI, (2) PAN, (3) PRD, and (4) PARM, as well as their political ability to produce a final legislative text which reflected a general compromise.<sup>63</sup> The new Act is formed by thirty-six ordinary articles divided into five titles and five transitory articles.<sup>64</sup>

Pursuant to Mexico's Federal Constitution, the President of the Republic, jointly with the deputies and the senators of the Congress of the Union and the state legislatures, has "the right to introduce laws and decrees."<sup>65</sup> Anticipating the complexity and diverse content of this new statute, President Salinas, in conjunction with the PRI's Executive Committee, decided that the PRI's members of Congress should formulate a legislative initiative which would open avenues for a successful, but negotiated, outcome.<sup>66</sup> The PRI's legislative bill was finalized on June 25, 1992, and the other three bills of the respective opposition political parties soon followed.<sup>67</sup>

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ESTUDIOS JURÍDICOS EN TORNO A LA LEY DE ASOCIACIONES RELIGIOSAS Y CULTO PÚBLICO [LEGAL STUDIES REGARDING THE ACT OF RELIGIOUS ASSOCIATIONS AND PUBLIC WORSHIP] [hereinafter ESTUDIOS JURIDICOS] 5 (1994) (introductory remarks); see also ALBERTO PACHECO, TEMAS DE DERECHO ECLESIASTICO MEXICANO [TOPICS OF MEXICAN ECCLESIASTIC LAW] (1993).

63. See CRÓNICA DE LA LEY DE ASOCIACIONES RELIGIOSAS Y CULTO PÚBLICO [A CHRONOLOGY OF THE ACT OF RELIGIOUS ASSOCIATIONS AND PUBLIC WORSHIP] [hereinafter CRÓNICA], Cámara de Diputados, LV Legislature, Archivo General de la Nación, Palacio Legislativo (1992) (RAA advisory committee's notes). This chronology reproduces the text of each of the legislative bills submitted by the four political parties as well as all of the other official documents which were generated during the bicameral legislative process.

64. The complete text of this Act appears at the end of this Article. See *infra* APPENDIX.

65. MEX. CONST. art. 71, ¶ I.

66. See Arturo Zaldívar Lelo de Larrea, *La Nueva Ley de Asociaciones Religiosas y Culto Público*, 16 REVISTA DE INVESTIGACIONES JURÍDICAS DE LA ESCUELA LIBRE DE DERECHO 533 (1992).

67. These bills include: (1) PRI's initiative—*Iniciativa de Ley de Asociaciones Religiosas y Culto Público* of June 25, 1991 (formed by thirty-six articles); (2) initiative of Partido Acción Nacional (PAN)—*Iniciativa de Ley de Libertades y Asociaciones Religiosas* of June 25, 1991 (formed by nineteen articles); (3) initiative of the Revolutionary Democratic Party (RDP)—*Iniciativa de Ley en Materia de Libertades Religiosas*, (formed by twenty-nine articles); and (4) the initiative of the Partido Auténtico de la Revolución Mexicana (PARM)—*Ley Federal de Cultos* of June 18, 1991 (formed by thirty-seven articles). The other two political parties: Partido Popular Socialista (PPS) and Partido del Frente Cardenista de Reconstrucción Nacional, did not submit any initiatives.



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According to the legislative procedure established by Article 71(II) of the Federal Constitution,<sup>68</sup> these four bills were sent to the Commission of the Interior and Constitutional Issues (*Comisión de Gobernación y Puntos Constitucionales*) of the House of Deputies (*Cámara de Diputados*) for its opinion and final resolution. On July 2, 1992, this Commission produced a conference draft amalgamating the four bills which was then sent for debate and eventual approval to the House of Deputies.<sup>69</sup> The approved version was then sent to the Senate which, after the corresponding debate, finally approved it on July 13, 1992.<sup>70</sup> The final text of the federal statute was published in the *Diario Oficial* on July 15, 1992.<sup>71</sup>

The 1992 Act consists of the following five titles: I. General Provisions (Articles 1-5); II. Religious Associations (Articles 6-20); III. Religious Acts of Public Worship (Articles 21-24); IV. Authorities (Articles 25-28); and V. Violations, Sanctions and Administrative Appeals (Articles 29-36). A brief legal comment regarding each of these will follow.

*A. Title I: General Provisions*

In symmetry with the Federal Constitution, the 1992 Act ratified the separation between church and state, now elevated to the category of an "historic principle," and freedom of religious beliefs, recognized as a constitutional right.

The Act determines that, because of the importance of its content, the provisions are to be publicly observed throughout Mexico. In accordance with the nation's official policy of being a secular state, it is mandated that religious convictions may not exempt one from compliance with the laws of the country, and that, accordingly, no one may evade any legal responsibilities and obligations for religious reasons. This provision, enunciated in Article one of the RAA, may be deemed to be in violation of

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68. See CRÓNICA, *supra* note 63, at 51.

69. See *id.* at 55-70. Articles 4, 6, 7, 8, 9, 11, 12, 14, 21, 22, 23, 25, 29 and 32, were approved by 408 votes in favor and 10 against. The entire Act was approved by 408 votes in favor. See *id.* at 88.

70. See *id.* at 73-88. The Act was finally approved by forty-seven votes in favor and one against. See *id.* at 115.

71. See *id.* at 120-28.

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the individual guarantee of freedom of religious beliefs expressly consecrated by Article 24 of the Federal Constitution. Furthermore, the same provision may be interpreted as an infringement on human rights conferred by Article 18 of the Universal Declaration of Human Rights.<sup>72</sup>

Certain religions oppose the use of military force, military training, and even the handling of military weapons. Article 31(II) of Mexico's Federal Constitution, on the other hand, imposes upon citizens the obligation to receive the military instruction mandated by the applicable laws. According to the new RAA, no Mexican citizen would be exempt from receiving military instruction or training, or being recruited into military service, even in the case of a Mexican national whose religion forbids them.

This hypothetical becomes more relevant considering that Mexico is a party to the Universal Declaration of Human Rights. Pursuant to Article 133 of Mexico's Federal Constitution, treaties and international conventions entered into by the President of the Republic, and approved by the Senate, become the supreme law of the union. Therefore, it would seem that the prohibition contained in the second paragraph of Article 1 of the RAA is unconstitutional.

Since Mexico is a secular state, it is the state that exercises exclusive authority in matters pertaining to the observance of the laws, the maintenance of public order and morality, and the protection of rights of third parties with respect to any religious manifestation, whether individual or collective. Further, no preferences or privileges can be established in favor of any religion, church, or religious association.<sup>73</sup> Consequently, acts pertaining to the civil status of individuals fall under the exclusive jurisdiction of the authorities in the terms provided by the applicable laws. In more specific terms, the official identification documents, such as the "Electoral I.D. card" (*Credencial de Elector*), for instance, shall not contain any mention of the religious beliefs of the individual in question.

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72. Article 18 of this Declaration provides that, "freedom of thought, conscience, and religion" includes the right to change their religion or belief "and freedom, either alone or in community with others and in public or private, to manifest their religion and belief in teaching, practice, worship and observance." Universal Declaration of Human Rights, G.A. Res. 217, U.N. Doc. A/810, at 71, 74 (1948).

73. See RAA art. 3, D.O., 15 de julio de 1992.

The RAA reiterates that the simple oath to tell the truth legally binds the individual who makes it.<sup>74</sup>

In its committee notes (*dictámen*),<sup>75</sup> Congress underscored the commitment of the Mexican State to the recognition and

enjoyment of certain individual rights, inter alia: a) To have or adopt the religious belief of one's own preference and to practice, in an individual or collective manner, the corresponding acts of worship or rights; b) Not to profess any religious beliefs, abstain from any religious worship or rites, and not to belong to any religious association; c) To peacefully associate or assemble for religious purposes; and, e) Not to be the object of discrimination, coercion or hostility because of religious beliefs.<sup>76</sup>

### B. Title II: Religious Associations

For almost 150 years religious entities in Mexico were deprived of any legal capacity. In consonance with the amendment to Article 130 of the Federal Constitution, this probably represents one of the most important legal pronouncements—recognizing that churches and certain religious entities have legal capacity (*personalidad jurídica*) under Mexican law as “religious associations,” once they have obtained the necessary official registry (i.e. *registro constitutivo*) from the Secretary of the Interior. Legal rights and obligations are the same before the law for all religious associations and shall be governed by their own regulations (i.e. *estatutos*), which shall contain the fundamental bases of the doctrine and body of religious beliefs. They shall also set forth their representatives and describe their internal administrative structure. Under Mexican law, it is also essential that religious associations not engage in any lucrative activities whatsoever and to be in strict compliance with Mexico's Federal Constitution and other applicable laws.

In order to obtain their official registry religious associations must prove that within the ambit of the Republic

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74. See *id.* art. 4.

75. See Crónica, *supra* note 63, at 95 (*Dictamen a la Ley de Asociaciones Religiosas y Culto Público*).

76. *Id.*

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of Mexico they have devoted themselves, for a minimum of five years, to the practice and propagation of a religious doctrine which enjoys popular acceptance (*notorio arraigo*).<sup>77</sup> These associations must also have, as indicated earlier, their own regulations, and must demonstrate that their immovable assets, if any, have been acquired in full compliance with the specific provisions of Article 27, Paragraphs (I) and (II), of the Federal Constitution.

Under the RAA, religious associations are granted the following rights: (1) to identify themselves by means of an exclusive denomination; (2) to freely organize within their internal structures, including the formation and designation of ministers; (3) to conduct religious acts of public worship; (4) to propagate their doctrine and to participate in the establishment and functioning of charitable institutions (*instituciones de asistencia privada*), whether in the areas of education or health, provided they do not involve any lucrative goals; and (5) to use in an exclusive manner, for religious purposes, assets belonging to the nation in the terms dictated by the applicable regulations (*reglamento*). It deserves to be noted that although the RAA was enacted on July 15, 1992, as of the writing of this Article the regulations have not yet been enacted.

In accordance with Article 123 of the Federal Constitution, the labor relations between religious associations and their workers are to be governed by the applicable labor laws, namely the Federal Labor Act (*Ley Federal del Trabajo*). Members of religious associations are those adult individuals who are recognized as “associated members” (*asociados*) in conformity with the pertinent regulations of each association. In Mexico, individuals become citizens (i.e., adulthood) when they reach eighteen years of age.<sup>78</sup>

The RAA provides that “religious ministers” are to be determined by each association which must report this decision to the Secretary of the Interior. Otherwise, the Act stipulates that said ministers will be “deemed to be those individuals who perform as their principal occupation the functions of direction, representation or management.”<sup>79</sup>

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77. *See id.* at 96.

78. MEX. CONST. art. 34, ¶ I.

79. RAA art. 12, D.O., 15 de julio de 1992.

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For over a century, foreigners were not legally allowed to engage in any religious activities in Mexico. Departing from this policy, the new RAA provides that not only Mexicans but also foreigners may exercise the ministry of any religion. However, foreigners must prove their lawful admission into Mexico and possess the necessary immigration status which “does not interfere with the conduct of religious activities, as provided by the General Population Act (*Ley General de Población*).”<sup>80</sup>

Another sensitive issue which traditionally darkened the relations between the Catholic Church and the Mexican government was the prohibition on religious ministers that prevented them from voting and serving in any public position. The new RAA provides that “Mexican citizens who exercise the ministry of any cult have the right to vote in the terms provided by the applicable electoral legislation.”<sup>81</sup> However, they cannot be elected to any important public positions (*cargos públicos superiores*) “unless they are separated from their ministry in a formal, material and definite manner, at least five years prior to the day of the election in question in the first case or three years prior to the formal acceptance in the latter case. Six months will suffice regarding any other positions.”<sup>82</sup> In Mexico, the right to vote and to be voted into office are commonly known as an “active vote” and “passive vote,” respectively.<sup>83</sup>

Although the tenor of Article 14 of the RAA represents a clear advance when compared with the outright prohibition that applied to priests and other religious ministers in the past, the RAA still maintains a restrictive policy concerning the “passive vote” of religious ministers. For example, according to the Federal Code of Electoral Institutions and Procedures

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80. See Jorge A. Vargas, *The Immigration Law of Mexico*, in MEXICAN LAW: A TREATISE FOR LEGAL PRACTITIONERS AND INTERNATIONAL INVESTORS (Jorge A. Vargas ed., 1998).

81. RAA art. 14, D.O., 15 de julio de 1992. In Mexico, electoral matters are regulated by the “Código Federal de Instituciones y Procedimientos Electorales [Federal Code of Electoral Institutions and Procedures],” D.O., 15 de agosto de 1990 [hereinafter COFIPE]. For an analysis of Mexico’s electoral reform, see Vargas, *supra* note 41, at 509-28.

82. RAA art. 14, D.O., 15 de julio de 1992.

83. See CRÓNICA, *supra* note 63, at 96.

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(*Código Federal de Instituciones y Procedimientos Electorales*) (COFIPE), highly placed public servants may run for electoral posts simply by renouncing the positions they hold one year in advance.<sup>84</sup> In contrast, priests and other religious ministers must renounce their ministry in a definite manner should they decide to run for an important public office. It should be evident, therefore, that religious ministers continue to receive what may be considered constitutionally unequal or legally discriminatory treatment.

Can a state legally deprive its own citizens of their rights to inherit by means of domestic legislation, or subject these rights to specific limitations or conditions? Again, since the enactment in 1874 of one of the Reformation Acts this prohibition has burdened Mexican priests and other religious ministers.<sup>85</sup> Unlike other drastic changes made by the RAA, the Act preserves this inequity. Article 15 provides that ministers of a cult, their ascendants, descendants, brothers, spouses, as well as religious associations to which they belong, shall be incapable of inheriting by testament from those individuals to whom said ministers have guided or assisted spiritually, and who do not have any parentage within the fourth degree.

From the perspectives of both Mexican law and international law, it appears that this prohibition may be characterized as unconstitutional and in violation of human rights, respectively. This prohibition is unconstitutional because it unduly restricts religious ministers from the enjoyment of inheritance rights guaranteed by the Federal Constitution and by the fundamental principles of Mexico's legal system, thus subjecting them to unequal treatment. Furthermore, Article 5 of the Constitution guarantees any individual in Mexico, whether a Mexican national or a foreigner, to engage "in the professional, industrial or commercial pursuit or occupation of his choice, provided it is lawful." Accordingly, it would seem unfair that a religious minister in Mexico, exercising a constitutionally protected

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84. See COFIPE art. 7, ¶¶ c, e, f, D.O., 15 de agosto de 1990 (providing qualifications to become a federal representative or senator); see also MEX. CONST. art. 55(V).

85. "Decreto del Congreso" art. 8, Dec. 14, 1874, reprinted in MARGADANT, *supra* note 12, at 275.

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right, is being penalized by a prohibition on the protected civil right to inherit. This prohibition does not apply to any other occupation in Mexico. From an international human rights viewpoint, it may be argued that any restriction or limitation on an individual's legal sphere of rights, including the right to inherit, constitutes an infringement on their human rights.

One of the most detrimental blows inflicted upon the Catholic Church by the Reformation Acts of 1856 was the "nationalization" of all its immense wealth in real estate properties.<sup>86</sup> This legal restriction was maintained by Article 27 of the 1917 Constitution. The 1992 Act radically changed this policy to allow the Catholic Church and other religious associations to possess immovable assets, but only insofar as these assets are indispensable in fulfilling their religious goals. The RAA clearly states, for example, that religious associations cannot possess or manage, either directly or through a third party, any concessions for radio or television stations or for any other type of telecommunications; nor possess or manage mass media corporations, save for the publication of printed material for religious purposes.<sup>87</sup>

The Secretary of the Interior plays a crucial discretionary role in these matters. For example, it is the only federal agency empowered to issue an opinion regarding the "indispensable" character of the immovable assets that religious associations intend to acquire under any title, or in relation with inheritance cases in which a religious association becomes an heir or legatee, or when a religious association intends to become a trust beneficiary. Furthermore, religious associations must register at the Department of the Interior "all immovable assets they own or possess, without prejudice of complying with any

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86. *See supra* note 31 and accompanying text.

87. *See* RAA art. 16, D.O., 15 de julio de 1992. "Concession" is the term used in Mexican administrative law to refer to the authorizations, permits, or licences issued by the different agencies of the federal executive, depending on their jurisdiction, in favor of a company or an individual to conduct an activity, provide a service or obtain a right. For example, the Department of Communications and Transportation is legally empowered to issue "concessions" for the establishment of radio or television stations in Mexico.

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other obligations on these matters, as mandated by other statutes.”<sup>88</sup>

Entities must register the names of the representatives responsible for assets such as churches, temples, or assets of an archeological, artistic, or historic character owned by the Mexico but utilized or possessed by religious associations with the Secretary of Social Development (*Secretaría de Desarrollo Social*) and the National Council for the Culture and the Arts (*Consejo Nacional para la Cultura y las Artes*).<sup>89</sup> Evidently, these representatives are to be held liable in the case of any damage or injury to the assets.

Unlike the preferential treatment religious associations generally receive on tax matters in a number of countries, in Mexico these non-profit entities, as well as religious ministers, are “subject to the tax provisions in the terms provided by the applicable legislation.”<sup>90</sup>

*1. Registry of religious associations*

For any church or religious association to be endowed with legal recognition in Mexico, as provided by the RAA, it must first obtain the corresponding official registry from the Secretary of the Interior.<sup>91</sup> Although Article 7 of the Act enumerates the specific requirements that the applying religious association must satisfy in order to obtain the corresponding official registry, it seems that the ample discretion the Department of the Interior utilizes to construe the new Act will not dissipate until the corresponding RAA’s regulations are properly published in the *Diario Oficial*. Despite the fact that more than six years have already elapsed since the RAA was enacted, as of the writing of this Article, the RAA’s regulations continue to be privy only to Department of Interior officials, in detriment to the interests of religious associations and the people of Mexico. It is expected that this situation will be corrected as soon as possible. During 1995, 1,091 registry applications were received by the Department of

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88. *Id.* art. 17.

89. *See id.* art. 20.

90. *Id.* art. 19.

91. *See id.* art. 6.



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Interior, of which 793 religious associations were officially authorized.<sup>92</sup>

During the period from December 1992 to July 1997, 5,846 registry applications were received. Out of this total, 189 are currently being processed, 626 were canceled or withdrawn, and 5,031 received the corresponding authorization. A condensed listing of the first 1,966 officially recognized religious associations appeared in a recent book jointly published by the Department of the Interior and Mexico's National Autonomous University (UNAM).<sup>93</sup>

### 2. *Religious associations by geographical location*

Mexico City has the highest number of religious associations (882), followed by the States of Nuevo León (343), Tamaulipas (299), México (274), and Coahuila (271). The states with the lowest number of religious associations include Yucatán (59), Campeche (45), Aguascalientes (19), Tlaxcala (15), Colima, (12) and Baja California Sur and Quintana Roo (10).<sup>94</sup>

### 3. *Religious associations by creed*

Classified by creed, the officially registered 5056 religious associations may be divided into seven categories.<sup>95</sup>

<b>Catholic (2573)</b>	<b>Protestant (2444)</b>	<b>Oriental (14)</b>
Roman (2559)	Evangelic (1025)	Orientalists (2)

92. GENERAL DIRECTORATE OF NORMATIVITY AND SANCTIONS, MEXICO DEP'T OF INTERIOR, ANNUAL REVIEW OF 1995 (1996). In 1992, 3 religious associations' applications were granted followed by 990 in 1993, 1,938 in 1994, 793 in 1995, 914 in 1996, and 393 in 1997. From 1992 to 1997 there were a total of 5,031 religious association applications that were granted. See SECRETARÍA DE GOBERNACIÓN, RELIGIÓN Y SOCIEDAD (Dec. 1997).

93. See ESTUDIOS JURÍDICOS, *supra* note 62, at 201-65.

94. See ANGEL ANDRADE RODRÍGUEZ, UNDERSECRETARY OF RELIGIOUS AFFAIRS, MEXICO DEP'T OF INTERIOR, HISTORIA DE LA DIRECCIÓN GENERAL DE ASUNTOS RELIGIOSOS [HISTORY OF THE GENERAL DIRECTORATE OF RELIGIOUS AFFAIRS] 67-88 (Dec. 1997). The author expresses his sincere thanks to Lic. Norma Durán Rodríguez Arana, Advisor to the General Directorate of Religious Affairs at the Department of the Interior, for providing an advanced copy of this new and important publication.

95. See SECRETARÍA DE GOBERNACIÓN, RELIGIÓN Y SOCIEDAD 72-73 (Dec. 1997).

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Orthodox (3)	Baptist (1108)	Buddhist (6)
Antioqueña (2)	Pentecostal (236)	Islamic (2)
Greek (1)	Methodist (6)	Krishna (3)
From Moscow (1)	Presbyterian (56)	Hindu (1)
Mexican (2)	Interdenominational (2)	
Trento (5)	Mormon (1)	
	Adventist (2)	
	Lutheran (7)	
	Anglican (1)	

<b>Jewish (9)</b>	<b>Spiritualist (38)</b>	<b>Mexican Church (6)</b>	<b>Other (2)</b>
Jewish (9)	Trinitarian Marian (33)		Jehovah Witnesses (2)
	Fidencista (1)		
	Other (4)		

The preceding data clearly suggests that Mexico is a country with a very large number of religious associations and creeds.

#### 4. Religious associations and immovable assets

According to the data gathered by July of 1997, the Department of the Interior authorized a total of 6,495 immovable assets to be incorporated to the patrimony of religious associations between 1993 and 1997, including 1,685 in 1993, 1,924 in 1994, 1,285 in 1995, 914 in 1996 and 435 in 1997.<sup>96</sup>

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<sup>96.</sup> See *id.* at 81 (Graph 8: *Inmuebles Autorizados a las Asociaciones Religiosas para Incorporarlos a su Patrimonio*).

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5. *Other authorizations*

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A total of 546 religious transmissions by non-printed mass media were authorized by the Department of the Interior, including 32 in 1993, 26 in 1994, 98 in 1995, 56 in 1996 and 546 in 1997. Denials from 1994 to 1997 consisted of 2, 38, 11 and 10, respectively, for a total of 61.<sup>97</sup> Interestingly, the Department of the Interior authorized 1095 foreign ministers in 1996 and 3692 in 1997 to exercise their religious ministry in Mexico.<sup>98</sup>

Unlike the United States, where radio and television religious broadcasts are daily events (including shortwave radio transmissions directed at specific world regions in different languages), religious associations in Mexico may only transmit religious radio and television programs as an exception, once the corresponding authorization from the Department of the Interior has been expressly granted. With the caveat that even when authorized, said radio and television religious programs may not be transmitted during the air time allocated for official broadcasts. In consonance with the prohibitions enumerated in Article 130 of the Federal Constitution, the RAA reiterates that no gatherings of a political nature may take place in temples or churches.<sup>99</sup>

*C. Title III: Religious Acts of Public Worship*

Title 3 begins by reiterating the norm established by Article 24 of the Federal Constitution, that religious acts of public worship shall ordinarily take place inside the churches or temples. However, the new federal statute adds that in exceptional circumstances these acts may take place outside the temples. In such cases, the religious associations organizing these public events must give notice to the public authorities fifteen days in advance, indicating the place, date, hour, and the reason for the intended event.<sup>100</sup>

However, since the establishment of the Subdirectorate of Norms and Sanctions in late 1992, the Department of the Interior has authorized an impressive total of 16,028 public acts

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97. *See id.* at 82 (Graph 10: *Actos Religiosos de Culto Publico Transmitidos de Manera Extraordinaria por Medios Masivos de Comunicacion No Impresos*).

98. *See id.* at 86. (Graph 13: *Anuencias a Ministros de Culto Extranjeros*).

99. *See* RAA art. 21, D.O., 15 de julio de 1992.

100. *See id.* arts. 21-22.

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of worship between 1993 and July 4, 1997. This consists of a total of 382 in 1993, 1,442 in 1994, 5,582 in 1995, 6,844 in 1996 and 1,778 in 1997. The following number of applications for public acts of worship were denied from 1994 to 1997: 15, 75, 152, and 13, for the respective years, for a total of 255 over that four-year period.<sup>101</sup>

*D. Title IV: Authorities*

RAA is quite explicit in asserting that it is to be applied by the federal executive power through the Secretary of the Interior. State and municipal authorities, as well as those of the Federal District (Mexico City), will assist the executive in the terms mandated by the 1992 Act.

In Mexico, the Department of the Interior is unquestionably the most powerful federal agency. It occupies the apex of the federal public administration, regulated by the Federal Public Administration Act.<sup>102</sup> In general, the Department of the Interior controls and promotes political activities throughout Mexico, handles relations between the executive power and the other federal powers, state governments, and municipal authorities, formulates and applies immigration policies, including the expulsion of undesirable aliens, structures and implements civil protection programs, provides support to the federal judicial power, controls the radio, television, movies, and printed mass media publications.

Regarding religious activities, the Federal Public Administration Act empowers the Department of the Interior “[t]o supervise compliance with the legal provisions on religious worship and external manifestations, dictating whatever measures are needed.”<sup>103</sup> No public authority can attend a religious act of public worship in an official capacity. In the case of diplomatic acts, said authorities shall limit themselves to complying with the mission assigned, in conformity with the applicable provisions.<sup>104</sup>

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101. See SECRETARÍA DE GOBERNACIÓN, RELIGIÓN Y SOCIEDAD 82 (Dec. 1997) (Graph 9: *Actos de Culto Público con Caracter Extraordinario*).

102. See “Ley Orgánica de la Administración Pública Federal [Federal Public Administration Act],” art. 27, D.O., 29 de diciembre de 1976 (amended 1994).

103. *Id.*

104. See RAA art. 25, D.O., 15 de julio de 1992.

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Probably some of the most important and sensitive responsibilities the new Act expressly assigns to the Department of the Interior include: (1) to organize and keep updated "the registry of religious associations," (2) to organize and keep updated the corresponding registry of "immovable assets which religious associations may possess or manage under any legal title," (3) to resolve "any controversies that may arise between religious associations," and (4) to impose sanctions when the RAA provisions are infringed or violated.<sup>105</sup>

In order to comply with these statutorily imposed tasks, the Department of the Interior had to undertake an internal administrative restructuring which resulted in the creation of: (1) an Undersecretary for Religious Affairs (*Subsecretaría de Asuntos Religiosos*); (2) a General Directorate of Religious Affairs (*Dirección General de Asuntos Religiosos*),<sup>106</sup> and (3) a Subdirectorate of Norms and Sanctions (*Subdirección de Normas y Sanciones*).<sup>107</sup>

*E. Title V: Violations, Sanctions, and Religious Conflicts*

According to data just released by the Subdirectorate of Norms and Sanctions, during 1997 a total of nineteen alleged RAA violations were filed in 1993, fourteen in 1994, twelve in 1995, ten in 1996 and zero in 1997. Out of this total, twenty-five files were completed and thirty are still pending.<sup>108</sup> This data, however, does not provide details regarding the specific types of RAA violations.

The new Act lists a number of specific violations which religious ministers may incur (*infracciones*). Violations include: associating for political purposes, conducting proselytizing or propaganda in favor of or against any political candidate, party or, political association, offending Mexico's national symbols, acquiring, possessing, or managing a religious association's assets or rights which are not deemed as indispensable for their object, including concessions of any kind, promoting any conduct contrary to the well-being or physical integrity of

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105. *Id.* arts. 26, 28-32.

106. *See* D.O., 23 de noviembre de 1992.

107. *See* ANDRADE, *supra* note 94, at 68-69.

108. *See* SUBDIRECTORATE OF NORMATIVITY AND SANCTIONS, DEP'T OF INTERIOR (Sept. 1997) (data provided personally to author).

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individuals, exercising physical violence or moral pressure through aggression or threats for the accomplishment of their religious objectives, representing an authorized religious association when official recognition is lacking, assigning any assets to a goal other than the one predicated in the official opinion, transforming a religious act into a political assembly, opposing the laws of the country, and conducting or allowing acts which threaten the integrity, safeguard, and preservation of assets which constitute the Nation's cultural patrimony.<sup>109</sup>

The RAA establishes an administrative procedure that must be followed when violations of the Act are committed. The imposition of sanctions depends upon several factors including: the nature and seriousness of the fault or violation, the alteration of public tranquility and public order, the economic situation and level of education of the violator, and recidivism, if any. The explicit enunciation of these factors heightens the expectation that a certain standard of legality, objectivity, and fairness, rather than the absolute and unlimited discretion of the Department of the Interior, is to govern the application of sanctions suited to individual cases.

The RAA designates several different sanctions which may be applied to violators.<sup>110</sup> Sanctions range from a simple warning, fine, or temporary or definite closure of the locale designated for public worship, to the temporary suspension of the rights of a religious association within the national territory or in a given state, municipality, or locality and the cancellation of the religious association's recognition.<sup>111</sup>

Fines may be quite substantial. Pursuant to the RAA, a fine may go up to 20,000 days of the general minimum salary in the Federal District (Mexico City). As of the writing of this Article, that salary was established to be about four U.S. dollars (at the current rate of eight pesos per one U.S. dollar). Thus, the maximum fine authorized by the RAA may be the equivalent of \$80,000 U.S. dollars!

Until the RAA's regulations are enacted, as duly published in the *Diario Oficial*, religious associations may rightly be

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109. See RAA art. 29, D.O., 15 de julio de 1992.

110. See *id.* art. 32.

111. See *id.*

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concerned that the application of sanctions will only be subject to the exercise of absolute and unlimited discretion traditionally exercised by the Department of the Interior. Nothing could more decisively convey the idea that Mexico is a country of law and order, as President Ernesto Zedillo Ponce de León stated, than to fully demonstrate that the letter and spirit of the law, as published in the *Diario Oficial*, is going to prevail above the exercise of any absolute discretion, privilege, or discriminatory treatment. As recognized by President Zedillo in his National Plan of Development, 1995-2000:

Today, our regulatory and institutional framework is not wholly suited to the expectations and circumstances of our time. Backwardness, vices and shortcomings continue to exist in the areas of public safety, administration of justice, combating corruption and impunity, legal security and recognition of constitutional rights, especially [when these violations] injure the most vulnerable social groups. Thus, many members of our national community share legitimate doubts and concerns associated with the establishment and enforcement of a State of Law, and for the equality before the law and public institutions.<sup>112</sup>

An important advancement in the RAA is the inclusion of a motion for administrative appeal (*recurso de revisión*) in favor of individuals or religious associations whose interests have been adversely affected by an official determination or resolution.<sup>113</sup> This motion is to be submitted to the Department of the Interior or to the authority that dictated the act or resolution being challenged, within twenty days of the date of its formal notification (i.e. personal service). The authority in question shall send to the Department of the Interior, within a period not longer than ten working days, the appeal motion and the documents which are offered as evidence by the respondent and which may be in possession of the authority. Only those individuals that have a legal interest are allowed to file this administrative appeal motion. The procedure is regulated by

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112. "Decreto por el que se Aprueba el Plan Nacional de Desarrollo, 1995-2000," D.O., 31 de mayo de 1995.

113. *See* RAA arts. 33-35, D.O., 15 de julio de 1992.



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the same Act and, when necessary, by the Federal Code of Civil Procedure (*Código Federal de Procedimientos Civiles*).<sup>114</sup>

Since the Department of the Interior, and not an administrative tribunal per se, is the authority empowered to render a final decision on these administrative appeals, it may be anticipated that the individuals affected by these decisions, especially if they are foreigners, are likely to have serious reservations about the objectivity, legality, and fairness of these appellate decisions. It would be legally healthier if these decisions could be rendered not by the Department of the Interior but by an independent tribunal or adjudicatory body. Perhaps the idea of having a special tribunal to adjudicate religious matters would be more in symmetry with Mexico's proven preference for highly specialized tribunals.<sup>115</sup>

*1. Religious conflicts*

For decades, Mexico has been the arena of violent hostilities caused by religious motives. When one considers that historically Mexico has been and continues to be a predominantly Roman Catholic country, it is not difficult to visualize the intolerant and violent reactions directed against non-Catholic religious ministers when they venture into Mexico for the purpose of proselytizing. In general, these activities have gradually increased over the last decades. Religious ministers tend to be foreigners (mostly United States citizens) and Protestants, who focus their proselytizing in small rural areas, showing special preference to indoctrinate indigenous peoples.

Whereas the reactions of Catholic Mexicans against the presence and activities of religious ministers of a different denomination do not cause major problems in large urban centers such as Mexico City, Monterrey and Guadalajara, the presence of non-Catholic ministers in rural and remote areas has generally led not only to intolerance and open

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114. *See id.* arts. 34-36.

115. In addition to the federal and state judicial systems, in recent years Mexico has witnessed the emergence of a number of specialized courts or tribunals, most of them associated with the executive power, such as tax courts, agrarian courts and, most recently, electoral courts.

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discrimination, but also to systematic harassment, confrontations, and violence. Sometimes the situation becomes quite tense and difficult to handle because most of the people who live in these villages are Catholic, including their public authorities, who resent the presence of non-Catholic ministers among them, especially when these ministers are engaged in public acts of religious indoctrination. As a consequence, disputes tend to arise and lead to serious confrontations and violent attacks.

Catholic priests play a leading role in Mexican villages, particularly when these villages are located in remote areas and especially when these small towns are formed by indigenous peoples. Accordingly, it is not unusual to see the development of a special rapport between these priests and the local authorities, who happen to be Catholic. Sometimes this informal association results in the formation of a *de facto* joint front to oppose an uninvited and unwelcome religious penetration. The rejection of these unwanted religious visitors becomes aggravated when the visitors happen to be non-Mexicans who may be easily depicted as intruders who are seeding social unrest, thus conspiring against the national interests of Mexico. Unfortunately, many of these foreign religious ministers enter Mexico as tourists. Under Mexican law, the immigration status of a tourist does not permit conducting religious activities and results in a clear violation of Mexico's immigration law.<sup>116</sup> In these cases, by simply invoking Article 33 of the Federal Constitution, these foreigners can be summarily expelled from Mexico without a hearing.<sup>117</sup>

This situation is exacerbated in those villages where groups of Mexicans, over a period of time, have converted to Protestantism or other religious creeds. Located in remote rural

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116. See Vargas, *supra* note 80, at 75.

117. Article 33 of the Federal Constitution provides:

Foreigners are those who do not possess the qualifications set forth in Article 30. They are entitled to the constitutional rights granted by Chapter I, Title I, of the present Constitution; but the Federal Executive shall have the exclusive power to expel from the national territory, immediately and without any prior trial, any foreigner whose presence is considered inconvenient. Foreigners may not become involved, in any manner whatsoever, in the political affairs of the country.

MEX. CONST. art. 33.

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settings, these Mexicans become the target of intolerance, discrimination, and are quite often violently dispossessed of their small agricultural parcels. In extreme cases, the price for embracing a non-Catholic, foreign religion in Mexico is death.

Numerous non-governmental organizations (NGOs) were the first to attract international attention to these violent confrontations and arbitrary land seizures which have occurred over the last decades. Since its relatively recent establishment, Mexico's National Commission of Human Rights (*Comisión Nacional de Derechos Humanos*) has started to include in its annual report a special section devoted to addressing these chronic and increasingly violent religious conflicts.<sup>118</sup>

A recent article summarized this problem by stating:

The eviction of families, arrests, interrogations, and even armed confrontations are evidence of increasing religious intolerance in Mexico, the nation with the highest number of Catholics in Latin America.

There are problems of intolerance in 19 of the nation's 31 states, especially against the Protestant groups, so much so that today the National Evangelical Human Rights Commission said the government must intervene and create interreligious councils.

The Interior Ministry was forced to recognize the existence of several religious "hot spots" where intolerance and fanaticism have led to police and social action aimed at guaranteeing the right of religious free choice.<sup>119</sup>

This demonstrates the importance of the specific function imposed upon the Secretary of the Interior by the RAA to resolve any controversies that may arise between religious associations.<sup>120</sup> In addition, the Secretary of the Interior and the Secretary of the National Defense (*Secretaría de la Defensa Nacional*) are empowered to detect and solve any conflicts that may cause social unrest or endanger Mexico's national security.<sup>121</sup>

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118. See COMISION NACIONAL DE DERECHOS HUMANOS, INFORME ANUAL (1994).

119. Diego Cevallos, *Mexico: Intolerance, The Price of a Change of Faith*, INT'L PRESS SERV., July 22, 1996.

120. See RAA, art. 28, D.O., 15 de julio de 1992.

121. See "Ley Orgánica de la Administración Pública Federal [Federal Public

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The RAA, for the first time in the history of the Mexican legislature, establishes a special administrative procedure to be followed by the Department of the Interior in resolving controversies between religious associations. This procedure has two parts: an initial conciliation phase followed by formal arbitration if the conciliation fails.<sup>122</sup>

According to the information recently released by the Subdirectorate of Norms and Sanctions (September 1997), the number of complaints filed with the Department of the Interior as "religious conflicts" include: ninety-five in 1993; thirty-four in 1994; twelve in 1995; thirty-six in 1996 and ten in 1997, for a total of 187. In each of these respective years, these cases were concluded as follows: ninety-four, thirty, nine, thirty-five, and eight, for a total of 176 closed cases for the five-year period. There are currently eleven cases still pending for this five-year period.<sup>123</sup>

## V. CONCLUSION

The legal regime used in Mexico to govern its public relations with the Church was seeded with resentment, suspicion, and vindictiveness from its inception. It should not be unexpected, therefore, that the relations between these two powers, one worldly and the other spiritual, were difficult and bumpy during most of this century. Rather than structuring a legal framework based upon an enlightened policy of rationality, transparency, and practical realities, these relations were constructed and painfully maintained on a subjective interpretation of historic events which the twentieth century has turned obsolete. The policy was public, but artificial and quite distant from the interests of the Mexican people. It was a legal regime divorced from reality.

For 140 years Mexico maintained a regime which was strongly anticlerical. Based upon the Reformation Acts enacted by President Juárez in the late 1850s and 1860s, the basic

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Administration Act],” arts. 27-28, at 8, 11, D.O., 29 de diciembre de 1976 (amended 1994).

122. This unique administrative mechanism for solving disputes between religious associations offers an intriguing possibility for an analytical research study.

123. See SUBDIRECCIÓN DE ARBITRAJE Y RECURSOS, SECRETARÍA DE GOBERNACIÓN, QUEJAS POR CONFLICTOS RELIGIOSOS (Sept. 29, 1997) (*Dirección de Normatividad*).

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philosophical tenets of these legislative enactments had a strong punitive flavor. They were drafted with the deliberate purpose of castigating and humiliating the Catholic Church for its arrogance in challenging the material power of the republican government of President Juárez. This policy was developed in a time when the Mexican clergy and a conservative elite dreamed of establishing a European monarchy in that country.

Although the 1916-1917 Constitutional Congress of Querétarohad the opportunity to correct, or at least ameliorate, this policy of extreme separation between church and state, by formulating a more rational and less vindictive legal framework, that opportunity was lost. As a result, the Federal Constitution of 1917 strongly embraced the philosophical tenets advanced by Juárez. This regime was in place until 1992.

Pursuant to this regime, religious associations were given no legal capacity and were thus acknowledged by Mexican law only as *de facto* institutions. Religious associations could not own or possess any assets, including real estate. This prohibition also extended to religious ministers, who were forbidden from engaging in political activities. Religious associations were also excluded from participating in the education of Mexicans and prohibited from conducting religious rites outside their temples. The severity of this regime was completed by the mandate that all acts pertaining to the civil status of individuals were to be conducted by public officials, thus depriving the Catholic Church of a practice that started in Colonial times.

Looking back at this history, it becomes evident how difficult it must have been for religious associations in Mexico, especially the Catholic Church, to live, operate, and survive for decades subject to a framework that was clearly designed to resemble a legal straight-jacket. Understanding this helps explain the reiterated protests the Holy See advanced at different times regarding this regime. It was against this historical, legal, and political background that Mexico adopted a new policy in 1992. The extraordinary changes adopted to amend the Federal Constitution of Mexico, and thus change the old legal regime, turned the juridical compass 180 degrees.

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Three major rationales led to this dramatic change: first, the process of “modernization” that characterized the administration of President Salinas. This process revolutionized the economy, the political arena, the conduct of foreign affairs, the advancement of science and technology, the legal system, and naturally, the social and cultural makeup of the Mexican people. Faced with the contemporary realities of a nation at the threshold of a new millennium, it became vital to update the decrepit legal regime governing the relations between church and state.

Second, the political realization that a “modern legal regime” was needed to conduct the relations between church and state along more open, fresh, and transparent avenues. This placed the Church in an enhanced position and opened more harmonious lines of communication with the Holy See and other religious creeds, and at the same time sent a clear message to the Mexican people. Third, the ability to produce a new legal regime which is able to govern the relations between the Mexican government and religious associations based upon more enlightened policies and preserving, at the same time, certain legal principles which are perceived as inalienable in the Mexican legal tradition. These principles are: (1) absolute respect for the freedom of belief, (2) sovereignty of the Mexican State, (3) clear demarcation between civil and ecclesiastical questions, (4) legal equality of all churches and religious associations, and (5) public secular education.

In general, the Act of Religious Associations and Public Worship of 1992 is decidedly a progressive development in this field. Its practical and fair implementation will help detect imperfections, find omissions, and clarify ambiguities. A technical and specialized adjudicatory body will only serve to elevate the objectivity and fairness of this Act. Equally important is the urgent need to have clear and precise regulations that will assist in interpreting the Act in a fair manner, thus bridling the discretion in the hands of public authorities. Hopefully, federal courts will have a decisive and increasing role in the defense and strengthening of the freedom of religion in Mexico in the years to come.

APPENDIX ONE  
ACT OF RELIGIOUS ASSOCIATIONS AND PUBLIC WORSHIP<sup>1</sup>

*(Diario Oficial de la Federación, July 15, 1992)*

ARTICLE 1

The present statute, based upon the historic principle of the separation of State and churches, as well as on the freedom of religious beliefs, regulates the provisions of the Political Constitution of the United Mexican States on matters of associations, religious groups, churches and public worship. Its provisions are of public order and general observance throughout the national territory.

Religious convictions in no case exempt one from compliance with the laws of the country. No one may allege religious motives to evade the responsibilities and obligations prescribed by the laws.

ARTICLE 2

The Mexican State guarantees in favor of the individual these rights and freedoms on religious matters:

a) To have or adopt the religious belief of his/her own preference and to practice, in an individual or collective manner, the acts of worship or rites of his/her preference.

b) Not to profess any religious beliefs, abstain from practicing religious acts or rites, and not to belong to a religious association.

c) Neither be the object of discrimination, coercion or hostility because of his/her religious beliefs, nor to belong to an a religious association. No religious motives may be alleged to impede anyone in the exercise of any job or activity by reason of his/her religious beliefs, nor to be obligated to declare on said beliefs.

d) Neither to be obligated to provide personal services, nor to contribute in money or in kind to support an association, church or any other religious group, nor to participate or

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contribute in the same manner in rites, ceremonies, festivities or acts of religious worship.

e) Not be the object of any judicial or administrative inquiry because of the expression of religious ideas; and

f) To peacefully associate or assemble for religious purposes.

## ARTICLE 3

The Mexican State is secular. The State shall exercise its authority over any religious manifestation, individual or collective, only insofar as it affects the observance of the laws, the maintenance of the public and moral order and the tutelage of the rights of third parties. The State cannot establish any type of preference or privilege in favor of any religion, neither in favor or against any church or religious group.

The official identification documents shall not contain any mention of the religious beliefs of [any] individual.

## ARTICLE 4

Acts pertaining to the civil status of individuals are of the exclusive jurisdiction of the authorities in the terms provided by the laws, and shall have the force and validity mandated by said laws.

The simple oath to tell the truth and to comply with certain obligations obligates the individual who makes them, subjecting such individual to the sanctions established by the law in case of violations.

## ARTICLE 5

Legal acts that contravene the provisions of this Act shall be null and void.

## ARTICLE 6

Churches and religious groups shall have legal personality as religious associations once they have obtained their corresponding official registry (*Registro constitutivo*) from the Secretary of the Interior (*Secretaría de Gobernación*), in the terms provided by this Act.

The religious associations shall be governed internally by their own regulations (*Estatutos*). These regulations shall contain the fundamental bases of the doctrine and body of religious beliefs and shall name their representatives and, when appropriate, those internal entities and divisions belonging to them. These entities and divisions may correspond to regional demarcations or to other forms of autonomous organization within the associations, as it may be suitable to



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their structure and goals, and may equally enjoy having legal personality in the terms of this Act.

Religious associations are equal before the law in their rights and obligations.

## ARTICLE 7

The applicants for the official registry of a religious association shall prove that the church or religious association:

I. Has principally devoted itself to the observance, practice, propagation or instruction of a religious doctrine or of a body of religious beliefs;

II. Has undertaken religious activities in the Republic of Mexico for a minimum of five years and enjoys public recognition among the population besides having established its domicile in the Republic;

III. Contributes sufficient assets to comply with its object;

IV. Has the regulations referred to in Article 6, second paragraph, of this Act; and

V. Has complied, when required, with what is provided in paragraphs I and II of Article 27 of the Federal Constitution.

A summary of the registry application shall be published in the *Diario Oficial de la Federación* (Official Gazette).

## ARTICLE 8

Religious associations shall:

I. Be always subject to the Federal Constitution and to the laws which emanate from it, and respect the institutions of the country;

II. Abstain from pursuing lucrative or mainly economic goals.

## ARTICLE 9

Religious associations shall have the right, as provided by this Act and its Regulations, to:

I. Be identified by means of an exclusive denomination;

II. Freely organize within their internal structures and adopt the regulations or norms that govern their system of authority and operation, including the formation and designation of ministers;

III. Conduct religious acts of public worship, and to propagate their doctrine, provided that norms and provisions of this Act and other applicable statutes are not contravened;

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IV. Conduct all kinds of legal acts for the accomplishment of their object, provided they are lawful and do not pursue lucrative goals;

V. Participate directly, or in association with individuals and companies, in the establishment, administration, support and operation of institutions of private assistance [*Charitable institutions*], schools and health organizations, provided no lucrative goals are involved and that the provisions of this Act and other applicable statutes are complied with;

VI. Use in an exclusive manner, for religious purposes, assets belonging to the Nation, in the terms dictated by the respective Regulations; and

VII. Enjoy the other rights granted by this Act and other statutes.

## ARTICLE 10

Any acts within the matters regulated by this Act which may be conducted in a habitual manner by an individual, or by churches and religious associations, without having the official registry (*Registro constitutivo*) referred to in Article 6, shall be attributed to the individuals or legal entities, as may be the case, all of which shall be subject to the obligations established by this Act. Said churches or groups shall not have the rights enumerated in paragraphs IV, V, VI and VII of Article 9 of this Act, and other applicable provisions.

Labor relations between the religious associations and their workers shall be subject to what is provided for by the applicable labor legislation.

## ARTICLE 11

With respect to the official registration referred to by this Act, "Associated" [members] of a religious association are the adult individuals who have been appointed as such in accordance with the corresponding regulations.

The representatives of the religious associations shall be Mexican [nationals] over 18 years of age, who must have been recognized with such a character by the corresponding authorities.

## ARTICLE 12

With respect to this Act, "Ministers of a cult" are considered to be any adult individuals to whom the religious associations to which they belong have conferred such title upon them. Religious associations shall report their corresponding decision

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to the Secretary of the Interior. In the case said associations omit this report, or in relation with churches or religious groups, "Ministers of a cult" are deemed to be those individuals who perform as their principal occupation the functions of direction, representation or management.

## ARTICLE 13

Mexicans may exercise the ministry of any cult. Foreigners may equally do it provided they prove their lawful entry and stay in the country and that their legal immigration status does not interfere with the conduct of religious activities, as provided by the General Population Act (*Ley General de Población*).

## ARTICLE 14

Mexican citizens who exercise the ministry of any cult have the right to vote in the terms provided by the applicable electoral legislation. They cannot be elected for any electoral posts, nor can they occupy any important public positions (*Cargos públicos superiores*) unless they are separated from their ministry in a formal, material and definite manner at least five years prior to the day of the election in question in the first case or three years prior to the formal acceptance in the latter case. Six months will suffice regarding any other positions.

Neither can religious ministers associate themselves for political purposes, nor conduct any proselytizing in favor of or against any political candidate, party or association.

Any separation of religious ministers shall be communicated by the religious association or by the separated ministers themselves to the Secretary of the Interior within the following thirty days of their separation. In resignation cases, the minister may prove it by producing the document which attests that it was received by a legal representative of the respective religious association.

For purposes of this article, the separation or resignation of a minister shall take effect from the date it is reported to the Secretary of the Interior.

## ARTICLE 15

Religious ministers, their ascendants, descendants, brothers, spouses, as well as the religious associations to which they belong, shall be incapable of inheriting by testament from those individuals whom said ministers have guided or assisted spiritually and do not have any parentage within the fourth

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degree, in the terms provided by Article 1325 of the Civil Code for the Federal District in Ordinary Matters and for the entire Republic on Federal Matters (*Código Civil para el Distrito Federal en Materia Común y para toda la República en Materia Federal*).

## ARTICLE 16

Religious associations established in conformity with this Act may have a patrimony allowing them to comply with their object. Said patrimony, formed by all the assets which they may acquire, possess or manage under any [legal] title shall exclusively be what is indispensable to comply with the goal or goals proposed in its object.

Religious associations and the ministers of a cult cannot possess or manage directly or through a third party any concessions for the exploitation of radio, television or any other type of telecommunication, nor acquire, possess or manage any mass media companies. Printed materials of a religious nature are excluded from this prohibition.

Religious associations in liquidation may transfer their assets, through any means, to other religious associations.

In the case the liquidation takes place as a consequence of the imposition of any of the sanctions established by Article 32 of this Act, the assets of the religious associations to be liquidated shall be transferred to public assistance institutions [*Charitable organizations*]. The national assets that may be in the possession of religious associations shall revert to the full public dominion of the Nation.

## ARTICLE 17

The Secretary of the Interior shall issue an opinion (*Resolverá*) regarding the indispensable character of the immovable assets that religious associations intend to acquire under any [legal] title. To that effect, the Secretary shall issue a favorable opinion (*Declaratoria de procedencia*) in the following cases:

- I. In the case of any immovable asset;
- II. In any case of inheritance, when a religious association becomes an heir or legatee;
- III. When it is intended that a religious association is to become a trust beneficiary, except when the association is the only trustor; and

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IV. When the transaction involves immovable assets over which charitable organizations (*Instituciones de asistencia privada*), health or educational institutions may the owners or trust beneficiaries, and religious associations, either directly or in association with other individuals, may have been involved in their establishment, management or operation.

The applications seeking an opinion must be answered by the authority in no more than forty five days; if there is no answer, the application is deemed approved (*Aprobación ficta*).

Regarding the case referred to in the preceding paragraph, at the request of the interested party, the Secretary must issue a certification (*Expedir certificación*) that the requisite period of time has elapsed.

Religious associations must register all immovable assets [they own or possess] with the Secretary of the Interior, without prejudice of complying with any other obligations on these matters, as mandated by other statutes.

## ARTICLE 18

Authorities and officials endowed with notarial powers (*e.g.*: public notaries and public brokers) intervening in any legal acts whereby a religious association intends to acquire the ownership of an immovable asset, must request from the association the document which contains the favorable opinion (*Declaratoria de procedencia*) issued by the Secretary of the Interior or, when appropriate, the certification mentioned in the preceding paragraph.

Any officials endowed with notarial powers that intervene in the above mentioned acts must give notice to the corresponding Public Registry of Property (*Registro Público de la Propiedad*) that the immovable in question is to be destined to the goals of the association, so the Registry may insert the corresponding notation.

## ARTICLE 19

Individuals and legal entities, including their assets, governed by this Act, shall be subject to the tax provisions in the terms provided by the applicable legislation.

## ARTICLE 20

Religious associations shall name and register with the Secretary of Social Development (*Secretaría de Desarrollo Social*) and the National Council for the Culture and the Arts

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(*Consejo Nacional para la Cultura y las Artes*) the representatives responsible for the temples and of those assets that constitute archeological, artistic or historic monuments owned by the Nation. Said association shall be obligated to preserve in their [physical] integrity said assets and to take care of their safeguard and restoration, in the terms provided by the laws.

The assets owned by the Nation that may be possessed by religious associations, including the specific use given to them, shall be subject to this Act, the General Act of National Assets (*Ley General de Bienes Nacionales*) and, when appropriate, to the Federal Act on Archeological, Artistic and Historic Monuments and Zones (*Ley Federal sobre Monumentos y Zonas Arqueológicas, Artísticos e Históricos*), and any other applicable statutes and regulations.

## ARTICLE 21

Religious acts of public worship shall ordinarily take place at the temples. Only on extraordinary occasions may said acts be conducted outside the temples, in the terms provided by this Act and the other applicable statutes.

Religious associations may only transmit or disseminate acts of religious worship through the non-printed mass media in extraordinary circumstances, once the corresponding authorization from the Secretary of the Interior has been granted. In no case Maya religious act be broadcast through radio and television during the [air] time allocated to the State.

In the cases mentioned above, the organizers, sponsors, concessionaires or owners of mass media companies shall be jointly liable with the religious association in question for complying with the specific provisions governing acts of public worship of an extraordinary nature.

No gatherings of a political nature may take place in any temples.

## ARTICLE 22

To conduct religious acts of public worship outside temples on extraordinary occasions, the organizers shall give notice in advance to the competent federal, Federal District, State or municipal authorities, at least fifteen days prior to the date they are intending to conduct them. The notice must indicate the place, date, hour, and reason for the intended act.

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The authorities may prohibit the conduct of the intended act [although they must advance in writing] the legal bases and the rationale of their decision. [This prohibition may only proceed when it is based on] security reasons and the protection of public health, [public] morality, [public] peace and public order, as well as the protection of the rights of third parties.

## ARTICLE 23

The notice referred to in the preceding article shall not be required regarding:

I. The affluence of groups going towards the locations ordinarily destined to the cult;

II. The transit of people between domiciles of individuals with the purpose of celebrating religious commemorations; and

III. The acts to be conducted in closed locales or in those to which the people have no free access.

## ARTICLE 24

Anyone who opens a temple or a locale destined to public worship shall give notice to the Secretary of the Interior within no more than thirty working days from the date of opening. The observance of this rule does not give exemption from the obligation to comply with the applicable provisions in other matters.

## ARTICLE 25

The application of this Act corresponds to the Federal Executive Power through the Secretary of the Interior.

The State and municipal authorities, as well as those of the Federal District, will assist the Federation in the terms provided by this Act.

The above mentioned authorities cannot attend in an official capacity any religious act of public worship, nor any activity having similar purposes. In the case of diplomatic practice, [said authorities] shall limit themselves to complying with the mission assigned, as provided by the applicable provisions.

## ARTICLE 26

The Secretary of the Interior shall organize and keep updated the registries of religious associations and the immovable assets which the associations may possess or manage under any title.

## ARTICLE 27

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The Secretary of the Interior may enter into cooperative or coordinating agreements with the State authorities in matters regarding this Act.

The State and municipal authorities shall receive notices on the conduct of religious acts of public worship of an extraordinary character in the terms provided by this Act and its Regulations.

They must also report to the Secretary of the Interior on the exercise of their powers in accordance with this Act, its Regulations and, when appropriate, the corresponding agreement.

## ARTICLE 28

The Secretary of the Interior is empowered to resolve any controversies that may arise between religious associations, according to the following procedure:

I. The religious association deemed to be affected in its legal interests shall submit a complaint before the Secretary of the Interior;

II. The Secretary shall receive the complaint and summon the other religious association to answer the complaint within ten working days following the date of notification, asking it to appear at a conciliation meeting which shall take place within thirty days following the date when the complaint was submitted;

III. At the conciliation meeting, the Secretary shall invite the parties to reach a conciliatory solution to the controversy and, if this is not possible, to name a legal arbiter (*Arbitro de estricto derecho*); and

IV. If the parties choose to arbitrate, the procedure previously described to the parties should be followed; otherwise, the rights of the parties shall be preserved to be exercised before the competent courts, as provided by Article 104, paragraph I, Section A, of the Political Constitution of the United Mexican States.

The procedure stipulated by this article is not a procedural requirement (*Requisito de procedibilidad*) [that the parties must comply with in order] to appear at the competent court.

## ARTICLE 29

The following are violations (*Infracciones*) of this Act, incurred by the parties referred to in this statute:



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I. To associate for a political purpose and to conduct proselytizing or propaganda of any type in favor of or against any candidate, party or political association;

II. To offend (*Agraviar*) the national symbols or to induce their rejection in any manner;

III. To acquire, possess or manage religious associations, directly or through a third party, assets or rights which are not exclusively those deemed indispensable for their object, including concessions of any kind;

IV. To promote any conduct contrary to the well-being or the physical integrity of individuals;

V. To exercise physical violence or moral pressure through aggression or threats for the accomplishment or realization of their objectives;

VI. To represent itself as being a religious association when it has not been recognized as such by the Secretary of the Interior;

VII. To designate any assets that religious associations may have acquired under any title to a goal different than the one predicated in the corresponding official opinion (*Declaratoria de procedencia*);

VIII. To clearly deviate from the associations' predicated goals to such an extent that the associations' religious nature is lost or seriously jeopardized;

IX. To convert a religious act in an assembly into one of a political nature;

X. To oppose the laws of the country or the country's institutions at public assemblies;

XI. To conduct acts or allow acts which threaten the integrity, safeguard and preservation of the assets which constitute the country's cultural patrimony, assets which are being used by churches, groups or religious associations, and to omit actions necessary for said assets to attain to be preserved in their integrity and value; and

XII. Any other established by this Act or in other applicable regulations.

## ARTICLE 30

The application of the sanctions established by this Act shall be subject to the following procedure:

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I. The sanctioning body shall be a Commission composed by officials of the Secretary of the Interior pursuant to its Regulations and its resolutions shall be taken by a majority of votes;

II. The authority shall notify the interested party of the facts considered to be in violation of this Act, warning it to appear before the Commission within fifteen days following the date of summons in order to advance arguments and offer evidence; and

III. Once the term mentioned in the preceding paragraph has lapsed, whether the interested party had appeared or not, the Commission shall dictate the corresponding resolution. If the party made an appearance, the arguments advanced and the evidence submitted should be analyzed in the resolution.

## ARTICLE 31

Violations of this Act shall be sanctioned taking into consideration the following elements:

I. The nature and seriousness of the fault or violation;

II. The possible alteration of the social tranquility and public order triggered by the violation;

III. The economic situation and the level of instruction of the violator;

IV. Recidivism, if any.

## ARTICLE 32

To the violators of this Act one or several of the following sanctions may be imposed, depending upon the evaluation made by the authority regarding the elements enunciated in the preceding article:

I. Warning;

II. Fine up to twenty thousand days of the general minimum salary in the Federal District;

III. Temporary or definite closure of the locale destined for public worship;

IV. Temporary suspension of the rights of the religious association within the national territory or in a given State, municipality or locality; and

V. Cancellation of the religious association's registry (*Registro de asociación religiosa*).

The imposition of these sanctions corresponds to the Secretary of the Interior, in the terms provided by Article 30.

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When the sanction imposed consists in the definite closure of a locale owned by the Nation which has been destined to ordinary worship, the Secretary of Social Development, once the opinion of the Secretary of the Interior has been consulted, shall determine the use of the immovable asset in the terms provided by the applicable law.

## ARTICLE 33

Against the determinations or resolutions dictated by the authorities in compliance with this Act, a motion of administrative appeal (*Recurso de revisión*) may be filed, which will be decided by the Secretary of the Interior.

This motion shall be submitted to the Secretary or to the authority that dictated the act or resolution being challenged, within twenty working days following the date when the act or resolution was rendered. In the latter case, the authority shall send to the Secretary of the Interior, within a period not longer than ten working days, the appeal motion and the documents which are offered as evidence by the respondent and which may be in possession of the authority.

Only those individuals that have a legal interest may file the administrative appeal motion provided for in this Act.

## ARTICLE 34

The authority shall examine the administrative appeal and it shall dismiss it when filed extemporaneously.

If the motion is obscure or irregular, the authority shall request the respondent to clarify the motion within ten days following the date when it was served, with a warning that if the respondent does not comply with the requisite period of time, the motion shall not stand.

The resolution rendered in an administrative appeal may revoke, modify or confirm the challenged act or resolution.

## ARTICLE 35

The motion admitting the administrative appeal shall grant the suspension of the effects of the challenged act, provided the respondent has requested it and the nature of the acts allows it, except when the granting of the suspension produces an injury to the social interest, contravenes provisions of public order or leaves the appeal without [legal] substance.

When the suspension may cause damages and injuries to third parties, the respondent should give a warranty for the

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reparation of the damages and the indemnification of the injuries caused, should the respondent not receive a favorable resolution.

## ARTICLE 36

For the effects of this Title, in the absence of an explicit provision and in matters which do not contravene this Act, the provisions of the Federal Code of Civil Procedure (*Código Federal de Procedimientos Civiles*) shall apply.

## TRANSITORY ARTICLE 1

This Act shall enter into force the day after its publication in the *Diario Oficial de la Federación*.

## TRANSITORY ARTICLE 2

The Regulatory Act of Article 130 of the Federal Constitution (*Ley Reglamentaria del Artículo 130 de la Constitución Federal*), published in the *D.O.* of January 18, 1927; the Act that Regulates the Seventh Paragraph of Article 130 of the Constitution (*Ley que Reglamenta el Séptimo Párrafo del Artículo 130 Constitucional*), regarding the number of priests that may exercise their ministry in the District and Federal Territories, published in the *D.O.* of December 30, 1931; Act that amends the Penal Code for the District and Federal Territories regarding Ordinary Crimes and for the Entire Republic on Crimes against the Federation (*Ley que Reforma el Código Penal para el Distrito y Territorios Federales sobre Delitos del Fuero Común y para Toda la República sobre Delitos contra la Federación*), published in the *D.O.* of July 2, 1926; as well as the Decree that Establishes a Period of Time within which Applications to be in Charge of Temples No Longer Destined to Public Worship may be Submitted (*Decreto que Establece el Plazo dentro del cual Puedan Presentarse Solicitudes para Encargarse de los Templos que se Retiren del Culto*), published in the *D.O.* of December 31, 1931, are repealed.

## TRANSITORY ARTICLE 3

The provisions of the Nationalization of Assets Act (*Ley de Nacionalización de Bienes*), regulatory of Paragraph II of Article 27 of the Federal Constitution, published in the *D.O.* of December 31 of 1940, as well as those contained in other statutes, are repealed when their provisions oppose this Act.

## TRANSITORY ARTICLE 4

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Any suits and nationalization proceedings which are pending at the time of the entering into force of this Act, shall be continued in accordance with the applicable provisions of the Nationalization of Assets Act, regulatory of Paragraph II of Article 27 of the Federal Constitution, published in the *D.O.* of December 31, 1940.

## TRANSITORY ARTICLE 5

Until their immigration status is reviewed, foreigners who have lawfully entered into the country when this Act becomes effective, may act as ministers of a cult, provided the churches and other religious associations acknowledge that position when they file their registration application before the Secretary of the Interior or when the interested ministers give notice to that circumstance to said Secretary.

## TRANSITORY ARTICLE 6

Immovable assets owned by the Nation which are currently utilized for religious purposes other religious associations, shall continue to be destined to the same goals, provided that the above mentioned churches and associations request and obtain in a period no longer than one year, reckoned from the entering into force of this Act, their corresponding registry as religious associations.

## TRANSITORY ARTICLE 7

With the registration application, churches and religious associations shall submit a declaration of immovable assets they intend to acquire to form their patrimony as religious associations.

The Secretary of the Interior, in a period not longer than six months from the date of the official registration of a religious association, shall issue a general favorable declaration (*Declaratoria general de procedencia*), provided the requirements established by the Act are complied with. Any immovable asset that religious associations intend to acquire after their official registration (*Registro constitutivo*), shall require the favorable declaration (*Declaración de procedencia*) established by Article 17 of this Act.

Mexico, D.F., July 13, 1992 (Signatures).

In compliance with Paragraph I of Article 89 of the Political Constitution of the United Mexican States and for its due publication and compliance, I issue the present Decree in the

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residency of the Federal Executive Power, in the City of Mexico, Federal District, on the fourteenth day of the month of July of [the year] one thousand nine hundred and ninety two. Carlos Salinas de Gortari (Signature). The Secretary of the Interior, Fernando Gutiérrez Barrios (Signature).