

THE ANTICLERICAL ARTICLES OF THE
FEDERAL CONSTITUTION OF 1917 AND THEIR
HISTORICAL CONSEQUENCES

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I. BACKGROUND OF THE REVOLUTION OF 1910

In Mexico, the Federal Constitution of 1917 symbolized a new age for Mexicans in both political and religious matters. After four centuries of fighting and discontent, politicians had finally managed to create a lasting constitution, which while serving as a political triumph simultaneously delivered a strong blow to the Catholic Church. The document, although innovative for its time, strongly reflects the relationship of the Church and State of Mexico over its full history.

The Spanish Conquest in the 15th and 16th Centuries in Mexico was the beginning of the relationship between the Church and the government, and thus its implications would eventually become an important part of the Constitution of 1917. The Catholic Monarchs, Ferdinand and Isabella, used the New World as an opportunity to evangelize and teach the faith while reaping the economical benefits of new territory. In 1493, they received a blessing from Pope Alexander VI (1431-1503) to evangelize their new colonies (“Papa Alejandro”). Scandal quickly arose from this mission. Many of the Spanish *conquistadors* believed that the Native Americans were lesser human beings, and thus enslavement and abuse developed. Such issues were centered around the *conquistador’s* formation of a new agricultural system, with the natives being treated poorly as the workers, “*encomendados*,” while the Spanish were the

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“*encomenderos*.” Many times, the *encomendados* were treated much like slaves and forced to work long hours and in awful conditions.

Once rumors flooded back to Europe of such scandals, both Castille and New Spain debated about the ethical methods used to convert the natives. Many religious orders and individual scholars began to fight against such unjust treatment. For example, Bartolomé de Las Casas (1484-1566) was a Dominican monk that defended the rights of the natives. On the opposing end there were men like theologian, Juan Ginés de Sepúlveda (1489-1573), who believed that some races were truly better leaders than others, and thus this kind of treatment of the natives was justified. Although a majority of the ecclesiastical defended the Native Americans, many Mexicans, especially the poor and *Mestizos*, never forgot men like Sepúlveda and their oppression. This is evidenced in the Constitution of 1917 through its strong anticlerical sentiments.

The second important period of constitutional influence was the Spanish Empire in the 16th-18th centuries. During these years, the Crown and the Church worked together to develop Mexico. Generally speaking, the Crown controlled all legal elements while the Church cared for the daily needs of the people. Missionaries often traveled to Mexico to develop hospitals and schools. The government aided these projects by dedicating property to these religious orders and other Church institutions. A good example is the Order of the Hospital of St. John of God, which provided medical care for the poor with the support and funding of the Crown. The relationship, without a doubt, was very intimate during this period.

After such a cooperative period came the Enlightenment and the War of Independence in Spain. In these years, the government obtained much control over the Church. In retrospect it could be considered the beginning of the Constitution’s political foundation. The philosophy during the Enlightenment is best represented by the phrase “all the people without the people.” In other words, there was new importance placed on the individual members of society as the subject of man was now the focus of study. As a result, the government relied less on the Church and more on itself to improve the general welfare. It began to create museums and academies, and also to promote industry. By the 18th Century, the Church and the religious orders that owned a sizable amount of territory and had

obtained a large amount of funding still continued to help the people, but the roots of anti-clericalism began to develop.¹

Mexico was influenced by the French Revolution and other changes in Europe during this period. Its influence trickled outside France and many other European countries found themselves divided between revolutionaries and traditionalists. The New Regime in Spain focused on some of these French ideologies like the secularization of public life, centralization of the government, laws protecting the individual in place of the community, and new constitutions that regulated and protected the public entity of the nation.

The Spanish transformation of the Old Regime to the New Regime included constitutional essays, property transfers, and lay education. With Mexico still under Spanish influence, the same type of changes began to appear. With all of these changes, the middle classes suffered because many did not have the resources to flourish in the new circumstances thrust upon them by the government. For example, the new owners of agricultural land could not afford the raised rent and many people could not survive. It was not until the twentieth century that the working class and poor began to benefit from this political and economic change.²

In Mexico where the Church owned large amounts of property, secularization became a problem. Often, the property of the Church was confiscated by the government without compensation. This quickly crippled most orders and parishes from running their orphanages, asylums, hospitals, and schools. Many monasteries and convents were closed. To further weaken Catholic influence, most monks and brothers were expelled by the government, as many orders were declared illegal.³ At the same time, the War of Independence between Spain and Napoleon Bonaparte (1808-1814) gave the Mexicans the opportunity to obtain more autonomy. The Constitution of the United States of America and the Spanish Constitution of Cádiz was an inspiration to form a new government because both were based on liberal ideology, which attracted the people after many years under Spanish rule ("*Constitución de*

1. Alexandra Wilhelmsen, *Civilización Hispánica*, 288†Manuscrito inédito, 2010).

2. *Id.* at 320.

3. *Id.* at 321.

México").⁴ Liberalism can be defined as a desire of secularization of the public life, the growth of government, extensive constitutions that regulate the life of citizens, reduction of power of the Church, division of communal property, and emphasis in the individual.

The first leaders of the independence movement were diocesan priests Fathers Miguel Hidalgo and Jose Maria Moreles. They desired a reform in the redistribution of property.⁵ In the 19th Century, after the abdication of the Emperor of Mexico, Agustín de Iturbide (1822-23), the last of the Spanish Empire dissolved. The country finally was an independent state and quickly the Mexicans created a new constitution.⁶ The first Constitution of significance was the Constitution of 1824 which was a federalist document and opened the door for a new realm of political debates ("Constitución de México").⁷ Unfortunately, this ideology, like liberalism, caused confusion in the government, the people and the Church in Mexico. President Valentín Gómez Farías (1833-34) promulgated laws that included secularization of missions and the closing of the University of Mexico, a Catholic institution. With the desire for liberalism, the government assumed more power, and consequently, there was a necessity for a new constitution that legalized their new control.

The Constitution of 1857 was promulgated by President Ignacio Comonfort (1855-58).⁸ Its liberal roots can be seen in this constitution in the expression "the rights of man are the basis and the object of social institutions."⁹ This line empowered, the government to legally assume power and territory from the Church as it was the government's job to protect social institutions, many of which the Church was still struggling to run. The first president after the finalization of the new constitution, Benito Juárez (1857-1872), used

4. EL RINCÓN DEL VAGO, *Historia de la Constitución Mexicana*, <http://html.rincondelvago.com/constitucion-de-mexico.html> (last visited Oct. 19, 2011) (hereinafter EL RINCÓN DEL VAGO); REPÚBLICA DE MÉXICO, *Constitución Federal de 1917*, <http://pdba.georgetown.edu/constitutions/mexico/mexico1917.html> (last visited Oct. 19, 2012) (hereinafter REPÚBLICA DE MÉXICO); app. pp. 34-50.

5. *Wilhelmsen*, *supra* note 1, at 322.

6. Herzog Jesús Silva, *Trayectoria ideológica de la Revolución Mexicana, 1910-1917, Y otros ensayos*. 11 (México: Fondo De Cultura Económica, 1984).

7. REPÚBLICA DE MÉXICO, *supra* note 4.

8. *Wilhelmsen*, *supra* note 1, at 323.

9. Rigoberto Ortiz, *El Concepto De Garantías Individuales En La Constitución De 1857, Invetigaciones Juridicas* 117, (Universidad Nacional Autonoma De Mexico.) <http://www.juridicas.unam.mx/publica/librev/rev/derhumex/cont/5/art/art4.pdf>

this in order to promulgate the beginning of the anticlerical laws. He was, also, the first president of Native American descent from a small town in Oaxaca, and much of his presidency was inspired by his ancestors. As a result, Juárez fought for an independent Mexico safe from the grievances of the Spanish and the Church. His time in office is referred to by historians as the Reform. Some of the most substantial Reform laws were: the "*Ley Juárez*" that abolished ecclesiastic tribunals and military. The "*Ley Lerdo*" that confiscated property of the Catholic Church, the establishment of civil marriage as the only recognized kind by the government, and the secularization of cemeteries. To continue, the "*Ley de días festivos*" that limited the number of recognized religious celebrations by the government and the secularization of hospitals and health clinics. Next, the "*Ley de instrucción pública*" that organized public schools. After all of these laws that regulated the Church, the only religious order permitted was the Sisters of Charity, which cared for the sick.

The conflict between the Church and the government really intensified during the presidency of Sebastián Lerdo de Tejada (1872-76). He was the brother of the author of the *Ley Lerdo*, and he assumed the presidency upon the death of Juárez. Lerdo continued the anticlerical assaults and prohibited any religious order of priests. This along with the Reform Laws expelled any remaining Jesuits. He provoked a rebellion known as the War of Religionists from 1873-1876. However, the war politically had minimal success or influence on the new governmental policies.¹⁰ Eventually, President Lerdo was overthrown by General Porfirio Díaz in the Plan of Tuxtepec (1876) in Oaxaca.

After the *coup*, Porfirio Díaz, the former general, assumed the presidency of Mexico from 1876-1910. The period in which he governed was called the "Porfiriato." During his thirty-five year presidency, he permitted the Church to function discreetly. Capitalism flourished as Díaz focused economic development and social well-being. According to Dr. Alexandra Wilhelmsen, a professor at the University of Dallas, "Porfirio Diaz believed that social welfare and true democracy would be the natural results of economic progress." He believed true democracy would naturally result in an improved economy. Unfortunately, he succeeded in only helping the upper class and the rest of the population became more

10. Wilhelmsen, *supra* note 1, at 320-325.

and more agitated with the state of the economy. By the end of his last term the demand for reform had only grown.¹¹

II. THE REVOLUTION OF 1910

The Revolution of 1910 began as a reaction to the government of Porfirio Díaz. While Díaz focused on developing capitalism, to many it appeared as though the President had abandoned them.¹² By the end of his presidency, multiple publications had been written against him. For example, *El hijo del Ahuizote*, by Juan Sarabia, *Excélsior*, by Santiago de la Hoz and more importantly *Regeneración*, by Ricardo Flores Magón. This magazine described the troubled lives of the Mexican citizens during the Porfiriato and suggested ideas for political and social transformation. Flores painted the life of a laborer as “Dante’s inferno.” *Regeneración* inspired the Mexican Liberal Party with their agenda, also. The party drew up the Manifesto and Program that demanded the division of large properties, the restitution of *ejidos*, and the implementation of the relationship between the government and the Church according to the law.¹³

The Revolution of 1910 can be divided into three chapters: the Madero age, the Constitutional age, and the struggle between factions. The Madero age refers to the government of Francisco I. Madero (1911-1913). The Revolution began during the elections of 1910, when Madero challenged Díaz.¹⁴ Díaz won, but Madero accused the incumbent and his supporters of rigging the vote. Quickly, Madero drew up his new strategy to obtain power in the Plan of San Luis Potosí on October 5, 1910. In the plan he stated his desire to exile the incumbent President by way of the citizens taking up arms. He then would be elected as provisional president in the new elections.¹⁵ Madero and his generals Pancho Villa and Pascual Orozco, slowly gained control of the country by way of any means necessary. Consequently, on May 25, 1911, President Díaz, under great pressure relinquished his position and Madero successfully won

11. *Id.* at 318-319.

12. Robert E Quirk, *The Mexican Revolution and the Catholic Church: 1910-1929*, 21-23 (Bloomington & London: Indiana University, 1973.).

13. Silva, *supra* note 6, at 13-14.

14. *Id.* at 9.

15. Lúis M. Garfias, *La Revolución Mexicana: Compendio histórico, político, militar* 71-93 (México, D.F.: Panorama, 1991).

the subsequent elections. His objective as president was the strict application of the Constitution of 1857. For this reason, Madero worked with the Executive Agricultural Commission in order to better the conditions of the countryside and further restrict private property. Soon after in November of 1911, the rebel Emiliano Zapata formed the Plan of Ayala. This political campaign focused on the restitution of ejidos by way of rebellion. Zapata accused Madero of abandoning the revolutionary principles especially in the countryside. His slogan was "Liberty, Justice, Law."¹⁶ Four months after, in March of 1912, General Orozco demanded that Madero resign as President. Orozco wanted more labor reforms and division of land. He was inspired by the Manifesto of the Mexican Liberal Party, and consequently, wanted that the land be redistributed more equally between individuals.

In 1913, Félix Díaz, the nephew of Porfirio, and General Victoriano Huerta joined the rebellion against Madero. Finally, after much violence, Huerta usurped Madero as President. Three days after, Madero was assassinated in the "Tragic Ten Days." Unfortunately, for Mexico, Huerta would also fail to bring peace.¹⁷

In the Constitutionalist period, the battles for land reform continued, this time against Huerta. Venustiano Carranza, a friend of Madero and an enemy of Huerta, put in motion the Plan of Guadalupe in 1913. Carranza wanted to reestablish the constitutional order violated by Huerta. Specifically, with regard to land reforms because he believed Huerta had not fought hard enough to enforce anticlerical laws.¹⁸ A quote from Carranza's Plan describes a desire to "*repartir las tierras y las riquezas nacionales*" or "divide up land and national wealth."¹⁹

General Álvaro Obregón, who would be president after the promulgation of the Constitution of 1917, fought, also against Huerta. Slowly, the rebels controlled three-fourths of Mexico. The country found itself in a state of chaos, and in 1914 the President of the United States, Woodrow Wilson (1913-1921), sent soldiers to Veracruz. There, the American soldiers constructed schools and attempted to regulate crime. The Mexicans disliked United States' participation,

16. Silva, *supra* note 6, at 18-19.

17. Garfias, *supra* note 15, at 71-93.

18. *Id.* at 94-111.

19. Silva, *supra* note 6, at 37.

and Huerta tried in one last feeble attempt to unite the country against the foreigners. He failed dismally and was forced to step down as President.²⁰

Without a president, the politicians and *jefes* organized the Convention of Aguascalientes. The purpose was to elect a provisional president and bring order to Mexico. Carranza was elected the Primer Jefe of the Constitutionalist Army, Villa the Jefe of the North Division, and General Eulalio Gutiérrez (1914-1915) was elected the provisional president.²¹

This agreement did not guarantee peace, however, as the *jefes* began to fight amongst themselves in order to obtain more power. Confrontations continued for a year and thus, 1915 is unofficially referred to as the "War of Generals." Eventually, Villa and Zapata controlled the capital of the country. Generals Carranza and Obregón, quickly retook Mexico City and Gutiérrez moved to the state of Nuevo León. In April of 1915, the United States recognized Carranza as the *de facto* president. Villa and Zapata continued fighting against Carranza and Obregón, however, and the chaos affected the economy with no end in sight.²²

The fight for power destroyed the country and crime and poverty grew. During this period, the unions rebelled and caused more chaos amongst the labor class. The Company of the World Worker or *Casa del Obrero Mundial* (COM) and the Regional Federation of Labor were established while many other unions declared strikes in 1916. Carranza tried to stop many of these and ordered that his army assassinate any rebels.²³

Without a doubt, the first part of the Revolution affected not only politics, but also the economy. As a result, it inspired a change in the Constitution of 1857. Carranza, after pacifying the country to a certain point, demanded a constitutional convention in 1916 that prepared that which would be the Constitution of 1917.²⁴

20. Quirk, *supra* note 12, at 40-45.

21. Garfias, *supra* note 15, at 144-145.

22. Quirk, *supra* note 12, at 79.

23. Garfias, *supra* note 15, at 176-182.

24. Quirk, *supra* note 12, at 80.

III. THE CONSTITUTIONAL CONGRESS AND THE CONSTITUTION OF 1917

Venustiano Carranza (1917-20) was officially recognized as President in 1915 by Woodrow Wilson. He, however, did not initially accept the position, as it would have inhibited him from being a full term president, and instead continued as the Primer *Jefe* until 1917. During these first two years, Carranza called for a reform of the current Constitution. Carranza hesitated at the idea of initiating radical social reform. He instead placed his emphasis specifically on the rules of reelection. Carranza wanted to eliminate the possibility for presidencies like that of Díaz, and used this to launch support for Constitutional reform.

On September 19, 1916, Carranza demanded new elections for a Constitutional Congress. In October of the same year, these representatives met in the state of Querétaro in order to amend the draft that Carranza had presented. The men that were elected, despite the desires and attempts of Carranza to form a moderate group, were very radical. The reason for this was that the voters chose local leaders. Many had seen the destruction of Mexico first-hand and felt very strongly about having a completely new government.²⁵

This caused a great divide in Congress and with that, Mexico began the third phase of the Revolution, the struggle between factions.²⁶ In the Convention, there were two groups: the “reds” and the “whites.” The reds followed the ideology of Carranza and voted with red ballots. The whites voted with white ballots, and were the radical faction, wanting extreme changes in social and economic reform. For the most part, the moderate faction consisted of educated politicians and businessmen. The radical faction mostly consisted of local military leaders and *jefes* who had received little schooling. As a result, the reds were more organized and controlled the Congress in technical issues, but overall the radicals had the majority. Red member, Luis Manuel Rojas was elected President of the Congress and radicals, Cándido Aguilar y Salvador González Torres, vice-presidents.

25. *Id.* at 79-81.

26. Silva, *supra* note 6, at 55.

Francisco Javier Múgica was the politician that probably dominated the Congress more than any other. He was a radical and his influence greatly contributed to the socialist articles in the Constitution. Múgica was a brigadier general from the state of Michoacán. He was famous for his ability to unite men through his speeches, despite his lack of political experience.²⁷

For the reds, José Natividad Macías, who modified the first proposal of the Constitution that Carranza drafted, was extremely influential. Carranza had sent Macías to the United States to study at democratic institutions, and as a result, many of the proposal's elements appear similar to aspects of the United States Constitution. For example, the concept of liberalism is personified in the first article of the draft that says, "every person in the United States of Mexico shall enjoy all guarantees granted by the Constitution; these shall neither be abridged nor suspended except in such cases and under such conditions as are herein provided."²⁸ This article gave the citizens clear and distinct protection by the government like the United States gives in its Constitution with the opening lines:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.²⁹

Despite this distinct similarity along with some other minor ones, the document sways more toward the traditions of Juárez and Lerdo more than that of the United States. Macías and Carranza desired more than just a separation of Church and State, since they wanted the government to have the power to regulate religious institutions. They also wanted marriage to only be a civil commitment (the *Ley Juárez* promulgated this, but they wanted to make it permanent). Also, in Carranza's draft, the Church would only be allowed to run schools at the secondary level.

27. Quirk, *supra* note 12, at 82.

28. EL RINCÓN DEL VAGO, *supra* note 4; REPÚBLICA DE MÉXICO, *supra* note 4.

29. LEXJUR PUERTO RICO, *Constitución de los Estados Unidos de América*, <http://www.lexjuris.com/lexuscon.htm> (last visited Nov. 4, 2011).

Unfortunately, the radicals did not accept many of the amendments that Carranza and Macías desired. Although Congress approved the articles that pertained to the rights of the people in Articles 1 and 2, Múgica and his supporters demanded a social revolution especially in Articles 3, 5, 24, 27, 123, and 130.³⁰ Thus, the Constitution of 1917 changed the Constitution of 1857 in two ways that Carranza did not originally suspect—Congress drastically changed the social amendments and added more anticlerical aspects to the already existing articles.³¹

For example, Múgica thought that Article 3 about the educational reforms was completely inadequate. For many years children had received their education in Catholic schools and Múgica believed that the Church restricted the natural rights of the people and did not give them the ability to think freely. He said famously during one session of Congress:

En la historia patria, estudiada imparcialmente, el clero aparece como el enemigo más cruel y tenaz de nuestras libertades; su doctrina ha sido y es: los intereses de la iglesia, antes que los intereses de la patria. Desarmado el clero a consecuencia de las Leyes de Reforma, tuvo oportunidad después, bajo la tolerancia de la dictadura, de emprender pacientemente una labor dirigida a restablecer su poderío por encima de la autoridad civil (“In our country’s history, studied impartially, the clergy appears to be the most cruel and tenacious enemy of our liberties, their doctrine has been and is: the Church’s interests before the interests of the country”).³²

For Múgica, Church doctrine was abstract and inappropriate for children. In his opinion, Catholic school should be completely prohibited. Macías and his supporters insisted, however, that the clergy could still have the right to teach in secondary schools. Similar problems involving the Church continued throughout the entire Constitutional Congress because the whites put emphasis on Church

30. Quirk, *supra* note 12, at 84-91.

31. Silva, *supra* note 6, at 85.

32. Manuel Aguirre, comp. *Estados Unidos Mexicanos Diario De Los Debates Del Congreso Constituyente*. (Proc. of El Congreso Constituyente, Queretaro) <http://www.memoriapoliticademexico.org/Textos/6Revolucion/1916DCC.pdf>.

restrictions, as they considered it outdated and the reds doubted many of the too radical proposals and the potential implications.³³

The final major changes from 1857 to 1917 in the Constitution included more power to the executive branch producing a more centralized nation. The amendments involving social conditions now served as an intervention between workers and their employers with much greater attention to detail than before. Furthermore with regard to the agricultural reforms, private property could now legally be confiscated by the government when it would benefit the general welfare. Also, the subsoil of the land was nationalized. The amendments that were the most drastic were in the changes in the relationship between the Church and State. The Church was under the control of the State, Catholic education could only be permitted in private secondary schools, and the Constitution confirmed that priests were only second-class citizens, that could not legally vote or express their beliefs.³⁴ With these changes, the Constitution became a mix of articles that represented both liberalism and socialism.³⁵ The liberal articles put emphasis in a secular state with equal rights for everyone. While the socialist sections put emphasis on the economy and public property by way of attacking private property.

Article 3 focused on the secularization of schools and was probably the most debated change during the entire Convention. This article reflects the beliefs of Múgica and the other radicals because it says: "The education imparted by the Federal State shall be designed to develop harmoniously all the faculties of the human being and shall foster in him at the same time a love of country and a consciousness of international solidarity, in independence and justice."³⁶ The draft specifically put emphasis on fostering patriotism. In the following part, this article excludes the Church as it says of public education: "... guaranteed by Article 24, the standard which shall guide such education shall be maintained entirely apart from any religious doctrine and, based on the results of scientific progress, shall strive against ignorance and its effects, servitude, fanaticism, and prejudices."³⁷ Clearly, this article is an attack on the Church and

33. Quirk, *supra* note 12, at 84-91.

34. *Wilhelmsen, supra* note 1, at 356-357.

35. Silva, *supra* note 6, at 85

36. EL RINCÓN DEL VAGO, *supra* note 4; REPÚBLICA DE MÉXICO, *supra* note 4.

37. *Id.*

a restriction of its right to teach. It focuses on the science and the human being without mentioning God. It reflects the radical's belief that religion was the basis of the superstition and ignorance. As a result, many subsequent presidents would close Catholic-schooling institutions completely.

Article 5 eliminates religious orders leaving no gray areas or exceptions:

The State cannot permit the execution of any contract, covenant, or agreement having for its object the restriction, loss or irrevocable sacrifice of the liberty of man, whether for work, education, or religious vows. The law, therefore, does not permit the establishment of monastic orders, whatever be their denomination or purpose.³⁸

The point of view of Congress was that the orders with their rules and strict lifestyle caused the individual to lose their sense of liberty. In this way, the anticlerical goals of the politicians could be justified.

Article 24 established more restrictions for Mass and other religious ceremonies. With clarity it says:

Everyone is free to embrace the religion of his choice and to practice all ceremonies, devotions, or observances of his respective faith, either in places of public worship or at home, provided they do not constitute an 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 governmental supervision.³⁹

The guidelines for this article are vague, and political leaders would eventually use this part of the Constitution after its promulgation to persecute the Church more than ever. For example, many times, small town governments burned the churches or defamed cemeteries that contained Catholics (during the mandate of Juárez, Catholic cemeteries were secularized).

Article 27 is extremely long and contains agricultural reforms. It is considered very socialistic. The bishops condemned these reforms because in their opinion, it was considered robbery.⁴⁰ The beginning of the article describes the power of the government and says,

38. *Id.*

39. *Id.*

40. Quirk, *supra* note 12, at 93.

“[o]wnership of the lands and waters within the boundaries of the national territory is vested originally in the Nation, which has had, and has, the right to transmit title thereof to private persons, thereby constituting private property.”⁴¹ The emphasis on the nation and the confiscation of land and redistribution manifests the theory of socialism because there is no protection for private property. The elements of socialism continue when the article says:

The Nation shall at all times have the right to impose on private property such limitations as the public interest may demand, as well as the right to regulate the utilization of natural resources which are susceptible of appropriation, in order to conserve them and to ensure a more equitable distribution of public wealth.⁴²

This paragraph is interesting because it represents not only the socialism of the radicals, but also the influence of Carranza. The socialist elements include phrases like “public interest,” “social benefit” and “equitable distribution of public wealth.” All these phrases are the socialist belief in equality of social classes. However, liberalism is present in the phrase “natural elements” because liberalism focuses on the natural rights of human beings. Regarding the Church, Article 27 gives the government the power to confiscate their property, including its parishes, which was for the “social benefit” in the government’s view. In the future, Presidents Alvaro Obregon and Plutarco Elias Calles would use this article to further attack the Church.

Article 123 describes the rights of workers against their employers and says “everyone who has the right to decent and socially useful purpose, will promote job creation and social organization for work, according to law.”⁴³ The rest of the article legalizes a minimum wage, a maximum number of hours for a worker, the right to form unions, a minimum age requirement, equality between men and women, and good working conditions.⁴⁴ The interest in the rights of the workers was the subject of many of the rebellions in the years before the founding Constitutional Congress. The Church, however,

41. EL RINCÓN DEL VAGO, *supra* note 4; REPÚBLICA DE MÉXICO, *supra* note 4.

42. *Id.*

43. *Id.*

44. Silva, *supra* note 6, at 15.

did not support legislation that presidents created with the implementation of this article because the laws attacked the rights of patrons.

Article 130 directly and aggressively assaults the Church. It has many important sections like “the federal powers shall exercise the supervision required by law in matters relating to religious worship and outward ecclesiastical forms.”⁴⁵ Here the State is given power over the Church. Although Congress could not ban a religion, “the Federal Powers” could interfere with the Catholic Church. Another part of Article 130 continues, “[m]arriage is a civil contract. This and other acts of a civil nature concerning persons are within the exclusive competence of civil officials and authorities, in the manner prescribed by law, and shall have the force and validity defined by said law.”⁴⁶ Before this amendment, the Church controlled both marriages and marriage documents, because many Mexicans were Catholics and matrimony is a sacrament.⁴⁷ Article 130 also says that the ministers (Article refers to the clergy as “ministers”) need to be born in Mexico. That part attacked many priests because many European missionaries were present in Mexico. The third part of Article 130 says:

Ministers of denominations may never, in a public or private meeting constituting an assembly, or in acts of worship or religious propaganda, criticize the fundamental laws of the country or the authorities of the Government, specifically or generally. They shall not have an active or passive vote nor the right to form associations for religious purposes.⁴⁸

The words were very clear, to be a priest meant to give up your rights. Article 130, also allowed the government to tax individual churches, and said that priests could no longer teach. No one could donate to the church, either. The sentences at the end defined the property of the Church as “private” specifically, “the acquisition by private parties of personal or real property owned by the clergy or by religious organizations shall be governed by Article 27 of this Constitution.”⁴⁹ In subsequent years, this particular article would

45. EL RINCÓN DEL VAGO, *supra* note 4; REPÚBLICA DE MÉXICO, *supra* note 4.

46. *Id.*

47. Quirk, *supra* note 12, at 95.

48. EL RINCÓN DEL VAGO, *supra* note 4; REPÚBLICA DE MÉXICO, *supra* note 4.

49. *Id.*

cause many problems especially with President Plutarco Calles and lead to the Cristero Rebellion.

IV. THE ANTICLERICAL LEGISLATION AND POLITICS UNDER THE CONSTITUTION OF 1917

Álvaro Obregón won the presidency after Carranza and was the first president under the enactment of the new Constitution. Obregon, from a modest family in Sonora, entered the world of politics in 1910 with the goal of reforming the government after the Porfiriato. He quickly became famous as a military leader. He was successful and eventually served as the Secretary of War. He resigned in 1917 and returned to Sonora.⁵⁰ Not long after, Obregon decided to run for president as he was frustrated by the lack of radical reform. When he announced his candidacy said:

Muchos de los hombres de más alto relieve dentro del orden militar y del orden civil han desvirtuado completamente las tendencias del movimiento revolucionario, dedicando todas sus actividades a improvisar fortunas, alquilando plumas que los absuelvan falsamente en nombre de la opinión pública (Alvaro Obregon) (Many of the men of highest prominence within the military and civil order have completely distorted the tendencies of the revolutionary movement, devoting all their activities to improvising their fortunes, using their pens to falsely acquit in the name of public opinion.).⁵¹

This statement referred to Carranza. Obregon was a proponent of the radical social and anticlerical changes during the Constitutional Congress, and believed Carranza was not the power needed to enact these changes. Obregon and his supporters rose up against and exiled Carranza.⁵² It was not necessarily a difficult task as he was much more popular than Carranza and had the support of the army. Obregon was officially elected to the presidency in 1920.

50. Jim Tuck, *Alone at the Top: the Achievement of Alvaro Obregón*, MEXCONNECT MAGAZINE (Oct. 9, 2008), <http://www.mexconnect.com/articles/290-alone-at-the-top-the-achievement-of-alvaro-obreg%C3%B3n>.

51. *Id.*

52. Garfias, *supra* note 15, at 198-200.

During his time in office, Obregon first focused on the economic reforms in the Constitution because after many years of revolution, the economy was decimated. More than one million people had died (more than half from hunger and disease). Consequently, Obregon realized that the government did not possess the financial means to support the demand for large scale public education.⁵³ He said “*en estos momentos, nada es más importante que la paz social y la estabilidad política*” (“at this moment, nothing is more important than social peace and political stability”).⁵⁴ As a result, he allowed Catholic schools to operate. A few years into his term, however, he led in the establishment of hundreds of new schools in the hope that eventually the government would close all Catholic schools.

Obregon then decided to focus on the agricultural reforms laid out in Article 27. He persuaded Congress to implement this article, and a little later began confiscating large private estates and divided them into smaller ones. Obregon possibly from watching his predecessors fail realized that many who received the property could not care for the redistributed land because they did not have adequate income for land cultivation. As a result, these smaller estates were nationalized to aid in the care of these properties. The original intent was also to compensate the previous landowners; however, this was too expensive for the government. Most landowners were never compensated sufficiently. The Church condemned these reforms because, in its opinion, it was theft and therefore a sin. Archbishop Leopoldo Ruiz y Flores declared that anyone that received land was obliged as a Catholic to compensate the owners.

Obregon also focused on labor reforms. He supported and subsidized labor organizations such as CROM or Mexican Federation of Labor and the CGT or General Confederation of Workers. These unions grew rapidly, and as a result, Obregon won the support of many industrial workers.⁵⁵

It was, however, Obregon’s successor, President Plutarco Elias Calles (1924-1928) who openly showed his dislike for the Church by implementing many anticlerical changes. Calles was born on September 25, 1877 in Guaymas, Sonora. As a young man in school, he noticed the power struggle between the Church and government.

53. Tuck, *supra* note 50.

54. *Id.*

55. *Id.*

He blamed the lack of advances in education on the clergy and their teaching methods. Becoming a teacher himself later, he began writing articles against Catholic education. After a career change in 1911, Calles received his commission to the Constitutionalist Army from General Maytorena in Agua Prieta, a town near Sonora. His responsibility was to maintain order. In 1912, as captain, he fought in Pascual Orozco's rebellion in Nacozari, Sonora. Soon after, in 1913, while under the command of Alvaro Obregon, he fought against Huerta. Calles was successful in his campaigns, and in 1915 Primer Jefe Carranza appointed him the governor of Sonora.⁵⁶

During this term of office, Calles expelled any remaining priests in the region. Two years after the new constitution was promulgated, Carranza promoted him to National Secretary of Industry and Trade. Soon after, when Obregón began his campaign for president, together he and Calles, began propoganda against President Carranza. As a result of this alliance, when Obregon was President, Calles was appointed Secretary of the Interior.⁵⁷ His attack on the Church continued in this position, and in 1923, when the Archbishop of Mexico José Mora y del Rio wanted to dedicate a celebration to Christ the King, a new feast in the Church, Calles banned it. However, Monsignor Ernesto Filippi, continued with the Mass and Calles ordered his banishment.⁵⁸

The dispute over Christ the King, which drew attention to the Church's remaining defiance, Calles focused more on the application of the anticlerical articles in the Constitution, which had been ignored. These items included 3, 5, 24, 27 and 130.⁵⁹

First, he began by creating a solid infrastructure in the public education system. Calles stated that the purpose of a good education for students "les abran nuevos horizontes de una vida mejor para la adquisición de la habilidades manuales y espirituales que se traduzcan en aumento de su capacidad económica" ("open new horizons for a better life for the acquisition of manual skills and spirituality that translate into an increased economic capacity").⁶⁰

56. Plutarco Elias Calles, <http://www.ensubasta.com.mx/> (last visited Apr. 19, 2011).

57. *Id.*

58. Quirk, *supra* note 12, at 132-133.

59. *Id.* at 145-151.

60. Enrique Krauze & Aurelio de los Reyes, *Plutarco E. Calles: Reformar desde el origen*, 29 (México, D.F.: Fondo de Cultura Económica, 1987).

Calles named Moises Saenz as his Minister of Education. His aim was to unite the people of Mexico through a new education system that excluded the Catholic Church completely. According to his desire to improve schools, Calles and Saenz, restored both the Chapingo School for Agriculture and the School of Veterinary Medicine. Also, in total, they opened over a hundred primary and secondary schools in Mexico.⁶¹

When Archbishop Mora y del Rio protested against the policy of Calles, the President replied: "*quiero que entienda Ud., de una vez por todas, que la agitación que provocan no será capaz de variar el firme propósito del Gobierno federal No hay otro camino . . . que someterse a . . . la ley*" ("I want you to understand, once and for all, that the unrest you caused will not be able to change the firm intention of the federal Government There is no other way to submit to . . . the law"). Soon after, in July 1926, Calles created under new laws Article 130 that the priests' rights as citizens and diminished their religious activities. The President justified the application of anticlerical articles of the Constitution because he believed that government should be the only institution to control the nation and it was his job to implement the Constitution. He wrote in an article in his "*Diario Oficial*":

El gobierno de México por ningún motivo faltará al cumplimiento de las leyes y esas presiones que están buscando en nada nos importan. . . . estamos resueltos a mantener la dignidad nacional a costa de lo que venga. . . . Qué menos puede exigir el representante legítimo del pueblo, como es el Gobierno, que saber quiénes están administrando sus bienes Irremisiblemente tendrán que sujetarse. (We are determined to maintain national dignity at whatever cost What less can one demand of the legitimate representative of the people, that is the Government, who is managing your assets.)⁶²

He relentlessly enacted laws against the Church despite the bitter protests of the Catholics. For this reason, the policy of Calles caused a resistance of the Church and citizens of Mexico.

61. *Id.* at 30.

62. *Id.* at 67-75.

V. THE CRISTERO REBELLION (1926-1929)

The struggle between the Church and the government grew naturally after implementing the new Constitution. Violence against the Church, which had begun many years before the Constitution of 1917, continued, including the burning of churches, theft and abuse of any remaining priests. Carranza was aided by both military leaders and politicians, as all of these men enacted tyrannical laws against the Church. Some of these included only allowing the Eucharist on Sundays and under certain conditions, and making any type of Holy water for baptisms illegal.

During Obregon's term, a bomb exploded near the main altar in the Basilica of the Virgin of Guadalupe. The Church believed that a member of Obregon's cabinet, Juan Esponda, was responsible. Politically, however, both Carranza and Obregon were more passive and the need for rebellion did not really catch fire until the bomb.⁶³

Resistance against the government during the early years (1913-1924), began with the youth. In 1911, they founded the Catholic Students League to bring together young activists from around the country. Immediately after its founding, the group became involved in politics. A priest associated with the League, Father Bernardo Bergoend, a Jesuit of France, proposed that the League form the Catholic Association of Mexican Youth or ACJM.⁶⁴ This organization began propaganda campaigns against the government.⁶⁵ For example, in 1915, when General Obregon imprisoned many members of the clergy in Mexico City, ACJM rebelled with a demonstration and many of its members were arrested, too. The organization attempted to peacefully gather support for a Catholic president and changes to the Constitution by demonstrations in several cities of Guadalajara and Mexico City. Catholic women formed a group to advocate for the establishment of Catholic schools, too. They often sent requests to Congress and collected funding for ACJM.⁶⁶

63. Jose Iraburu, *Hechos De Los Apóstoles En América*, <http://hispanidad.tripod.com/hechos34.htm>.

64. David C. Baily, *!Viva Cristo Rey! The Cristero Rebellion and the Church-state Conflict in Mexico*, 28-36 (Austin: University of Texas, 1974).

65. Wilhelmsen, *supra* note 1, at 359.

66. Bailey, *supra* note 64, at 28-36.

The new Archbishop of Jalisco, Francisco Orozco y Jimenez and his followers founded the People's Union of Jalisco. Anacleto Gonzalez Flores, a lawyer, led the group. He supported peaceful activities such as the publication of newsletters, speeches, and catechism classes in many parts of the country. Later during the Cristero Rebellion unfortunately, Gonzalez Flores was killed.⁶⁷

Politically, these groups joined Catholics with the hope of overturning the new Constitution, however, during the 1920 elections, Obregón defeated the Catholic candidate without any difficulty.⁶⁸ Many people did not react to the anticlerical articles because often in the countryside, Church attendance was not possible for those that could not afford to spend the day traveling for Mass. As a result, restrictions such as no daily Mass or no Eucharist did not raise any significant feelings.⁶⁹ When the bomb exploded at the Basilica of the Virgin, many Mexicans decided to take up arms because the people had always had a great devotion to the Mother of God.

In 1925, when Calles announced his intention to implement the anticlerical articles, many opponents decided to join the National League for the Defense of Religious Liberty. The leader of this organization was Capistrán Rene Garza. The League tried to influence the Mexican people to make changes to policy without violence, but had little success.⁷⁰

The President enacted the Ley Calles in July of 1926. Three weeks after, the Mexican bishops wrote a pastoral letter. In this paper, they expressed their resolve to oppose "this Decree and the anti-religious Articles of the Constitution" and demanded reform. They added, "we will not stop until we see this achieved." President Calles responded with "*Nos hemos limitado a hacer cumplir las [leyes] que existen, una desde el tiempo de la Reforma, hace más de medio siglo, y otra desde 1917 . . . Naturalmente que mi Gobierno no piensa siquiera suavizar las reformas y adiciones al código penal*" ("We were simply enforcing the [laws] which have existed, from the time of the Reformation, for more than half a century, and others from 1917 . . . Naturally, my Government does not intend to even bend the amendments and

67. Wilhelmsen, *supra* note 1, at 359.

68. Bailey, *supra* note 64, at 37.

69. Quirk, *supra* note 12, at 3-4.

70. Wilhelmsen, *supra* note 1, at 359.

additions to the criminal code).⁷¹ Shortly after, Calles and his government decided to expel the country's bishops, and in response, the Church ordered the priests to close their churches.

The peasants reacted eventually on their own. Calles spurred them into action with the murder of Father Luis Batiz, a member of the League, along with three others.⁷² In Jalisco, the people raised their voices against the government in August popularizing the cry "Viva Cristo Rey!" Between August and December of 1926 there were sixty-four armed uprisings. Most of these rebellions occurred in Jalisco, Guanajuato, Guerrero, Michoacan and Zacatecas. These demonstrations were a futile attempt to force the government to change its anticlerical legislation.

In Jalisco, Archbishop Orozco y Jimenez supported militant armed resistance after several failed attempts to get the governments attention. After the expulsion of the bishops, he stayed courageously despite the law. Thousands of men rose up in defense of Christ the King and united into an army. These militants were known as the "Cristeros."⁷³ There were two important generals: Jesus Degollado and Enrique Gorostieta. General Gorostieta was responsible for the structural organization of this army known as the National Guard. They had 25,000 volunteers and General Degollado was the military commander of the army in the battles in Michoacan and Jalisco. There were also another 25,000 Cristeros fighting individually outside the National Guard. General Degollado and his army of Cristeros were aided by the Brigade of St. Joan of Arc.⁷⁴ This was an organization of women who helped the Cristeros obtain supplies. This included but was not limited to weapons and ammunition they did not have adequate weapons to fight the federal army. These women would steal from the army or buy from landowners supportive to the cause. Since the Cristeros were volunteers with little military expertise and inadequate supplies, the war never developed into more than gorilla warfare. Consequently, there were few major battles, but many skirmishes and assassinations (mostly by the government) throughout the rebellion. The Cristeros fought well

71. Iraburu, *supra* note 63.

72. Wilhelmsen, *supra* note 1, at 360.

73. Bailey, *supra* note 64, at 87-89.

74. Wilhelmsen, *supra* note 1, at 360.

in the rural areas, but they were always defeated in urban centers by the federal army guarding the big cities.

In January 1927, most of the fighting had ceased. The remaining resistance was mostly by groups of 4 or 5 men attacking passing troops. By April, the government had abandoned a large part of the countryside, but kept control of the cities.

In October of that year, U.S. ambassador for Mexico, Dwight Whitney Morrow, began a series of negotiations with President Calles about the war, but it did little to sway his anticlerical stance. After his presidency, when Congress appointed Emilio Portes Gil provisional president in September 1928 after the assassination of President-elect Obregon, Portes was more open to the Church than Calles had been. Portes allowed Morrow to renegotiate his peace initiative. Eventually, Morrow and several Church leaders created a treaty agreement. The Cristeros, however, were not included in the discussion. Although the anticlerical articles of the Constitution were not eliminated, the bishops were invited to return home and could resume the Eucharist celebration.⁷⁵ The Archbishop of Morelia and Leopoldo Ruiz wrote about the treaty:

El Obispo Díaz y yo hemos tenido varias conferencias con el C. Presidente de la República. . . Me satisface manifestar que todas las conversaciones se han significado por un espíritu de mutua buena voluntad y respeto. Como consecuencia de dichas Declaraciones hechas por el C. Presidente, el clero mexicano reanudará los servicios religiosos de acuerdo con las leyes vigentes. Yo abrigo la esperanza de que la reanudación de los servicios religiosos [expresión protestante, propia de Morrow, su redactor] pueda conducir al Pueblo Mexicano, animado por un espíritu de buena voluntad, a cooperar en todos los esfuerzos morales que se hagan para beneficio de todos los de la tierra de nuestros mayors. (Bishop Díaz and I have had several conferences with the current President of the Republic . . . I am pleased to say that all of the conversations have been significant for a spirit of mutual goodwill and respect. As a result of the statements made by the current President, Mexican clergy will resume religious services in accordance with applicable laws. I am hopeful that the resumption of religious services [Protestant expression, characteristic of Morrow, the editor] may drive the Mexican people, animated by a spirit of good will to

75. Bailey, *supra* note 64, at 135-205.

cooperate in all efforts that are made in order to benefit all of the land of our ancestors).⁷⁶

The problems with the Church and the government were not resolved but this agreement was the beginning of a more peaceful relationship between the Church and State.

VI. EPILOGUE: BEATIFICATIONS AND CHANGES TO THE CONSTITUTION

The strength of the Cristeros is portrayed in this letter written in 1926 by Francisco Campos, a Cristero from Bayacora Santiago, Durango, about the early fighting:

Esos hombres no vieron que el gobierno tenía muchísimos soldados, muchísimo armamento, muchísimo dinero pa'hacerles la guerra; eso no vieron ellos, lo que vieron fue defender a su Dios, a su Religión, a su Madre que es la Santa Iglesia; eso es lo que vieron ellos. . . Los arroyos, las montañas, los montes, las colinas, son testigos de que aquellos hombres le hablaron a Dios Nuestro Señor con el Santo Nombre de VIVA CRISTO REY, VIVA LA SANTISIMA VIRGEN DE GUADALUPE, VIVA MÉXICO. Los mismos lugares son testigos de que aquellos hombres regaron el suelo con su sangre y, no contentos con eso, dieron sus mismas vidas por que Dios Nuestro Señor volviera otra vez. Y viendo Dios nuestro Señor que aquellos hombres de veras lo buscaban, se dignó venir otra vez a sus templos, a sus altares, a los hogares de los católicos, como lo estamos viendo ahorita, y encargó a los jóvenes de ahora que si en lo futuro se llega a ofrecer otra vez que no olviden el ejemplo que nos dejaron nuestros antepasados. (These men did not know that the government had many of soldiers, weapons, and money to fund the war; this was not their concern, what they saw was the need to defend God, their Religion, and their Mother who is the Holy Church; this is what they knew . . .The streams, mountains, forests, hills, were witnesses that these men spoke to God our Lord with the holy name of LONG LIVE CHRIST THE KING, LONG LIVE THE BLESSED VIRGIN OF GUADALUPE, LONG LIVE MEXICO. These places are also witnesses that the men watered the soil with their blood and, not

76. Iraburu, *supra* note 63.

content with that, gave their very lives for God our Lord to come again).⁷⁷

Tragically, there were many martyrs during the rebellion. The Jesuit, Miguel Pro, is probably most famous for his murder, which was filmed and viewed by the entire world.⁷⁸ The violence did not stop at men, however, women and children were often victims of the federal government, too. For example, the soldiers cut off the soles of the feet of Jose Sanchez del Rio from Michoacan, a child who was thirteen years old, who fought as a Cristero. The soldiers forced the boy to walk to the cemetery where he was stabbed and beaten repeatedly. After the slow torture, they killed him.⁷⁹ There were hundreds of murders like this and in total during the Cristero Rebellion, over 100,000 people died.

After the peace treaty, the priests returned to their parishes. The problem, however, was that the agreement did not include protection for Cristeros. As a result in the following years, some 5,000⁸⁰ former Cristeros were killed for their activity in the rebellion. Many years later, in 1992, the Vatican has beatified Catholics such as Pro, Sanchez and Anacleto González Flores.⁸¹ In 2000, Pope John Paul II canonized 25 martyrs and in 2005, 13 more were beatified.⁸² The Cristero Rebellion affected the Church of Mexico in good ways as well. The battle with the government in the 20th Century gave both the bishops and priests new energy for their vocations.⁸³ All Catholics throughout the country for that matter were united and underwent a renewal of faith. Therefore, in a certain sense, the Constitution of 1917 led to a rebirth in the Church in Mexico.

The process of eliminating the anticlerical articles took many years. The Church never regained its former power, but gradually each consecutive president began to ignore the anticlerical Articles of

77. *Id.*

78. Wilhelmsen, *supra* note 1, at 360-361.

79. Bailey, *supra* note 64, at 140.

80. Algunas fuentes dice que 1,500 murieron.

81. Wilhelmsen, *supra* note 1, at 360-361.

82. Servando Ortoll, *25 Martyrs Awaiting Canonization Were Not Cristeros, Says Church*, GUADALAJARA REPORTER (Aug. 6, 1999), <http://guadalarareporter.com/features-mainmenu-95/908-features/910-25-martyrs-awaiting-canonization-were-not-cristeros-says-church.html>.

83. Bailey, *supra* note 64, at 309-310.

the Constitution more and more. When Lazaro Cardenas (1934-1940) was elected President, Catholics could worship relatively freely in their churches in many parts of the country as long as it was kept silent. President Manuel Avila Camacho (1940-1946), a practicing Catholic, enacted the reversal of the anticlerical laws across the country. Finally, in 1993, President Carlos Salinas de Gortari (1988-1994) eliminated many sections of the anticlerical Articles of the Constitution.⁸⁴ This gave the clergy the right to vote again and the Church the ability to purchase and own its own property.

84. Wilhelmsen, *supra* note 1, at 361.