

**Participation in the Symposium Organized by the
International Center for Law and Religion
of Brigham Young University**

RECOGNITION AND FREEDOM OF RELIGIOUS ASSOCIATIONS IN MEXICO

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IN USE BY RELIGIOUS ASSOCIATIONS

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RECOGNITION AND FREEDOM OF RELIGIOUS ASSOCIATIONS IN MEXICO:

It is undeniable that the presence of the church as an institution has influenced the Mexican people, in culture and in society, art, the approach to life; even the very layout of the cities and villages is related to the influence which religious associations have had in our country.

Their contribution to Mexico is recognized, such as the drive to establish values, to shape better citizens in search of the common good, spirituality, solidarity and the struggle for security and tranquility throughout the entire nation.

Accordingly, Article 24 of the Political Constitution of the United Mexican States stipulates as an individual right “**the freedom to profess religious belief and to practice its respective worship,**” assuring full recognition of the rights of Mexicans in matters of religious freedom.

Now, with regards to the federal government’s regulation of those buildings called [temples, churches] which are used for religious purposes and the relationship between State and Church, these are expressed in the **Political Constitution of the United Mexican States** in **Articles 27 paragraph II, 130 and Seventeenth Transitional**, which were revised just 16 years ago and published in the Diario Oficial de la Federación [Official Record of the Federation] on January 28, 1992.

In these [Articles], although the old constitutional text in **paragraph II of Article 27** indicated that the buildings used for public worship were federal property, the Seventeenth Provisional reiterates that status, reading thus: “**All church buildings used for public worship before January 20, 1992 are considered property of the Nation.**” With regards to religious associations, from that date they were recognized as legal entities with capacity to acquire, possess and exclusively administer the [buildings or properties] necessary for their purposes.

In addition to the above-mentioned constitutional reforms, on July 15, 1992, the “Law of Religious Associations and Public Worship” was published in the Diario Oficial de la Federación [Official Record of the Federation]. It is a law of public order and general interest regulating matters of religious associations and/or groups, churches and public worship. Fifteen years after the institution of that law and in answer to the needs of today’s society, its regulations were published, providing greater legal certainty to religious associations concerning the manner of incorporation, the acquisition of buildings and the use of church buildings which are the property of the nation through the issuing of Certificates of Right to Use.

INTERNATIONAL RIGHT OF RELIGIOUS FREEDOM

The State is not weakened by granting legal personality to religious groups; on the contrary, it is strengthened thereby because of the rules that govern them. We cannot be unaware that the majority of the international community, more than 120 countries, give legal recognition to churches and that the freedoms of belief and of associating for purposes of manifesting that belief are part of the Universal Declaration of Human Rights of the United Nations Organization (UN) and of the International Civil and Political Rights Agreement of that same organization, signed by Mexico on March 15, 2002.

RECOGNIZED INTERNATIONAL HUMAN RIGHTS

In recent years, Mexico has recognized the jurisdiction of a considerable number of international agreements for the protection of human rights. On December 16, 1998, the Mexican government ratified the jurisdiction of the Inter American Court of Human Rights to try any case related to the interpretation and application of the provisions of the American Convention on Human Rights. Later, on March 15, 2002, the Mexican government recognized the jurisdiction of the Human Rights Committee, the Committee against Torture, the Committee against Racial Discrimination and the Committee to Eliminate All Forms of Discrimination against Women.

According to the International Regulations on Human Rights, it is not enough for States to recognize a group of precepts in favor of the persons under their jurisdiction; it is also necessary to establish an effective resource by which they may demand their rights before the corresponding authorities. In Mexico, this is done through the Individual Rights expressed in the Political Constitution of the United Mexican States.

In Mexico, there is a National Human Rights Commission, an autonomous organization independent of the federal government, headed by the Ombudsman figure, which watches out for the human rights of all citizens regardless of their economic, social, or political status or religious belief.

RIGHTS IN RELIGIOUS MATTERS

The Political Constitution of the United Mexican States, in Articles 24 and 130, declares the following:

“Article 24. Every man is free to profess the religious belief which most pleases him and to practice its respective ceremonies, devotions or acts of worship, as long as these do not constitute a crime or offense punishable by law.

Congress may not pass laws which establish or prohibit any religion. Religious acts of public worship shall ordinarily be celebrated within church buildings. Those which under extraordinary circumstances may be celebrated outside shall be subject to established law.”

In this article, it is established that every man is free to profess the religious belief that best suits him and to practice its respective ceremonies, devotions, or acts of worship, providing these do not constitute a crime or offense punishable by law.

“Article 130. The historic principle of the separation of church and State guides the regulations contained in the current article. Churches and other religious groups shall be subject to the law.

It belongs exclusively to the Congress of the Union to legislate in matters of public worship and of churches and religious groups. The respective established law, which shall be one of public order, shall develop and define the following provisions:

a) Churches and religious groups shall have legal personality as religious associations once they obtain their corresponding registration. The law shall regulate said associations and shall determine the conditions and requirements for registering the establishment of same.

b) The authorities shall not interfere in the internal affairs of religious associations;

c) Mexicans may exercise the ministry in any religion. In order to do so, Mexicans as well as foreigners must satisfy the requirements established by law;

d) Under the terms of the established law, ministers of religion may not hold public office. As citizens they shall have the right to vote but not to run for office. Anyone who has ceased to be a minister of religion with sufficient anticipation and in the manner prescribed by law may run for office.

e) Ministers may not join together for political purposes nor proselytize in favor of or against any candidate, party or political association. Neither can they oppose the laws of the country or its institutions nor offend the national symbols in any way in public meetings, in acts of worship or religious propaganda or in publications of a religious nature.

The forming of any type of political association whose name includes any word or any indication whatsoever which relates it to any religious denomination is strictly prohibited. Meetings of a political nature may not be held in church buildings.

The simple promise to tell the truth and to fulfill the obligations contracted shall subject the person who so promises, should he/she fail to keep the promise, to the penalties established by law for such cases.

Ministers of religion, their ancestors, descendents, siblings and spouses, as well as the religious associations to which they belong, shall be legally incapable of being testamentary heirs of persons whom those ministers have directed or helped spiritually and who are not related within the third or fourth degree.

Acts having to do with the civil status of persons are of the exclusive jurisdiction of the administrative authorities under terms established by law and shall have the force and validity attributed to them by the same.

In these matters, federal, state and municipal authorities shall have the powers and responsibilities determined by the law.”

In this article, the object is to affirm that the Federal Authorities (Executive, Legislative and Judicial) are charged with indicating the general precautionary measures of a religious, civil, educational, political and cultural nature in the country. Setting forth the separation of church and State, Congress is exclusively responsible for legislating in matters of public worship, churches and religious groups, having as example the Law of Religious Associations and Public Worship, and its regulations, in matters of religious practices. [There is] also the Law of Nationalization of Assets, required by paragraph II of Constitutional Article 27 and the General Law of National Assets, regarding the regulation of buildings (churches) which are federal property.

Until just prior to 1992, in Mexican society there existed a state of simulation, in that, although the constitutional precepts of 1917 were in force, they were not carried out in practice because legal regulation of religious activities remained unaltered. Therefore, the constitutional reform of Articles 3, 5, 24, 27 and 130 was a watershed of great importance and significance, for it refers to the freedoms of association and of religious beliefs.

The issuing in 1992 of the Law of Religious Associations and Public Worship brought into being these legislative innovations, both the constitutional and the secondary, which entailed a most profound adaptation of the country's legal framework in matters of religion. These changes set out to adapt the regulatory framework surrounding religious activity to the new circumstances of social plurality and institutional development.

The manner in which the regulatory law would grant legal personality to churches and religious groups was established, resulting in the creation of the concept of a Religious Association, which is the legal form by which the legal personality is guaranteed, once the constitutive registration is obtained.

OFFICES OF THE FEDERAL GOVERNMENT **IN CHARGE OF RELIGIOUS MATTERS**

With regard to the regulation of Religious Associations, this falls to the Ministry of the Interior through the State Office of Religious Associations, whose powers are to:

- Assist the Secretary in the conducting of relations between the Federal Executive Branch and associations, churches, groups and other religious institutions and organizations;
- Develop programs and actions corresponding to the policies of the Federal Executive in religious matters;
- Represent and act in the name of the Federal Executive in its relations with associations, churches, groups and other religious institutions;
- Decide on requests for constitutive registration by churches and religious groups, as well as entities, divisions or other forms of internal organization of religious associations;
- Organize and keep current the records envisaged by those laws on the subject and issue certifications, declarations of origin and documentary evidence according to the terms of the code itself;
- Process the announcements to be made regarding the opening of churches, as well as those concerning the appointment, separation or resignation of ministers, associates and representatives of religious associations;
- Decide on requests for permission submitted by religious associations for the transmission of extraordinary religious ceremonies by means of the non-print media;

- Process the announcement of extraordinary public religious ceremonies held outside the church buildings.

In matters of regulation of buildings open to public worship before January 29, 1992, the Office of Public Function, through its decentralized organ, the Institute of Administration and Valuation of National Assets, through the General Directorate of Federal Real Estate Resources, has the following powers:

- Resolve administratively on all questions that may arise regarding the extent and definition of federal buildings used for religious purposes, together with their appurtenances, as well as on the rights and obligations of religious associations and those responsible for the churches with regards to the administration, care and security of said assets.
- Watch over the construction, reconstruction, enlargement and maintenance of federal buildings used for religious purposes, with the exception of those considered to be historic or artistic monuments according to the laws on the subject or the corresponding declarations.
- Determine the rights and obligations of religious associations and of those responsible for the church buildings regarding the care and keeping of the federal properties and of the furnishings located in them which are considered fixed assets or have some connection with their religious use or purpose.

CHALLENGES FACED IN THE IMPLEMENTATION OF LAWS ON RELIGIOUS FREEDOM

More than a challenge, with the legal recognition of Religious Associations these were given certainty regarding church-State relations. Having the freedom of worship and the manner of organizing themselves internally, as well as being granted legal personality and the capacity for acquisition of real property, the concept of federal ownership of those properties open to public worship before 29 January 1992 is confirmed.

Additionally, the federal government is committed to making known to those Religious Associations using federal properties (church buildings) their rights and obligations.

EQUALITY OF RELIGIOUS ASSOCIATIONS

In Mexico, all religious associations are equal before the law, therefore there is no distinction between them, as is specifically mentioned in Article 24 of the Political Constitution of the United Mexican States and in Article 6th of the Law of Religious Associations and Public Worship, quoted literally herein with emphasis on the last paragraph:

“ARTICLE 6th.- Churches and religious groups shall have legal personality as religious associations once they obtain the corresponding constitutive registration before the Ministry of the Interior under the terms of this law.

Religious associations shall be governed internally by their own articles of incorporation, which shall contain the basic foundation of their doctrine or body or religious beliefs and shall determine both their representatives and, where appropriate, those of the entities and internal divisions belonging to them. Said entities and divisions may correspond to regional areas or to other forms of autonomous organization within the associations themselves, as suits their structure and objectives, and these also may enjoy the status of legal personality under the terms of this law.

[All] religious associations are equal before the law in rights and obligations.”

RIGHTS AND OBLIGATIONS OF RELIGIOUS ASSOCIATIONS REGARDING CHURCHES [WHICH ARE] FEDERAL PROPERTY

Although the Constitution of the United Mexican States gives expression to the individual right of freedom of worship, this must be fulfilled within the legal framework established in order to carry it out. In this order of ideas, religious associations must inform those belonging to them of their rights and obligations so that there may thus be achieved an appropriate coexistence internally within the legality of their organizations, as well as externally as part of society.

The General Law of National Assets indicates the rights and obligations incumbent upon religious associations with regards to federal properties in their use, which are mentioned here:

- The use of these properties for religious purposes is considered a public objective; wherefore the church buildings enjoy the benefits granted by law to all federal properties with regards to taxes and other privileges, such as being inalienable (they cannot be sold,) not subject to prescription (their rights are not prescribed over time) and not attachable (not susceptible to being attached or garnished by physical or moral persons or other local authorities.)
- The property is to be used exclusively for the religious purposes contained in their objectives and under the terms of applicable laws.
- The Federal Government shall grant legal protection to the building in use by the respective Religious Association, in accordance with the law and with the conditions established by the same.
- It is the obligation of the Religious Associations to notify the General Directorate of Federal Real Estate Resources of current information regarding the property which has been handed over for their use.
- The Religious Associations may not in any event transfer the right of usage granted to them.
- Carrying out projects of rehabilitation, improvement or beautification of the buildings, as well as conserving, preserving and, where appropriate, carrying out restorations of the same, both in their interior and exterior, is preceded by receiving authorization from the INDAABIN. For those not considered historic or artistic, authorization is to be obtained from both the INAH and the INBA.
- Maintain properties in safe conditions for the persons who attend the religious premises and comply with rules of civil protection.
- Avoid and prevent acts which threaten the safety and preservation of the buildings and fixed assets connected with their use or religious purpose; also, formulate corresponding complaints before the Federal District Attorney's Office.

**CONCLUSIONS REGARDING THE USE OF
FEDERALLY OWNED CHURCH BUILDINGS**

Both the Federal Government and the religious associations share the same objective, which is the preservation of that heritage which is relevant for the Nation; therefore, they must work together to achieve appropriate control and exploitation of the same.

The government should contribute to the freedom of professing religious belief and practicing its respective worship as indicated in Constitutional Article 24. Additionally, it should promote the culture of legality and give legal certainty to Religious Associations.

In this way, there will be compliance with the civil authorities, compliance with the religious authorities and we will have a virtuous circle in which everyone wins.