

Mexican Constitutions, 1814-1917, adapted from *Encyclopedia of Latin American History and Culture*, Vol. III, 24-26

Constitution of Apatzingán (1814)

This document was the first constitution written in Mexico. Entitled *Decreto constitucional para la libertad de la América mexicana*, it was issued by the insurgent Congress at Apatzingán on 22 October 1814. Reflecting the ideas of the principal theorists of the Independence, among them Ignacio RAYÓN (1773-1832), Jose Maria MORELOS Y PAVÓN (1765-1815), Carlos Maria de BUSTA-MANTE (1774-1848), Jose Maria COS Y PEREZ (*d.* 1819), and Andres QUINTANA ROO (1787-1851), it also shows the influence of Spanish constitutionalism. Its 242 articles are divided in two parts. The first recognized the Catholic religion, popular sovereignty, the general right to citizenship, equality before the law, respect for liberty, and civil rights, among other principles. The second part identified the provinces of the nation, established the sovereignty of Congress, recognized the division among the three branches of government (executive, legislative, and judicial), determined the responsibilities of Congress, and established an executive branch composed of three individuals. It also created three secretariats (war, finance, and government) and delineated the responsibilities of each branch of government. The Constitution was never implemented.

Constitution of 1824

The Constitution of 1824, Mexico's first national constitution, created a federal republic. After the fall of Emperor Agustín de ITURBIDE in March 1823, there ensued a struggle between supporters of a strong national government and advocates of states' rights. The federalists triumphed when they forced the election of a new constituent congress that was dominated by regional representatives. The constitution that resulted represented a compromise in several areas. It provided shared sovereignty between the states and the national government, rather than the extremes of state versus national sovereignty. Although the drafters of the constitution rejected the attempt to create a plural executive in favor of a president and vice president, the constitution, following the precedent of the Spanish CONSTITUTION OF 1812, granted dominance to the legislature. The imbalance between a strong legislature and a weak executive contributed to much of the later

political instability of the nation. Although the presidents of Mexico repeatedly sought to strengthen the executive office, none succeeded until the 1870s and 1880s, when Benito JUAREZ and Porfirio DÍAZ introduced *presidencialismo* (strong presidential government) to the country.

The Constitution of 1824 also erected a significant obstacle to national development by weakening the taxing power of the national government in favor of “contributions” by the states, a process that never worked effectively. Although the federal republic was overthrown in 1835, and although other constitutions were promulgated, the 1824 Constitution was restored on several occasions. It was finally superseded by the Constitution of 1857.

Siete Leyes (1836)

With this constitutional document, enacted in 1824, Mexico adopted a federal republican form of government as the United States of Mexico. It was hoped that with a written constitution and power divided among nineteen states and several territories, it would be possible to emulate the progress and economic growth of the United States to the north. By 1834, such hopes had been almost totally dispelled. After a decade of military coups, political turmoil, and economic stagnation, a large proportion—probably the majority—of Mexico’s ruling elite had concluded that the country was not ready for, nor could it sustain, a federal system. In 1835 centralist republicans gained control, and over the next two years they dismantled the federation and replaced it with a highly centralized form of government. The constitutional basis for this change was the so-called Siete Leyes, published on 30 December 1836. These seven constitutional laws concentrated power in the national government in the capital, restricted the franchise and right to run for public office to the wealthy, and removed the autonomy of the states, replacing them with departments. Like their federalist predecessors, however, the hopes of the centralists were short-lived. Within four and a half years, the Siete Leyes were abandoned as unworkable and replaced by a form of military dictatorship under the command of General Antonio Lopez de SANTA ANNA.

Constitution of 1857

On 17 February 1856, a ninety-member Constitutional Congress met to write a new constitution to replace the federalist Constitution of 1824, which had been replaced in 1836 by a centralist Constitution, reestablished in 1846, and suspended once more in 1853. The Constitution that was promulgated on 5 February 1857 was a model of nineteenth-century liberal ideology.

The new Constitution established Mexico as a federal republic with twenty-four states and a Federal District. The document included provisions for individual rights, national sovereignty, division of powers, and the duties of public servants. It based its provisions on the assumption that personal rights were the foundation for institutions and established free and compulsory education as well as freedom of religion, speech, and press. The LEY JUAREZ (abolishing special courts for clergy and military) and LEY LERDO (favoring individual, not communal, property holding) were also included. It abolished the Senate in favor of a unicameral legislature and eliminated the office of the vice president, providing that the president of the Supreme Court would succeed the president if necessary. The document also strongly supported internal free trade and explicitly stated that barriers to the exchange of goods were harmful to economic development.

The executive branch was to be represented by one individual, the president, who was to be Mexican by birth, over thirty-five years old, and nominated by indirect, secret ballot. His term, as well as those of the members of the Supreme Court and district and circuit courts, was mandated at four years. Ignacio Comonfort was elected president under the provisions of the new Constitution, but the country soon became embroiled in conflict over its anticlerical provisions. The Catholic hierarchy decreed that Mexicans who swore allegiance to the document faced excommunication, while the national government forced its employees to so swear or face unemployment. Ultimately, Comonfort tried to revolt against the Constitution, only to find that General Felix Zuloaga had allied himself with the conservatives in the Plan of Tacubaya and had deposed him. Following the Constitution, the legitimate succession went to the recently elected president of the Supreme Court, Benito Juarez, the former governor of Oaxaca, who would subsequently lead the liberals to victory in the vicious civil war that followed.

Constitution of 1917

Sessions to draft a new constitution opened in Queretaro on 21 November 1916. First Chief Venustiano CARRANZA submitted a draft largely based on the Constitution of 1857. However, when the delegates met to consider church-state relations, it became clear that the new document would differ significantly from its predecessor.

Scholars and citizens alike point to three important features of the new document. Article 3 made the national government responsible for providing free, universal, and secular education. It also provided that private elementary and high school education be secular. The state officially refused to recognize the church as a separate entity providing education and specified that its property could be confiscated at will. Furthermore, nuns and priests were forbidden to wear their clerical garb in public and national officials were not permitted to attend public religious services. It would not be until 1940 that a Mexican president, Manuel AVILA CAMACHO, could announce that he was a practicing Catholic.

Article 27 proclaimed that lands and waters belong to the nation, which subsequently can convey them to individuals. The church was forbidden to own land, and special restrictions applied to foreigners wanting to purchase Mexican property. The Constitution recognized, moreover, that property could be held in common, a provision that subsequently led to the development of the EJIDO system of cooperative farms. Article 123 established a maximum working day of eight hours, protections for women and children in the labor force, a minimum wage, workers' compensation, social security, and the right of workers to organize and strike against management. Analysts have frequently noted that this article was well ahead of its time in both its recognition of labor unions and its advocacy of social security, while admitting that, like most constitutions, it was more a blueprint for the future than a reflection of actual fact.

During the administration of President Carlos SALINAS DE GORTARI (1988-1994), both Articles 3 and 27 were altered. Following the signing of a concordat with the Vatican in 1992, Mexico agreed to relax its restrictions on the church. In addition, it ended the *ejido* system based on Article 27.