



## **Institute on Religion and Public Policy Report:**

### **Religious Freedom in the United States of Mexico**

#### **Executive Summary**

Although Mexico's Constitution and laws contain strong protections for religious freedom they simultaneously grant the government sovereignty over religious organizations and their houses of worship. Although the federal government generally protects religious freedom by refraining from exploiting its substantial legal authority to restrict religious activities, it has not adequately dealt with ongoing cases of religiously-motivated discrimination and harassment by local authorities in multiple states.

#### **Institute on Religion and Public Policy**

The Institute on Religion and Public Policy is an international, inter-religious non-profit organization dedicated to ensuring freedom of religion as the foundation for security, stability, and democracy. The Institute works globally to promote fundamental rights and religious freedom in particular, with government policy-makers, religious leaders, business executives, academics, non-governmental organizations and others. Twice nominated for the Nobel Peace Prize, the Institute encourages and assists in the effective and cooperative advancement of religious freedom throughout the world.

#### **History of Religious Freedom in Mexico**

The status of religious freedom in Mexican law and policy has fluctuated a great deal over time. Since 1519, the Roman Catholic Church has possessed substantial influence in Mexico, and as a result the state often seeks to limit the Church's power. The Mexican Constitution, ratified in 1917, included provisions designed to curtail the Church's influence by asserting state sovereignty over religious institutions, activities, and houses of worship. Among other provisions, Article 130 granted the government exclusive sovereignty over marriage and declared categorically that religious institutions could not engage in any form of political activity or criticize the state's laws and officials. Harsh enforcement of restrictive provisions like these contributed greatly to the 1926-29 civil war in western Mexico.

The 1940-46 administration of Manuel Camacho presided over a temporary truce with the Church, which included an agreement whereby the government would not enforce the most stringent anti-religious provisions in the Constitution and statutory law. In the 1980s, the Catholic Church challenged these provisions

again, attacking what it perceived as an unjust political, social and economic environment, while carefully insisting that it merely sought a voice on politically-related questions rather than active involvement in the political process.

In 1991, the Salinas administration enacted a new law (the Law of Religious Associations and Public Worship) that would amend the Constitution and improve relations with both the Roman Catholic Church and the broader religious community. The Roman Catholic Church was given formal recognition, clergy were given the right to vote, and religion was allowed to be taught in private schools. Although the government still owned and regulated all religious buildings, religious groups were granted the right to own property. Although many of Mexico's religiously based conflicts were resolved in the 1980s, religiously related conflicts grew in the state of Chiapas during the 1990's, and cases of discrimination and harassment continue to be reported there.

### **Religious Freedom and the Law**

Though Mexico's Constitution and laws provide protections for religious freedom, they also establish the state's supremacy over religious institutions. Article 3 of the Constitution guarantees religious freedom for every person living in Mexico, but it only protects actions that are not punishable by law. This provision is problematic because it creates a loophole where the government can discriminate against certain religions by enacting laws prohibiting religious conduct. Article 3 also states that worship may only take place in public places of worship, which must be at all times under public supervision. Article 27 further cements the state's control over religious houses of worship by declaring that all church property is owned by the state, and the state has ultimate decision making power over religious buildings. Fortunately the Constitution was amended by Law on Religious Associations and Public Worship, and religious groups are now allowed to own property provided the state retains title to religious buildings.

Article 3 of the Constitution also protects religious freedom by ensuring that state-run education will not be guided by religious doctrine. At the same time, religious ministers are prohibited from teaching at institutions that provide elementary and secondary education. Furthermore, any clergy member teaching at a private educational institution must first obtain express authorization from the government. This provision does not, however, do anything to prohibit private religious schools. Despite the changes in 1992, Mexico's Constitution continues to allow the federal government substantial control over the operation and activities of religious organizations.

The primary law that impacts religious freedom is the Law on Religious Associations and Public Worship, which was passed in 1992. The Law regulates religious associations and amends some of the harsher provisions in the 1917 Constitution. Article 2 in the Law emphatically states that Mexican citizens have a right to believe or not believe whatever they choose, and to affiliate themselves

with whatever religion they choose or none at all. Article 25 forbids authorities from intervening in strictly religious affairs. Some of the Law's regulations of religion are either routine or relatively harmless. Religious associations must register with the government to claim legal personhood, and they must care for their historical monuments or artifacts.

However, the Law restricts religious freedom in some important, though not debilitating, ways. As Article 3 explicitly states, the state is sovereign over the church. One implication, which is referenced in Article 1, is that there will be no religious exemptions to generally-applicable laws. In other words, if a law is generally applicable, no one will receive any type of exemption based on religious belief. Article 14 provides another problematic provision by requiring religious institutions and political groups to be kept strictly separated by stipulating that ministers cannot endorse or in any way work for a political candidate, run for political office, or hold political meetings in a house of worship.

The Law also regulates worship and religious activities by stating that a congregation cannot conduct any form of worship outside its house of worship (although the law also lists the very limited number of grounds on which authorities can refuse such a request) unless it files a request and secures authorization from governing authorities at least 15 days in advance. Additionally, religious organizations, under Article 16 of the Law, cannot own any mass-media outlet (including radio and television stations), nor can they use mass-media outlets to disseminate religious materials or messages.

### **Religious Freedom in Practice**

Available evidence suggests that Mexico's federal government generally respects religious freedom. Despite provisions in its legal structure for extensive regulation of religion, there is no decisive evidence that this authority was used in an abusive or discriminatory fashion. Though religious groups must register to gain legal personality, the federal government routinely approves registration requests; during the reporting period for the State Department's 2008 International Religious Freedom Report, 210 religious associations were registered. However, the report also states that 207 applications "either awaited supporting documentation or were not in compliance with registration criteria." Though there is no explicit evidence of discrimination, the significant number of pending or rejected applications is concerning.

Most criticism against the federal government centers on its inaction dealing with cases of societal discrimination. Although the Constitution and laws create firm protections for religious freedom, religious discrimination by local authorities and society abound. In the states of Oaxaca and Chiapas minority religious groups report ongoing discrimination by members of the community including reports of Protestant evangelicals being temporarily jailed, denied local water supplies, or forced out of their homes by Catholic community leaders. Criminal investigations

for the 2007 murders of three Catholic priests remain ongoing. Though the government has taken at least some action to investigate these problems, their response has been relatively limited and lethargic; the perpetrators often go unpunished.

Despite Mexico's disturbing human rights record, there is no clear indication that the federal government's actions have been specifically pointed at religious discrimination. It is likely that some human rights activism was based on religious grounds, but there is no evidence indicating the government cracked down on these activities because of their connection to religion. Similarly, there is no clear indication that an individual acting on religious grounds has been harassed or detained by Mexican government forces.

### **United States Policy**

United States relations with Mexico are generally good, and economic, social and cultural ties between them are strong. The US and Mexico are partners in the North American Free Trade Agreement (NAFTA) and members (along with Canada) in the Security and Prosperity Partnership (SPP), which aims at international cooperation to achieve joint economic security and competitiveness. Because both countries suffer the negative effects of drug trafficking, the US and Mexican governments are coordinating their efforts to combat it. Under the Merida Initiative, the US has pledged to work with Mexico and other Latin American countries to combat drug trafficking

### **Conclusion**

Despite a history of tension with the Roman Catholic Church, Mexico's constitution and laws generally protect religious freedoms. However, problems remain; there are seemingly un-enforced provisions of the Constitution and laws that would limit religious freedom if enforced, and the federal government has often failed to effectively combat discrimination and harassment by local communities.