



The Catholic Church and Mexico: The Struggle for LGBT Equality

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When the Spanish arrived on Hispaniola in 1492, a brand new forum of cultural exchange was opened between the indigenous people of the Americas and the European continent. Outside of a new language and new technologies, the Spanish also brought with them a strong Catholic tradition that was quickly promulgated throughout the region by missionaries of various Christian denominations. One of the most successful projects took place in what is now modern day Mexico, where missionaries incorporated indigenous traditions with Catholic practices to ensure their acceptance by the people. Although this created a very unique form of Catholicism within the country, the Catholic Church in Rome has retained its role as a moral and spiritual leader of this community. As such, the Church has been able to influence both politics and culture, often finding itself at the center of conflict. In the present day, this tension can be seen through the national discourse over LGBT (Lesbian, Gay, Bisexual, and Transgender) rights and the opposing narratives of the Church and the administration of Enrique Peña Nieto. Now at a boiling point, it is important to analyze the long history of both the Church and LGBT rights in Mexico to truly understand the current state of affairs.

The Church and the Law

The way the Constitution of Mexico has evolved since its establishment mirrors the pushes and pulls between the liberal and conservative factions of Mexican politics. When the first Constitution was ratified in 1824, the language of the document reflected the priorities of the conservative faction that sought to preserve the Catholic tradition of the Spanish Crown. As a result, one of the founding principles of this new country would be the declaration that the state “shall perpetually remain the Roman Catholic and Apostolic. The nation protects it by wise and just laws and prohibits the exercise of any other.”ⁱ

Although this Constitution remained in effect for several decades, not everyone was content with the way that the nation was being run. In 1854, liberals launched the *Plan de Ayutla* to overthrow the conservative president and restructure the country in a way that reduced the power and autonomy of the Church. Led by Benito Juárez, this period between 1854 and 1876 is known as *La Reforma* for the radical impact that it had on the organization of the country. Among these reforms was the *Ley Lerdo*, passed in

1856, that “prohibited ecclesiastical and civil institutions from owning or administering real property not directly used in day-to-day operations.”ⁱⁱ Additionally, the *Ley Juárez*, passed around the same time, eliminated some of the other privileges that had been afforded to clergy such as immunity from the legal system.ⁱⁱⁱ This overall change in policy towards the Church culminated in the decision to remove any mention of an official Church of the State in the 1857 Constitution.^{iv}

When the French invaded Mexico in 1861, they were primarily driven by economic motives, seeking payment for interest owed on any outstanding debts and free access to emerging markets in Latin America. Although unintentional, the six-year occupation by Emperor Maximilian I led to significant cultural changes for the nation. One of the most prominent of these changes was the introduction of French political thought, which led Mexico to adopt the Napoleonic code as its principle legal system.^v Along with a general restructuring of what was to be considered a criminal or civil offense, there was an introduction of ideas from the eighteen-century Enlightenment. This marked a profound shift from not only papal doctrine against the practice of homosexual acts, but the way in which sodomy was viewed in the eyes of the law. Whereas the Inquisition of New Spain explicitly included sodomy as a prosecutable act and frequently tried individuals for sodomy, these changes under the French were inherently secular and it is possible that the subsequent decriminalization of homosexuality “was simply a fortuitous consequence of the secularization of criminal law.”^{viii} No longer was private behavior subject to such intrusive scrutiny in Mexico.

Even after the execution of Emperor Maximilian I in 1867 and the end of French occupation, the reforms to the legal system that had been implemented in fact remained unchanged. This, however, does not mean that the culture of Mexico stayed the same. In 1876, General Porfirio Díaz, a man who rose to prominence for his decisive victory against the French at the Battle of Puebla at the beginning of the French occupation, initiated a new phase of history. With the backing of part of the military, he staged a successful coup against President Sebastián Lerdo de Tejada who had succeeded President Juárez after his death. This coup began a nearly four-decade-long rule of Díaz that his allies referred to as the *Porfiriato*. In a marked difference from the liberal *Reforma* era, one of his policy objectives was reconciliation with the Church.^{viii} Focused less on the promotion of Catholicism, Díaz’s objective was to ensure tranquility within the nation. His “formula was simple. He would not repeat the Laws of the Reform, but neither would he apply them...Without them...the unity of the *patria* could be achieved.”^{ix} In doing so, he allowed the Catholic Church to regain some of the statute it had lost during the previous Liberal administrations.

The Church, newly empowered, began to display itself once again in Mexican society. In a rebuke to the *Ley Lerdo*, “Church property had grown...[and the] church owned a number of schools, hospitals, and combative newspapers.”^x In exchange, they made the decision to maintain a positive relationship with Díaz, publically and privately supporting his civil programs and instructing the members of their community to respect them as well. The result of this was clear: the Church resumed an active role in

shaping both Mexican culture and popular discourse, thereby transcending popular opinion on contemporary issues of Mexican society. This inherent tension between attitudes of the Church and behaviors newly permissible under the Napoleonic Code were exacerbated during the event known as “*El baile de los cuarenta y uno*”.^{xi} In November of 1901, the police raided a house in Mexico City where a dance party was taking place. Once inside, they found 41 men in attendance with around half cross-dressing as women, leading to their arrest, conviction, and conscription despite the lack of clear legal precedent for the raid. Adding to the scandal were rumors that one of the men in attendance was the son-in-law of Díaz. Ultimately, Díaz and his administration managed to suppress much of the immediate press coverage surrounding this scandalous event, although news of what had taken place spread throughout Mexican society. Moreover, it represented a turning point in the role of homosexuality in the country, exemplified by the numbers 41 and 42 serving as code language for homosexuals and homosexuality. Although the new wave of secularism that accompanied the Mexican Revolution would go against the Church, little was done to capitalize on this by contemporaries to address the issue of legality or criminality. Accordingly, the fallout from this event would prove to reflect the tone of principal social attitudes towards homosexuals until the late 1900s.

Contemporary LGBT Rights

For the Western Hemisphere, the year 1969 represented a pivotal moment in the development of a clear LGBT rights movement that was politically and publically. Early in the morning on June 28, 1969, in Greenwich Village, New York, police raided the Stonewall Inn.^{xii} While raids of this nature were common, the response was different. Rather than passively accepting the criminality of their homosexuality, the LGBT community of the surrounding area launched into violent demonstrations and made open demands with respect to the way they were being treated. The impact of the Stonewall Riots was not contained within just the United States—over the next two decades, LGBT organizations and gay liberation demonstrations became commonplace throughout the Americas and Europe.

In Mexico, the *Frente de Liberación Homosexual* (FLH) was founded in 1971 as the first LGBT rights organization in the country, and many would soon follow. Less than a decade later, “the [LGBT] community was first made visible during Mexico’s first Pride Parade that took place in Mexico City in 1979.”^{xiii} That is not to say that the LGBT community was suddenly accepted into Mexican society. Similar to many other countries, whatever acceptance occurred in the 1970s quickly fell into the background with the global outbreak of the HIV/AIDS epidemic that forced many societies to regress into habits of “discrimination, violence, and persecution of openly queer individuals.”^{xiv} While many of these tendencies began to subside in the 1990s when transnational non-governmental organizations (NGOs) began to lobby for LGBT rights, members of the

LGBT community never saw true equality when it came to social or institutional acceptance.

Institutional acceptance—although still inadequate—first began to materialize in Mexico City when, in 2006, the city’s mayor signed into law a bill authorizing civil unions for same-sex couples. Far from indicative of a change in the national conversation, the bill was “severely criticized by the Catholic Church and conservative civil groups in the country” as it was believed that recognition of civil unions would be the first step towards full recognition of gay marriage.^{xv} That is exactly what happened, and in December 2009, Mexico City institutionalized marriage between same-sex couples, the first legislation doing so in Latin America. More than just rhetoric, expanding the legislation allowed these couples “to adopt children, apply for bank loans together, inherit wealth and be included in the insurance policies of their spouse.”^{xvi} Unsurprisingly, the same opposition forces that challenged the 2006 measure quickly raised questions regarding the legality of same-sex marriage, sending a case to the Supreme Court of Mexico on the grounds “that allowing same-sex marriages violates the guarantee of familial integrity,” reflective of rhetoric commonly used by religious groups.^{xvii} Regardless, the Court reaffirmed the constitutionality of the law in an 8-2 vote, citing regulation of marriage to be a state function.

Nevertheless, the transformations experienced in Mexico City did not translate into broad policy shifts across the country. In fact, despite any social progress made as a result of institutional changes, a study of human rights violations against LGBT Mexicans paints a bleak picture of their lives. Many are concerned about police indifference to violent crimes against the LGBT community as well as rampant homophobic bullying within the school system.^{xviii} For his part, former President Felipe Calderón did little to change the national conversation surrounding the status of LGBT rights and individuals in the country given his staunch opposition to legislation allowing same-sex marriage. After all, it was his attorney general that brought Mexico City’s bill before the Supreme Court, hoping it would be repealed.^{xix}

In the past several years, however, the LGBT community has begun to see advances in their civil liberties materialize. In a follow-up ruling by the Supreme Court in early 2015, a decision was released condemning bans against same-sex marriage as unconstitutional. In their ruling, the Court decided, “[the] exclusion of same-sex couples from the institution of marriage perpetuates the notion that same-sex couples are less deserving of recognition than heterosexuals, offending their dignity as people and their integrity.”^{xx} Far from stating that same-sex marriage was now legal in the nation, their decision simply established jurisprudence on which future suits can be brought. Most recently, in May 2016, President Enrique Peña Nieto declared his intention to submit legislation that would reform the Constitution of Mexico to assure marriage equality throughout the nation. Many Conservatives see this as a direct rebuke of the several states who have reformed their Constitutions to explicitly deny marriage equality in light of growing social trends.^{xxi}

The same Catholic and conservative factions that have opposed homosexuality and same-sex marriage throughout Mexico's storied history have recently mobilized against Nieto. Rather than opposing marriage equality *qua* marriage equality, the rhetoric of their movement has once again focused on the sanctity of family. On September 14, 2016, the National Front for the Family staged rallies and marches in 122 cities across Mexico, with one of their central concerns being the possibility of same-sex couples adopting children.^{xxii} Symbolic of this, individuals carried signs with statements such as, "Papa + Mama = Happy Family."^{xxiii} This was followed by a similar march in Mexico City on September 25 by the same coalition. Once again, they characterized it as being in support of family values and the institution of marriage, rather than as anti-LGBT.^{xxiv} In both cases, counter protests were staged by those in support of LGBT equality in the nation and some have called for prosecution of clergy involved in the anti-LGBT march for violating Mexico's secularity law.^{xxv}

At the end of the day, President Nieto still needs to move his legislation through Congress if these Constitutional reforms are going to materialize as a reality for LGBT individuals throughout the nation. The question, as such, is "whether the church will have the political clout to endorse these marches and help stop the marriage amendment."^{xxvi} Given the long history of the Catholic Church tampering in Mexico's political sphere, it would not come as a complete surprise to many if it were able to prevent these reforms from being manifested. Should conservative forces prevail, however, it would not just change the tone of abstract ideological conversations in lecture halls and seminar rooms, but it would have tangible consequences in many regions of the nation for the already persecuted LGBT community.

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