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New Approaches and Considerations
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Mexico's 1917 Constitution at Its Centennial: New Approaches and Considerations

Introduction

Jürgen Buchenau

In late 1916, First Chief Venustiano Carranza called a constitutional convention to gather in the central Mexican city of Querétaro. The backdrop of the event was the Mexican Revolution, the most violent episode of the country's history as an independent nation with a human toll that has been estimated as high as two million.¹ Within a few months, the Constituyente produced a remarkable document. The Constitution of 1917 held great significance as the first document of its kind in the entire world that guaranteed social as well as political rights. Up to that point, national constitutions had set up frameworks for governance as their primary purpose, with a secondary purpose of safeguarding liberal political rights first enshrined in the late eighteenth century in the U.S. "Virginia Bill of Rights" and the French "Déclaration des droits de l'homme," which, in turn, rested on earlier documents such as the British Magna Carta of 1215. The constitution established the right to strike and set maximum work hours per week and day (Article 123). It also asserted the right of the nation to exert its sovereignty over land and the subsoil, including the right to expropriate and redistribute private property for communal or collective purposes (Article 27); as well as the right to a publicly funded primary education (Article 3). At the same time, it also affirmed liberal political tenets of its predecessor, the Constitution of

¹ Robert McCaa, "Missing Millions: The Demographic Costs of the Mexican Revolution": *Mexican Studies/Estudios Mexicanos*, 19: 2 (2003), pp. 367-400. In addition to outright casualties, McCaa counts emigration, an influenza outbreak, and births prevented by the violence as factors that reduced the population that would have otherwise inhabited Mexico at the time of the 1921 census.

1857, such as the separation of power, the autonomy of states and municipalities, and individual political rights also guaranteed by the U.S. and French constitutions — but only for males. Crucially, it also struck a severe blow to the Catholic Church by stripping it and its clergy of most political rights, not to mention the prohibition of outdoor religious ceremonies and the provision of primary education by religious schools.

One hundred years after its promulgation, it seems appropriate to take stock of the formulation and impact of the Constitution of 1917, a document soon thereafter eclipsed by the much more radical constitution of the Soviet Union and therefore the subject of relatively few scholarly analyses, especially with regard to transnational perspectives.² Written by eminent historians from Canada, Germany, Great Britain, and Mexico, the six essays in this special section bring together different perspectives on the constitution and its international impact, joining a more domestically focused section in Mexico's preeminent historical journal, *Historia Mexicana*.³

The Constitution came to life in a very difficult era. The nation's agricultural economy and infrastructure lay in ruin after years of war. Hunger and starvation were widespread, and paper money had become practically worthless. As the delegates prepared to depart Querétaro, the last U.S. soldiers left Mexican soil after almost a year of the so-called "Punitive Expedition," a futile attempt to capture General Pancho Villa, who had attacked the town of Columbus, N.M. on March 9, 1916, in what amounted to the only attack on the territory of the continental United States in the twentieth century. Farther away, World War One cast ripple effects across the Atlantic. Just a few months before, German Foreign Minister Arthur Zimmermann had offered Mexico an offensive alliance against the United States. As the delegates journeyed home, the "Colossus of the North" was preparing for war with the Central Powers. Although Mexico would not take part in the war, the nation would soon

² Some of the best works are the following: Berta Ulloa, *Historia de la Revolución mexicana, 1914-17. La Constitución de 1917*, México: El Colegio de México, 1983; E. Victor Niemeyer, *Revolution at Querétaro. The Mexican Constitutional Convention of 1916-17*, Austin: University of Texas Press, 1974; Peter H. Smith, "La política dentro de la Revolución. El Congreso Constituyente de 1916-17": *Historia Mexicana* 22: 3 (1973), pp. 363-95; Marcelo Blidstein, "Política y caudillismo en el Congreso Constituyente mexicano de 1917": *Mexican Studies/Estudios Mexicanos* 16: 1 (2000), pp. 39-78; and, most recently, Javier Garcíadiego, "Por qué, cuándo, cómo y quiénes hicieron la Constitución de 1917": *Historia Mexicana*, 65: 3 (2017), pp. 1183-1270.

³ "A cien años de la Constitución de 1917. Nuevas aproximaciones": *Historia Mexicana*, 65: 3 (2017), pp. 1177-1478. I thank my graduate student, Leah Walton, for her help with compiling and editing this special section.

thereafter experience another cycle of death in the form of a severe influenza outbreak dubbed the “Spanish flu,” which left 20 to 40 million dead worldwide. In terms of the percentage of the population, the flu affected Mexico much more than the neighboring United States because the virus disproportionately affected individuals with weakened immune systems.⁴

Not surprisingly, the constitution never became reality in its entirety. It lost much of its luster over the coming century: first, because of its slow and halting implementation in the 1920s and 1930s, and then, due to neoliberal amendments of the 1990s that blunted many of its nationalist, social reformist, and anticlerical provisions.

The slow and halting implementation has received plenty of scholarly discussion. Historians have long emphasized the fact that a succession of governments, starting with Carranza’s and the presidency of General Alvaro Obregón (1920-1924) all the way to the so-called Maximato (1928-1934), reputedly dominated by former president and General Plutarco Elías Calles, would not implement the social rights provisions. Not only did these governments hold fast to notions of capitalist development, but they also proved susceptible to pressure from foreign-owned corporations and private investors, both Mexican and foreign-born. In this prevailing view, the constitution enjoyed a brief heyday under President Lázaro Cárdenas (1934-1940), whose government applied Article 27 to parcel out 49 million hectares of privately owned land and to nationalize the British- and U.S.-owned oil industry — only to once again slip into oblivion during the developmentalist regimes of the PRI era after World War Two.⁵

However, a focus on the Mexican executive branch misses the larger picture. To begin with, constitutional provisions remained invalid in the absence of a *ley reglamentaria*, or regulatory law, which required discussion and approval by Congress. In the case of the Articles 27 and 123, legislatures under Calles’s direction passed two major regulatory laws, the *Ley de Petróleo* (Oil Law) and the *Ley de Trabajo* (Labor Law), the former when he was president (1927), and the latter, during his informal rule from behind the scenes (1934). Both of these laws would prove essential years later in Cárdenas’s belated application of Article 27.

⁴ Gerardo Chowell et al., “Mortality Patterns Associated with the 1918 Influenza Pandemic in Mexico. Evidence for a Spring Herald Wave and Lack of Pre-Existing Immunity in Older Populations”: *Journal of Infectious Diseases*, 202: 4, pp. 567-575.

⁵ For the prevailing orthodoxy, see any of the leading textbooks of Mexican history, and particularly Michael C. Meyer / John L. Sherman / Susan Deeds, *The Course of Mexican History*, York: Oxford University Press, 2013 (10th ed.).

The Supreme Court — an institution often overlooked by Mexican historians — also played an important role. During the long reign of General Porfirio Díaz (1876-1880 and 1884-1911), the Supreme Court acquired the right to issue a verdict of *amparo* (literally, “protection”), which could nullify an executive decree and/or congressional law in favor of an individual plaintiff or company that brought a complaint to the Court.⁶

International and transnational pressure to delay or prevent implementation also affected the impact of the constitution. From the beginning, the U.S. government (as we shall see in this section) took a strong stance against the constitution, and particularly the application of Article 27 to U.S.- owned property.⁷ In addition, the Catholic Church resolutely opposed the anticlerical provisions of the new constitution, which, as Mexicans were to find out in the 1920s, the Calles government actually intended to implement fully. In statements published in the newspaper, *El Universal*, in 1917, the archbishop of Mexico City, José Mora y del Río announced that the episcopate would “fight” these unjust provisions.⁸ On November 18th, 1926 - at the height of the religious conflict set off by Calles’s attempt to fully enforce the registration of priests and other restrictions on Catholic activities - Pope Pius XI followed up by means of the encyclical *Iniquis Afflictisque*. Pius announced:

“The Constitution refuses to recognize in the Church, as if she were an individual devoid of any civil status, all her existing rights and interdicts to her the acquisition of any rights whatsoever in the future. The civil authority is given the right to interfere in matters of divine worship and in the external discipline of the Church. Priests are put on the level of professional men and of laborers but with this important difference, that they must be not only Mexicans by birth and cannot exceed a certain number

⁶ Timothy M. James, *The Mexican Supreme Court: Between Liberal Individual and Revolutionary Social Rights, 1867-1934*, Albuquerque: University of New Mexico Press, 2013; William Suárez-Potts, “The Mexican Supreme Court and the *Juntas de Conciliación y Arbitraje*, 1917-1924. The Judicialization of Labor Relations after the Revolution”: *Journal of Latin American Studies*, 41: 4 (2009), pp. 723-755.

⁷ Robert F. Smith, *The United States and Revolutionary Nationalism in Mexico, 1916-1932*, Chicago: University of Chicago Press, 1972, pp. 128-132; Linda B. Hall, *Oil, Banks, and Politics. The United States and Postrevolutionary Mexico, 1917-1924*, Austin: University of Texas Press, 1995, pp. 36-48; Greg Grandin, “The Liberal Traditions in the Americas. Rights, Sovereignty, and the Origins of Liberal Multilateralism.”: *American Historical Review*, 117: 1 (2012), p. 88.

⁸ Steven J.C. Andes, *The Vatican and Catholic Activism in Mexico and Chile. The Politics of Transnational Catholicism*, New York: Oxford University Press, 2014, p. 79.

specified by law, but are at the same time deprived of all civil and political rights. They are thus placed in the same class with criminals and the insane.”⁹

The conflict with the Catholic Church absorbed the energy of a succession of political administrations between 1926 and 1935, thus contributing toward impeding the implementation of other constitutional articles.¹⁰

Another aspect that explains the relative lack of prestige of the Constitution of 1917 lay in the short shelf life of its innovative status. Later that year, the Bolshevik Revolution in Russia provided an entirely different blueprint for social reform. The resultant Constitution of the Soviet Union (1918) proposed a radical restructuring of the economy and society along socialist lines, ordering the expropriation of all means of production. Compared to the Bolshevik document, the Mexican constitution appeared bourgeois and moderate, an effort to reform rather than abolish capitalism. In the words of historian Daniela Spenser, Soviet commentators “tended to belittle revolutionary nationalism” and considered Mexico a “semicolonial country dominated by foreign capital and still characterized by feudal relations of production and socialization.”¹¹ Later on in the twentieth century, socialist revolutions in China, Vietnam, and Cuba provided examples of radical anti-capitalist transformation in the Global South. To be sure, in Cuba, the Mexican Revolution was hardly forgotten — just transcended. Shortly after his triumph in January 1959, Cuban leader Fidel Castro called it “the precursor of the Cuban Revolution,” and as late as 1985, he still considered the Mexican Revolution the “first great social revolution in Latin America.”¹²

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The six articles that follow examine the impact of Mexico’s revolutionary constitution (and the larger revolution of which it formed a part). The first two articles lay out the domestic and international contexts of the Constitution. Alan Knight provides an analysis of the

⁹ Pius XI, “Iniquis Afflictisque,” paragraph 8. <http://www.papalencyclicals.net/Pius11/P111NIQU.HTM> [06-24-17].

¹⁰ See Jürgen Buchenau, *Plutarco Elías Calles and the Mexican Revolution*, Lanham, MD: Rowman and Littlefield, 2007, especially chapter 5 and 6.

¹¹ Daniela Spenser, *The Impossible Triangle. Mexico, Soviet Russia, and the United States in the 1920s*, Durham, NC: Duke University Press, 1999, pp. 33-34.

¹² Fidel Castro, “Mexican interview with Guillermo Vela” Jan. 24, 1959; and “Interview with PBS’ MacNeil,” Feb. 16, 1985, LANIC Castro Speech Data Base [sic], <http://lanic.utexas.edu/project/castro/db/1959/19590127.html> [06-24-17] and <http://lanic.utexas.edu/project/castro/db/1985/19850216.html> [06-24-17].

Constituyente itself, as well as the document that it produced. He points out the lack of ideological unity among the delegates and proposes a new conceptualization of its political divisions, which remained soft in the face of constant different alignments as the convention proceeded. Departing from the old Liberal/"radical" divide proposed by Victor Niemeyer and others, Knight posits a significant difference between Jacobins and social reformers within the "radical" wing. As Knight points out, it was anticlerical Jacobinism more so than the social reformism expressed in Articles 27 and 123 that characterized the government's approach to the constitution in the 1920s and early 1930s, before the Cárdenas administration carried out an ambitious land reform, recast the state's relationship with organized labor, and brought the foreign-owned oil companies to their heels.

Stefan Rinke and Karina Kriegesmann place the Mexican Revolution in the larger trajectory of global violence during the 1910s. In the form of the Revolution and World War One, both Mexico and Europe witnessed what Rinke and Kriegesmann call "hitherto unknown level of brutality." Mexico's experience during the Revolution cannot be separated from the horrors of total war, and indeed, the two wars remained intertwined: not only by what Friedrich Katz has called the "secret war in Mexico," but also due to the great public interest in Mexico in the European campaigns.¹³ In the end, imperial rivalry in World War One afforded the Mexican Revolution some political space that it might have not have enjoyed otherwise.

The next three articles examine responses to the Constitution of 1917 from the United States, South America, and Cuba. Carmen Collado looks at the position of the United States government with regard to the constitution, focusing especially on the presidency and the Department of State. As we have seen, the deliberations of the Constituyente coincided with the last months of the Punitive Expedition, withdrawn only when the Woodrow Wilson administration moved toward its entry into World War One. Collado argues that the presence of "la Punitiva" sharpened the nationalism of many of the delegates. In turn, and although U.S. Ambassador Henry P. Fletcher was summarily opposed to the social rights provisions in the new constitution, the U.S. participation in the war forestalled an aggressive position vis-à-vis the Mexican government during 1917 and most of 1918. But U.S. investors acted as if the constitution did not exist, confident that their diplomats would back

¹³ Friedrich Katz, *The Secret War in Mexico. Europe, the United States, and the Mexican Revolution*, Chicago: University of Chicago Press, 1981.

them in their position after the war. Sure enough, after the armistice of November 1918, the U.S. government, prodded by Senator Albert B. Fall of New Mexico, assumed an intransigent position—a position that would contribute to the denial of diplomatic recognition in 1920, when the Plan of Agua Prieta augured the final violent change of government in Mexico to this date.

Guillermo Palacios inquires into the impact of the revolution (including the constitution) in South America. According to Palacios, South Americans expressed a wide array of reactions, ranging from “surprise, shock, and admiration to anxiety, but above all, enormous curiosity.” Without a doubt, the negative emotions prevailed among the conservative political elites of South America. Focusing on Argentina, Brazil, Chile, Colombia and Peru, the article describes a panorama in which the South American governments viewed the armed revolution of the 1910s with concern, resurrecting the image of *México bronco*, or violent Mexico prevalent in nineteenth-century South American thought. In 1914, the members of the so-called “ABC group”—the governments of Argentina, Brazil, and Chile—got firsthand experience with the intransigence of First Chief Carranza when they vainly attempted to mediate the conflict at the behest of the U.S. State Department. Once triumphant, Carranza reached out via his “Carranza Doctrine,” which gave priority to Mexico’s relations with other Latin American countries, but the Argentine government (for one) feared the contagion of Mexico’s contentious relationship with the United States. During the 1920s, “violent Mexico” became “red Mexico,” as anti-Communists in the United States and South America vilified both the constitution and the reforms of Presidents Obregón and Calles, especially with regard to the oil industry and the Catholic Church. Indeed, Mexico inspired progressive Latin Americans such as the Peruvian Víctor Raúl Haya de la Torre, who would go on to found the Alianza Popular Revolucionaria Americana (APRA) movement in his home country, inspired by the constitution. Another example is the Nicaraguan Augusto C. Sandino, who drew more radical lessons from his two sojourns in Mexico in the 1920s.

Amelia Kiddle’s article adds a cultural counterpoint to Palacios’s political picture. Her article studies Mexican cultural diplomacy vis-à-vis pre-revolutionary Cuba, and particularly the exchange of goodwill missions during the presidencies of General Lázaro Cárdenas and Colonel Fulgencio Batista. The missions were a great success; as Kiddle demonstrates, the *Brigada Mexicana* “dazzled” Havana in 1938 with

“artistic and military displays,” and Batista surprised a joint session of the Mexican Congress in 1939 with his declaration (misleading, as it turned out) that he would “nationalize the Cuban sugar industry.” Both of these leaders used foreign relations, and cultural internationalism specifically, as instruments of populist state formation. In Mexico’s case, cultural internationalism served to defend not only the image of the Cárdenas administration, but also “the Revolution” in general, and most importantly, the nationalist and social reformist precepts embodied in the constitution—precepts that, Cárdenas thought, were just as valid in other Latin American countries as in Mexico. With his *Política del Buen Amigo* (Good Friend Policy), a name developed in juxtaposition to Franklin D. Roosevelt’s “Good Neighbor Policy,” the Mexican president promoted this vision through cultural and peaceful means. While Cárdenas’s image as a populist remains, Batista’s was sullied by his subsequent transformation into a dictator closely allied with the United States and the chief target of the aforementioned Cuban Revolution of 1959.

Finally, Pablo Yankelevich investigates the consequences of the idea that “being mestizo is the only way of being Mexican” with regard to Mexico’s relatively small immigrant communities. Although not directly related to the Constitution of 1917, this idea was part and parcel of the revolution, which “potentiated an intellectual debate and created policies that consecrated the mestizo as the symbol of Mexicanness.” For example, the constitution played an important role through Article 33, which permitted the detention and expulsion of undesirable foreigners. It also affected immigrants in Article 27, which limited foreign ownership of land and subsoil resources, particularly near the coasts and international borders. Although both articles found only haphazard application with regard to foreign nationals in Mexico, they and a number of other constitutional articles that restricted the rights of foreigners created an atmosphere of anxiety and apprehension among immigrant communities. Immigrants knew that large corporations would always enjoy the benefit of diplomatic representation (although they legally had to surrender such representation as per the constitution); individual foreign nationals, and especially those of modest means, could not count on being so lucky. As Yankelevich concludes, the new constitutional order contained an element of xenophobia, ensconced into law by the restrictive 1936 *Ley General de Población*. As a consequence, new immigration during the 1920s and 1930s, which brought millions of immigrants to Canada, the United States, and South America, remained

relatively modest, notwithstanding the much-publicized decision of the Cárdenas administration to offer exile to defeated Spanish Republicans fleeing the dictatorship of Generalísimo Francisco Franco. By 1940, there were approximately 178,000 foreign nationals in Mexico, compared to 115,000 in 1910.

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On February 5th, 2017, Mexico's political class dutifully paid its respects to their constitution. President Enrique Peña Nieto, his cabinet, members of Congress, and all thirty-two state governors convened at Querétaro's Teatro de la República.¹⁴ In a thinly veiled reference to the newly inaugurated U.S. President Donald J. Trump, who had campaigned on a promise to construct a border wall on the border and to make Mexico pay for the project, Peña Nieto declared that the nation was passing through one of its most challenging times in its recent history. He called for unity “not around one person or one government, but around the values of the Constitution; the values of our fundamental law: sovereignty, liberty, justice, democracy, and equality.”¹⁵

The celebration was a subdued one. Peña Nieto knew that his ruling Partido Revolucionario Institucional (PRI) borrowed its name from “the Revolution” and its platform, from the constitution, but that its promises in the area of social rights rang hollow to most Mexicans. Indeed, a century after 1917, Mexico still struggles with social inequality, poverty, authoritarianism, and violence, even though the PRI — losers of two straight presidential elections in 2000 and 2006 before recapturing the presidency with Peña Nieto's election in 2012 — no longer dominate politics at the national and state level as it did for many decades.¹⁶

Nonetheless, the Mexican Constitution of 1917 lives on as what political scientist James C. Scott has called a “public transcript.” As Scott defines it, a public transcript provides “the self portrait of dominant elites as they themselves would be seen.”¹⁷ Equally importantly, the

¹⁴ El Universal, Feb. 5, 2017, “Peña Nieto encabeza ceremonia por el Centenario de la Constitución”.

¹⁵ La Jornada, Feb. 6, 2017, “Convoca Peña Nieto a la unidad en torno a los valores constitucionales”.

¹⁶ Gilbert M. Joseph and Jürgen Buchenau, *Mexico's Once and Future Revolution. Social Upheaval and the Challenge of Rule Since the Late Nineteenth Century*, Durham, NC: Duke University Press, 2013.

¹⁷ James C. Scott, *Domination and the Arts of Resistance. Hidden Transcripts*, New Haven, NH: Yale University Press, 1990, p. 18.

constitution as originally written has framed important discussions about economic and social justice in Mexico, and today, it provides some of the discursive framework of the country's opposition, whether the National Action Party (PAN) or the Movement for National Regeneration (MORENA). At a time when the world searches for alternatives to a neoliberal order that increasingly concentrates wealth and power in the hands of the top 1 percent of the population, the constitution of Querétaro still offers a hopeful note.