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## A »diabolical Constitution« in Mexico

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ihrer republikanischen Form eng verbunden sind, und gerade dem deutschen Publikum eröffnen sie eine Lesart des Ersten Weltkriegs, die wertvolle Orientierungspunkte für die rechts-, aber auch

politik- und sogar kulturhistorische Auseinandersetzung mit 1914–1918 liefert.



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## A »diabolical Constitution« in Mexico\*

»[A] diabolical Constitution, even more, the worst of all preceding vexatious laws.« These words were uttered by Cardinal De Lai during the session of 9 June 1918 of the Congregation for Extraordinary Ecclesiastical Affairs (AAEES). He was referring to the Mexican Constitution of 1917, in particular to the norms that established severe limitations to the autonomy of the Catholic Church in the country. Mexican bishops, many of whom were forced into exile in the United States, Cuba or Europe during the 1910s, soon formed a transnational network of communication in order to protect each other and react to the anticlerical measures of Venustiano Carranza's government. The traces of this network – which include reports and *dubia* of the Mexican clergy, diplomatic correspondence, press excerpts, letters and decisions of Roman authorities – are explored by Professor Carmen-José Alejos Grau in her recent book. *Una historia olvidada e inolvidable. Carranza, Constitución e Iglesia Católica en México (1914–1919)* focuses on the perspective of ecclesiastics within the scenario of tension in which the Constitution of 1917 was conceived and enforced. This perspective is still underresearched in the historiography dedicated to the Mexican Revolution, but crucial to understanding the turbulent dynamics of Church and State relations in the country. Alejos Grau's narrative is based on unpublished sources from the Vatican

Secret Archives and the Historical Archives of the Secretariat of State of the Holy See.

The book is divided into five chapters and one annex. Chapter 1 provides important contextual information. It outlines the stormy international landscape and the state of the Mexican Revolution until the rise of Carranza. Alejos Grau illustrates the situation of the Catholic Church in Mexico with a report written by the archbishops of Michoacán and Linares in 1914, in which they refute the revolutionary groups' accusations that the Mexican episcopate supported Porfirio Díaz and conspired against Francisco Madero. These accusations, along with the violent anticlericalism of agents in positions of power, led to the exile of a large number of bishops, clergymen and members of religious orders. This chapter also shows how, in the absence of a Mexican representative, the Apostolic Delegate to the United States, Monsignor Giovanni Bonzano, came to play the role of mediator between the exiled bishops, diplomatic authorities and the Holy See.

The core of the book is Chapter 2, in which the reactions of the episcopate in the face of the elaboration and promulgation of the Mexican Constitution of 1917 are discussed. More radical in religious matters than its 1857 predecessor, the new constitution prescribed lay education for all public and private institutions; it denied legal

\* CARMEN-JOSÉ ALEJOS GRAU, *Una historia olvidada e inolvidable. Carranza, Constitución e Iglesia Católica en México (1914–1919)*, Mexico: Universidad Nacional Autónoma de México 2018, 609 p., ISBN 978-607-30-1135-8

personality to the Church, removing from it the possibility of administering goods; and it subjected priests to a series of limitations of civil and political rights, as well as to surveillance by local authorities. In this chapter, Alejos Grau demonstrates that the Mexican episcopate adopted different strategies to confront these measures, some discreet, others more visible. Among the latter, one of the most important was the publication of a protest by the exiled bishops in April 1917, before the constitution's coming into effect. This act would later find support in letters from Pope Benedict XV himself.

More circumspect actions can be observed in the circulation of pastoral instructions from exiled bishops to the clergy and laity under their (former) jurisdiction, as well as in practices of tacit conciliation between ecclesiastical and secular local powers, allowing the maintenance of normal diocesan administration in parallel with the new constitutional ideas. This was the case of the bishop of Oaxaca, who refused to include his name in formal protests in order to preserve diocesan peace. Discretion was also observed when the Mexican episcopate sent *dubia* to the Holy See in search of safe criteria for the application of the new laws. In 1917, the AAEESS received questions regarding the nationalization of temples, the payment of corresponding fees, the oath (*protesta*) of Catholic citizens to the new constitution, the disclosure of religious inventories to secular authorities, and the civil surveillance of priests. The beginning of Chapter 5 shows the cautious response of the Holy See in 1918. Recognizing the instability of a nation in the midst of revolution, the AAEESS left most issues pending (*dilata*), responding to only one of them, the one concerning the citizens' oath, which it forbade unless the constitution was changed.

Chapters 3 and 5 are both dedicated to the return of exiled bishops to Mexico. Chapter 3 concentrates on premature – and ultimately unsuccessful – attempts. Such was the situation of the archbishop of Guadalajara and the bishop of Zacatecas, who, despite having successfully crossed the border in 1916, were eventually imprisoned; the news then spread that they were to be sentenced to death. The underlying reasons for their arrest were rumors of the bishops' conspiracy against the government and even financial support for Pancho Villa. The arrest triggered intense diplomatic mobilization, led by Bonzano. The United States and Britain were the countries that had a decisive influence on the outcomes of the case, through the

involvement of high-level bureaucrats, members of embassies and bishops. Representatives from Germany and Japan also participated in the process. The Vatican protested vigorously, albeit belatedly, with telegrams sent by Pope Benedict XV to Carranza and to U.S. President Woodrow Wilson. As a result, the bishops were released – and sent back to the United States. Alejos Grau's exposition of this risky attempt to return is particularly engaging given the diversity of viewpoints she covers, including from the diplomatic corps and the prisoners themselves.

Chapter 5, in turn, shows that from mid-1917 until 1919, the return of the exiled clergy to Mexico became easier, as demonstrated in the negotiations with the Mexican border control. In addition, the Carrancist regime in general seemed to display more tolerant tones. There are reports that Carranza was about to propose a revision of the constitution's »infamous« articles. The episcopate, however, remained on guard, a posture that proved correct in view of the violent *cristiada* that unfolded in the 1920s.

By comparing different sources and perspectives, Alejos Grau points to the complexity of historical figures. Thus Carranza's anticlericalism is nuanced by his willingness to establish diplomatic relations with the Holy See from the beginning of his mandate. Another example is the controversial figure of Antonio Paredes, vicar general of the archdiocese of Mexico and the central figure in Chapter 4. Becoming the head of the archdiocese's ecclesiastical administration after the archbishop's flight, Paredes behaved in an adaptive manner throughout the 1910s. Before the official press and revolutionary elites, he criticized the conduct of the bishops in exile, appointed Carrancist priests, and affirmed that freedom of conscience in Mexico did not depend so much on the laws themselves, but on how they were applied. The Holy See, however, had access to letters from Paredes in which he explained his procedure as a covert attempt to protect the diocese from the government and third parties. Despite the distrust of the exiled clergy, Paredes did help prevent the Mexican Church from adopting schismatic positions. An example of this was when he suppressed the activity of the charlatan Gennaro Riendo, an alleged Neapolitan priest who proclaimed himself the »future Pope of the Mexican Catholic Church«. In that case, Paredes acted in accordance with instructions from the Holy See.

In general, Alejos Grau's book appears as a striking example of the transnational character of topics that scholars have usually treated as national. Although created with nationalistic intentions, the Mexican »diabolical Constitution« exemplifies the broader, global problem of Church and state relations during the 19<sup>th</sup> and 20<sup>th</sup> centuries, the age of secularization. Alejos Grau's work allows us to perceive that secular laws regulating the relations between state and Church are by no means unilateral. They are the product of several processes, sometimes conflicting, sometimes converging with

canon law and the clergy's point of view. These perspectives are in constant interaction, on many levels. The book also leaves ample room for comparative studies; after all, in referring to Mexico, the Holy See's agents at times drew connections with »the Colombian case« and the »Brazilian case«. Finally, Alejos Grau's book should be praised for the huge annex of unpublished sources, amounting to more than half of the total of 600 pages. Her close attention to historical documents confers richness and precision to her work. ■

**Rahela Khorakiwala**

## The Historicity of Law in India\*

Studies in the legal history of India have developed over time, going through different phases. Mitra Sharafi documented this well in her 2015 survey of South Asian legal history.<sup>1</sup> She traces its development from its beginnings in the 1960s to the important phase of the late 1990s, and explores the future directions it is taking now. Since 2009, there has been a welcome change to this landscape, with legal historical work being done by both historians and lawyers. The edited volume *Iterations of Law: Legal Histories from India* contains nine such essays that define the new wave of literature on Indian legal history from the perspective of South Asian lawyers and historians.

The main premise of the book is to bring together studies by different authors that span different themes but also provide a pan-Indian focus. Early literature in this field was mostly produced by sociologists, anthropologists and political scientists,<sup>2</sup> a fact acknowledged and explained by the editors of this volume. The underlying question that ties all the essays together is how situated and

everyday practices of law have attempted to transform South Asian legal history. Importantly, the authors highlight how the non-elite engaged with the law in fascinating ways, rewriting the colonial discourse of our shared histories. Each essay documents examples from the field and opens colonial archives that provide a rich text for a new understanding of our engagement with colonial law.

The editors' introduction helps contextualise and connect the volume's nine different studies by grouping the essays into four different thematic clusters – law and convention, law and violence, law and inscription, and law and fiscalism. This thematic classification is useful when reading the essays that cover a vast subject range.

The first two essays fall under the theme of law and convention. Janaki Nair observes the everyday life of law through a »present history« of *Matha* courts in contemporary southern India, and Rashmi Pant looks at how the laws of property inheritance were influenced by a duty to care for the elders in the first half of the 20<sup>th</sup> century. Both

\* APARNA BALACHANDRAN, BHAVANI RASHMI PANT (eds.), *Iterations of Law: Legal Histories from India*, New Delhi: Oxford University Press 2018, 302 p., ISBN 978-0-19-947779-1

1 MITRA SHARAFI, *South Asian Legal History*, in: *Annual Review of Law and Social Science* 11 (2015) 309–336.

2 See BERNARD S. COHN, *Colonialism and its Forms of Knowledge: The*

*British in India*, Princeton/NJ 1996; MARC GALANTER, *Introduction: The Study of the Indian Legal Profession*, in: *Law and Society Review* 3 (1968) 201–217; and SHARAFI 2015.