

## The Constitution of 1917: Articles 27 and 123

*The ascendant Carranza faction, after defeating Pancho Villa in mid-1915, felt confident enough in its hold on power to undertake the writing of a new constitution for Mexico. The Constitutional Convention, which met in the city of Querétaro in late 1916, was dominated by relatively radical representatives who were determined to push social reform much further than their leader wished. The final document, which remains in force today, was most notable for championing a fresh concept of property. As in colonial times, the state was the ultimate owner of all of Mexico's land, water, and minerals. Private property—sacred and inviolable in liberal conceptions—was made conditional, something that the state could concede to individuals only so long as their activities did not violate the general well-being of Mexico's citizens. The state was expressly permitted to intervene in private property in the name of "public utility." This notion, most clearly expressed in Article 27, paved the way for one of the most sweeping agrarian reforms in the history of Latin America (one that remained on the books until the early 1990s), as well as for the expropriation of foreign-owned oil properties in 1938. Article 27 also attacked the right of the Catholic Church to own real property, becoming a factor in the religious civil war of the late 1920s. Article 123, meanwhile, was one of the most progressive labor codes in the world at the time of its promulgation. Of course, many provisions of the 1917 Constitution were honored only in the breach, but the document's impact on the course of twentieth-century Mexican history is beyond dispute.*

ART. 27. Ownership of the lands and waters within the boundaries of the national territory is vested originally in the Nation, which has had, and has, the right to transmit title thereof to private persons, thereby constituting private property.

Private property shall not be expropriated except for reasons of public use and subject to payment of indemnity.

The Nation shall at all times have the right to impose on private property such limitations as the public interest may demand, as well as the right to regulate the utilization of natural resources, which are susceptible of appropria-

tion, in order to conserve them and to ensure a more equitable distribution of public wealth. With this end in view necessary measures shall be taken to divide large landed estates, to develop small landed holdings in operation, to create new agricultural centers with necessary lands and waters, to encourage agriculture in general and to prevent the destruction of natural resources, and to protect property from damage to the detriment of society. Centers of population that at present either have no lands or water or that do not possess them in sufficient quantities for the needs of their inhabitants shall be entitled to grants thereof, which shall be taken from adjacent properties, the rights of small landed holdings in operation being respected at all times.

In the Nation is vested direct ownership of all minerals or substances which in veins, layers, masses, or beds constitute deposits whose nature is different from the components of the land, such as minerals from which metals and metaloids used for industrial purposes are extracted; beds of precious stones, rock salt and salt lakes formed directly by marine waters; products derived from the decomposition of rocks, when their exploitation requires underground work; mineral or organic deposits of materials which may be used for fertilizers; solid mineral fuels; petroleum and all hydrocarbons—solid, liquid or gaseous.

In the Nation is likewise vested the ownership of the waters of territorial seas to the extent and in the terms fixed by the Law of Nations; those of lakes and inlets of bays; those of interior lakes of natural formation which are directly connected with flowing waters; those of the principal rivers or tributaries from the points at which there is a permanent current of water in their beds to their mouths, whether they flow to the sea or cross two or more States; those of intermittent streams which traverse two or more States in their main body; the waters of rivers, streams or ravines, when they bound the national territory or that of the States; waters extracted from mines; and the beds and banks of the lakes and streams hereinbefore mentioned, to the extent fixed by law. Any other stream of water not comprised within the foregoing enumeration shall be considered as an integral part of the private property through which it flows; but the development of the waters when they pass from one landed property to another shall be considered of public utility and shall be subject to the provisions prescribed by the States.

In the cases to which the two foregoing paragraphs refer, the ownership of the Nation is inalienable and may not be lost by prescription; concessions shall be granted by the Federal Government to private parties or civil or commercial corporations organized under the laws of Mexico, only on condition that the said resources be regularly developed, and on the further condition that the legal provisions be observed.

Legal capacity to acquire ownership of lands and waters of the Nation shall be governed by the following provisions:

1) Only Mexicans by birth or naturalization and Mexican companies have the right to acquire ownership of lands, waters, and their appurtenances, or to obtain concessions for the exploitation of mines or of waters. The State may grant the same right to foreigners, provided they agree before the Ministry of Foreign Relations to consider themselves as nationals in respect to such property, and bind themselves not to invoke the protection of their governments in matters relating thereto; under penalty, in case of noncompliance with this agreement, of forfeiture of the property acquired to the Nation. . . .

2) Religious institutions known as churches, regardless of creed, may in no case acquire, hold, or administer real property or hold mortgages thereon; such property held at present either directly or through an intermediary shall revert to the Nation, any person whosoever being authorized to denounce any property so held. . . . Places of worship are the property of the Nation, as represented by the Federal Government, which shall determine which of them may continue to be devoted to their present purposes. . . .

3) Public or private charitable institutions for the rendering of assistance to the needy, for scientific research, the diffusion of knowledge, mutual aid to members, or for any other lawful purpose may not acquire more real property than actually needed for their purposes and immediately and directly devoted thereto . . .

7) The centers of population that by law or in fact possess a communal status shall have legal capacity to enjoy common possession of the lands, forests, and waters belonging to them or that have been or may be restored to them. . . .

10) Centers of population that lack communal lands (*ejidos*) or that are unable to have them restored to them due to lack of titles, impossibility of identification, or because they had been legally transferred shall be granted sufficient lands and waters to constitute them, in accordance with the needs of the population; but in no case shall they fail to be granted the area needed, and for this purpose the land needed shall be expropriated, at the expense of the Federal Government, to be taken from lands adjoining the villages in question . . .

17) The Federal Congress and the State Legislature, within their respective jurisdictions, shall enact laws to fix the maximum area of rural property and to carry out the subdivision of the excess lands. . . .

18) All contracts and concessions made by former Governments since the year 1876, and that have resulted in the monopolization of lands, waters, and natural resources of the Nation by a single person or company, are declared

subject to revision, and the Executive of the Union is empowered to declare them void whenever they involve serious prejudice to the public interest.

ART. 123. The Congress of the Union, without contravening the following basic principles, shall formulate labor laws that shall apply to:

A. Workers, day laborers, domestic servants, artisans (*obreros, jornaleros, empleados domésticos, artesanos*), and in a general way to all labor contracts:

- 1) The maximum duration of work for one day shall be eight hours.
- 2) The maximum duration of night work shall be seven hours. The following are prohibited: unhealthful or dangerous work by women and by minors under sixteen years of age, industrial nightwork by either of these classes, work by women in commercial establishments after ten o'clock at night, and work (of any kind) by persons under sixteen after ten o'clock at night.
- 3) The use of labor of minors under fourteen years of age is prohibited. Persons above that age and less than sixteen shall have a maximum work day of six hours.
- 4) For every six days of work a worker must have at least one day of rest.
- 5) During the three months prior to childbirth, women shall not perform physical labor that requires excessive material effort. In the month following childbirth they shall necessarily enjoy the benefit of rest and shall receive their full wages and retain their employment and the rights acquired under their labor contract. During the nursing period they shall have two special rest periods each day, of a half hour each, for nursing their infants.
- 6) The minimum wage to be received by a worker shall be general or according to occupation. . . .
- 7) Equal wages shall be paid for equal work, regardless of sex or nationality.
- 8) The minimum wage shall be exempt from attachment, compensation, or deduction.
- 9) Workers shall be entitled to a participation in the profits of enterprises. . . .
- 11) Whenever, due to extraordinary circumstances, the regular working hours of a day must be increased, one hundred percent shall be added to the amount for normal hours of work as remuneration for the overtime. Overtime work may never exceed three hours a day or three times consecutively. Persons under sixteen years of age and women of any age may not be admitted to this kind of labor.
- 16) Both employers and workers shall have the right to organize for the defense of their respective interests, by forming unions, professional associations, etc. . . .
- 29) Enactment of a social security law shall be considered of public inter-

est and it shall include insurance against disability, on life, against involuntary work stoppage, against sickness and accidents, and other forms for similar purposes;

30) Likewise, cooperative societies established for the construction of low-cost and hygienic houses to be purchased on installments by workers shall be considered of social utility. . . .