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## REVEALED LEGISLATION, THE TRUE SOCIAL CONTRACT AND THE SECULAR STATE. HISTORICAL ANALYSIS

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**Abstract:** Religious freedom and its related rights constitute the oldest of fundamental rights. Since prehistoric times, religions created the first norms, both religious and for coexistence, and laid the foundation for State theory. Religions invented the idea of revealed legislation, which functioned until the 19th century when it began to crumble. This essay analyzes the earliest known norms and the long journey toward establishing the Secular State, emphasizing New Spain and its heir, Mexico.

**Keywords:** Religion, revealed legislation, Constitution.

## INTRODUCTION

In law schools, it is commonly taught with a narrow perspective that fundamental rights emerged recently, within the last two centuries, and that modern Constitutions are the ones that recognize and respect these rights, forming the social contract. This assertion, as this essay aims to demonstrate, is false, as it ignores millennia of societal development and is not supported by historical evidence. This essay posits that the social convention was imposed by the oldest unifying force: religion, and the long path toward a secular stance, which in the case of Mexico was ratified in the Constitution of 1824. Even the liberal Constitution of 1857 did not dare to separate from such a deeply rooted premise, and it was only consolidated in 1917.

The right to religious freedom and its related rights constitutes the oldest of fundamental rights. Early religions formed their worldviews, providing answers to universal questions about existence, life, and death, interpreting natural forces, celestial bodies, eclipses, bird flights, entrails, dreams, and other phenomena. Thus, sorcerers, doctors, shamans, prophets, and priests were the first legislators, who, eager to preserve their truth, did not tolerate others, claiming their message was divine and revealed

to them. Revealed legislation, as this phenomenon is known, refers to the creation of norms of coexistence attributed to divinity, whether one or multiple gods, as the gods of different civilizations were generally not singular. Most have been forgotten, but historians can still recall the most well-known.

This revealed legislation was the primary instrument that gave life to the social contract. Rousseau was correct in stating that the strongest are never strong enough to always dominate, and that force transforms into right, constituting legitimate powers to which we obey. He argued that there is always a first convention, which he called the social pact, and considered this contract to be “the supreme direction of the general will.”<sup>1</sup> However, the Enlightenment thinker was mistaken in believing that this union of individual forces was free and that the general will governed.

Rousseau was partially right. Early societies were indeed the product of unification around a kind of pact, through which a people bound themselves to a norm they were obliged to obey. However, his historical analysis was not deep enough, as he did not consider that it was the earliest religions, from the depths of prehistory, that created the social amalgam. People did not renounce their freedom for the general will but for the will of the supreme being who commanded obedience and granted “just” laws. These supreme or divine beings were represented by those who claimed to be their spokespersons, and they were the ones who created the idea of revealed legislation.

The collective imagination of beliefs in superior beings is ancient and creates forms of obedience that provide reasons for love, war, and anything else demanded by the world of the gods. The revealed vision of religion was the founding instrument of the social pact. It was not a reasoned decision by the members of society; on the contrary, the group in power formed it, thereby guaranteeing their privilege.

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1. Rousseau, Jean-Jacques, *The Social Contract*, Sofia Publisher, 2022, pp. 11–12, 17–19.

ged position by maintaining the exercise of force through the interpretation of divine will to retain power, as we will see later.

## THE CODE OF HAMMURABI

Even before legislators existed, there was law. This is why it is argued that the struggle to secure rights is extremely ancient, lost in the course of history, reaching back to prehistory. Despite this, some more or less reliable references can illustrate the struggle for equality and freedom, and what we want to highlight in this case: the idea of revealed legislation.

The Code of Hammurabi is known as the first documented evidence of rights, although it was not actually the first. The normative writings of the land of the pharaohs were not preserved, as writing on degradable materials does not survive, especially since cities were formed near the Nile, and humidity, fungi, and bacteria only allowed writings on stone to survive. Stone was used to praise the works of the pharaohs or writings preserved in pyramids and tombs in a dry environment, but these reflected mortuaries rather than normative character. Therefore, the Code of Hammurabi, written in stone, has the honor of being the first documented evidence of norms.

As with many ancient works, the exact dates of Hammurabi's life and reign cannot be determined, but there is a consensus that it occurred approximately between 1792 and 1750 BCE. During this period, the code we analyze emerged. It is a compilation of laws and edicts that constitute the oldest known code; a copy carved on a two-meter black stone block was found by French archaeologists in Susa during the winter of 1901–1902. The code presents a guide to rights that protects against injustice and negligence for all of society: The weak and needy, women, children, and slaves. In this work, we are not interested in highlighting the catalog of legal protections

2. Rivero, Pilar, "The Code of Hammurabi", Didactic Worksheets, Clío Project, Madrid, 1999. Available at: <http://clio.rediris.es/fichas/hammurabi.htm>

in the code, but rather to whom its authorship is attributed. The code begins with a bas-relief in which the king appears receiving the code from the god Shamash, the god of the sun and justice, who delivers the laws to Hammurabi. The following text makes it clear that these are laws of the gods, not arbitrary rules created by mortals:

"... then Anum and Enlil designated me, Hammurabi, the pious prince, who fears his god, to proclaim justice in the land, to destroy the wicked and the evil, to prevent the strong from oppressing the weak, to rise like Shamash, the Lord of the Sun, over the people, to illuminate the land, and to ensure the well-being of the people."<sup>2</sup>

The code presents the divine origin of law. Hammurabi is not the creator of the norm; Anum, the father of the gods, Enlil, the god of wind, and Shamash, the god of the sun and justice, are the ones who designate the king, and the last of these gods delivers the norm. Shamash, as the sun, the celestial body and giver of life, leaves no doubt about the celestial origin of law and everything, as what happens on earth has a divine origin, both well-being and calamities. This is why early humans did not love the gods; they feared them, and I believe that has not changed much. Christians believe in eternal hell, and Muslims and Jews believe in Gehenna.

## THE JEWISH TORAH

The Torah comprises the books that Christians call Genesis, Exodus, Leviticus, Numbers, and Deuteronomy, corresponding to the first five books of the so-called Bible. These books are not entirely theological; they are, in fact, a historical narrative of a people to whom laws were given to live by, and this is the central theme of these Jewish books: norms as the basis of coexistence and the promises of an agricultural religion.

The Jewish tradition also stems from the idea of revealed legislation. In the collective imagination, the image of Moses ascending Sinai and receiving the Torah from divinity is present. The Torah can be translated as laws, instructions, or teachings. They are not presented as a social pact because they are not human; they are indeed a covenant with divinity, to which obedience is owed. However, they are not presented as a social convention, as Rousseau believed. They are to be lived by because the norm was revealed to them and offers promises if they are obeyed, as a chosen people, elevated above others. Thus, the Jewish social pact is based on the belief that the Supreme Lord chose them above all, creating a nationalism with promises if they obey. Therefore, they will heed the designs of the representatives of God.

“The revolutionary Yahwist theology emerges in the process of the ideological formation of Israel as the chosen people, in the context of an ethnic and nationalist religiosity in which Yahweh emerges as a providential God who directs the historical course of the peoples under his increasingly supreme and sovereign guidance.”<sup>3</sup>

The Jewish religion, like many others, is agricultural. That is, the social pact with God implies obeying the command and receiving in return the benefits of rain in its season and a good harvest. However, Jewish laws regulated almost all aspects of society. The best-known is the so-called Law of Talion, whose most characteristic aspect is not revenge but just retribution, making the offender suffer harm equal to what they caused. This already provides elements of relevance regarding the theory of punishment and its subsequent

development, as it is not an excessive punishment but one proportional to the harm inflicted. Moreover, these are not transcendental punishments, as the mandate is that each one suffers their own punishment.<sup>4</sup> We must remember that transcendental punishments were abolished in our legal system until the Constitution of Cádiz of 1812, in its article 305, which stated:

“No penalty imposed for any crime shall be transcendental to the family of the offender for any term, but shall have its full effect precisely on the one who deserved it.”<sup>5</sup>

Less known is a kind of Jewish shelter, with houses of refuge for people subject to a process to enjoy freedom while their case is decided in cases of unintentional crimes.<sup>6</sup> Jewish laws were comprehensive, allowing a monolithic society that did not tolerate religious tolerance or deviations from its norm. However, Moses and the Jewish leaders did not claim that the norms were their own creation. Like Hammurabi, they stated that it was revealed legislation.

Therefore, we can argue that the origin of norms and prototypes of Constitutions maintains the idea of revealed legislation. The first legislators were priests, and the laws were obeyed because the will of God demanded it.

## THE MIDDLE AGES AND THE MAGNA CARTA

If the reader thinks that the idea of revealed legislation as a means of legitimizing norms and constitutions was an ancient idea and that the Middle Ages, with its chiaroscuro, began to fade it, and rationalism eliminated it, I ask you to allow me to present evidence to the contrary.

3. Finkelstein, Israel & Silberman, Neil Asher, *The Bible Unearthed: Archaeology's New Vision of Ancient Israel and the Origin of Its Sacred Texts*, 21st Century Spain Publishers, S.A.; Madrid, Spain, 2011.

4. “In the so-called book of Deuteronomy, chapter 24, verse 16, it states that parents shall not die for their children, nor they [the children] for their parents.”

5. “*Constitution of Cádiz 1812*, available at: <http://www.ub.edu/ciudadania/hipertexto/evolucion/textos/ce1812.htm#CD> (access date: May 26, 2024).»

6. “See the so-called book of Numbers, chapter 35, verse 11.”

The Middle Ages did not abandon the political-religious construction of the ancient world. The Roman Empire embraced Christianity and imposed it as a means of cohesion or imposed social contract. The underlying idea supporting political power is the words of Paul in the Epistle to the Romans:

“Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore, whoever resists the authorities resists what God has appointed, and those who resist will incur judgment.”<sup>7</sup>

The Christian position, alike for the Catholic, the Orthodox and Protestant churches, the latter of which played an important political role in the religious Reformation by separating European kingdoms from the control of the so-called princes of the church, freed kings from the yoke of the popes and the Papal States. In the kingdoms affiliated with Protestant churches, religion was not abandoned as a social pact; they simply replaced it with a church more suited to the monarchs, such as the Anglican Church, in which the King of England himself is the supreme head.

Regardless of the type of Christian religion we analyze—Catholic, Orthodox, or Protestant—all are based on the same book, the Bible, and the medieval kingdoms of Europe justified earthly power with the words of the Epistle to the Romans transcribed above.

Kings, under this political-religious premise, were the true representatives of God. An example of this is the so-called “royal touch,” that is, the power that flowed from a king and could cure by simply touching his subjects. This custom originated with Henry I of England (1068–1135),<sup>8</sup> and people would come

to be saved by the representative of divinity. This gives us a clear idea not only of the Christian medical level of the time but also of the faith placed in the Christian social pact to such an extent that the salvation of one’s illnesses was ensured by the grace of the king. Therefore, it was unquestionable that they were the vicars of God, and thus, their power to reign was also unquestionable.

The Magna Carta, which is presented as the first constitution—a historically debatable topic—is based on this principle: “... by the grace of God.”<sup>9</sup> This Charter, while a noteworthy antecedent, is not the prototype of what we consider a Constitution today. In what is now the United Kingdom, there are other antecedents closer to a catalog of fundamental rights: the Petition of Rights of 1628, the Habeas Corpus Amendment Act of 1679, and the Bill of Rights of 1689. However, these do not constitute a Constitution as such, as the United Kingdom officially does not have a document that can be called a Constitution.

Earthly power through divine design is a topic that may be difficult to understand in these times, but it was the practice throughout the Middle Ages and even at the beginning of the 19th century. Some remnants of power were eliminated in the 20th century, in Mexico with the so-called Cristero War, the last instance of the struggle between conservatives and liberals.

7. “Jubilee Bible, ‘The Holy Scriptures, Jubilee Bible 2000’ Life Sentence Publishing Inc., Abbotsford, 2017, Romans chapter 13 verses: 1 and 2.”

8. Queralt del Hierro, María Pilar, “The King’s Affliction”, *Muy Interesante*, Mexico, 2021, pp. 14–21.

9. “Magna Carta 1215 available in: <http://hrlibrary.umn.edu/education/magnacarta.html> (date of consultation: 27 of May of 2024).”



## MODERN CONSTITUTIONS, THE CONSTITUTION OF CÁDIZ OF 1812, AND THE MEXICAN CONSTITUTIONS OF 1824 AND 1857

Religion, as a means of political cohesion, lost strength at the end of the Middle Ages, shaping the ideas of what would become modern states. The process accelerated from the 16th century onward, with the emergence of political economy, and especially in the 18th century, with two milestones in the formation of contemporary states: the French Revolution and the American Revolution, which are considered the beginning of the Modern Era.

At the same historical moment, Adam Smith emerged with his work *The Wealth of Nations* (1776), coinciding with the start of the Industrial Revolution, which contributed to the consolidation of states based on wealth.<sup>10</sup> This gave rise to a new vision of states that sought their social and historical justification with the idea of a collective nationalist will embodied in a quasi-sacred document, which would gradually replace the divine origin of power with a new political deity: the Nation. This new vision implied a new paradigm: rationality, to understand political reality and the exercise of state power. With rationality, attempts were made to abandon religious premises, which by that time were in decline due to the forces of a society reacting to absolutism, in which the Church had been complicit by crowning each king or emperor and being at their service.

However, the rationality model did not entirely abandon religious ideas but created a different natural law. Nature could now be known, observed, and its characteristics highlighted without resorting to divine interpretation. This new paradigm gave rise to a natu-

ral philosophy that was the prelude to changes and would be the characteristic of modernity. But it did not abandon the old instrument of social cohesion; it would still be invoked.

In France, the constitutional foundation emerged with the famous Declaration of the Rights of Man and of the Citizen of August 26, 1789, which marked a milestone in the history of Constitutions as the first great Declaration of a catalog of fundamental rights. However, American constitutionalism objects to this, as the Declaration of Virginia of June 12, 1776, already contained a series of rights in favor of the people.<sup>11</sup> The Declaration begins with a wording similar to that of revealed legislation: *"In consequence, the National Assembly recognizes and declares, in the presence and under the auspices of the Supreme Being, the following rights of Man and of the Citizen."*<sup>12</sup> It was not dictated by divinity, but it does give its auspices, that is, it sponsors, supports, or sustains it. The French revolutionaries were against the excesses of the monarchy but not against the social pact that sustained it.

The Constitution of the United States, drafted in 1787, does not begin with a traditional declaration of revealed legislation, nor does it contain a catalog of fundamental rights. These were adopted in 1791 in what are considered amendments. In the first of these, the religious theme appears, giving its first space to guarantee religious freedom, which allows us to glimpse that this was the right that society wanted to highlight, the first to be defended.

The first constitutions were confessional, and this principle would not be abandoned until much later in history when they adopted a secular or laic stance, as outlined in the following lines, in the analysis of the Mexican case.

10. Míguez, Pablo, "The Birth of the Modern State and the Origins of Political Economy", *Nómadas*, vol. 22, no. 2, 2009.

11. Peces-Barba Martínez, Gregorio. "Declaration of Human Rights." Dykinson, 1998.

12. "Declaration of the Rights of Man and of the Citizen of 1789, available in: [https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank\\_mm/espagnol/es\\_ddhc.pdf](https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/espagnol/es_ddhc.pdf) (date of consultation: 27 of May of 2024)."

The Constitution of Cádiz, approved on March 19, 1812, and in force in New Spain, was the first Spanish Constitution.<sup>13</sup> It established a confessional state that begins in the name of the Trinity, and in its Article 12, the state religion is specified as follows:

*"In the name of Almighty God, Father, Son, and Holy Spirit, author and supreme legislator of society."*

*"Article 12. The Religion of the Nation is and shall be perpetually the Catholic, Apostolic, Roman, the only true one. The Nation protects it by wise and just laws and prohibits the exercise of any other."<sup>14</sup>*

Ferdinand VII and the legislators, by granting the Constitution of Cádiz, returned to the old formula of revealed legislation. The Christian gods are the supreme legislators of society, as declared in the Cádiz preamble. Additionally, it declared the confessional state, prohibiting the exercise of any other religion, and in this regard, it would set the precedent for subsequent Mexican constitutions until 1917.

After the Mexican Independence in 1821, through a coup d'état, the National Constituent Junta, along with Agustín de Iturbide, established in the Provisional Political Regulation of the Mexican Empire the following regarding religion:

*"Article 3. The Mexican nation, and all the individuals who form it and will form it in the future, profess the Catholic, Apostolic, Roman religion, to the exclusion of any other. The government, as the protector of the same religion, will sustain it against its enemies. They recognize, consequently, the authority of the Holy Church, its discipline, and conciliar dispositions, without prejudice to the prerogatives proper to the supreme power of the State."*

*"Article 30. It is the Emperor's duty:*

*1. To protect the Catholic, Apostolic, Roman religion, and ecclesiastical discipline, in accordance with the Plan of Iguala."<sup>15</sup>*

The Regulation, as seen in the preceding lines, took care to protect the means of social cohesion. It is undeniable that it did not cross the mind of the fleeting Emperor to separate the Church from the State, and he embraced it as it had been during the entire viceroyalty.

The same would happen with the first Mexican Constitution of 1824, which, upon deciding to establish a federation, imitating the United States, stated the following:

*"In the name of Almighty God, author and supreme legislator of society. The General Constituent Congress of the Mexican nation, in compliance with the duties imposed by its constituents, to establish its political independence, affirm its liberty, and promote its prosperity and glory, decrees the following:*

...

*Article 3. The religion of the Mexican nation is and shall be perpetually the Catholic, Apostolic, Roman. The nation protects it by wise and just laws and prohibits the exercise of any other."*

...

*Article 101. The newly elected president and vice president every four years must be on April 1 in the place where the supreme powers of the federation reside and swear before the assembled chambers the fulfillment of their duties under the following formula: 'I, N., appointed president (or vice president) of the United Mexican States, swear by God and the Holy Gospels that I will faithfully exercise the office that the same United States have entrusted to me, and that I will uphold and enforce the Constitution and general laws of the federation."<sup>16</sup>*

13. "Although the Bayonne Statute had been promulgated in 1808, it was in fact of Napoleonic design. Source: <http://www.congreso.es/docu/constituciones/1812/P-0004-00002.pdf>"

14. Constitution of Cádiz 1812, available in: <http://www.ub.edu/ciudadania/hipertexto/evolucion/textos/ce1812.htm#CD> (date of consultation: 26 May 2024).

15. Provisional Political Regulations of the Mexican Empire, 1822, available in: [http://www.constitucion1917.gob.mx/es/Constitucion1917/Reglamento\\_Provisional\\_Politico\\_del\\_Imperio\\_Mexicano](http://www.constitucion1917.gob.mx/es/Constitucion1917/Reglamento_Provisional_Politico_del_Imperio_Mexicano) (date of consultation: 26 May 2024).

16. Federal Constitution of the United Mexican States, 1824, available in: <http://www.constitucion1917.gob.mx/es/>

As can be seen, the first Mexican Constitution begins, like that of Cádiz, in the name of God as the supreme legislator, which is not so different from that of Hammurabi. This declaration allowed the high Catholic hierarchy to join the federal nation project, which was repeated in the Constitutional Laws of 1836, in various draft Constitutions, and the Organic Bases of 1842.<sup>17</sup>

One might think that the winds of change that came with the Constitution of 1857 would be different. Although when Juárez held the position of Secretary of Justice and promulgated the Law on the Administration of Justice, known as the Juárez Law, on November 23, 1855, in which privileges were removed, the clergy and the army would now be tried in civil courts, because justice cannot grant individual or class privileges, Juárez considered that this was the spark that produced the fire of the Reform. The Church would receive a second reformist blow on June 25, 1856, when the so-called Lerdo Law, by Treasury Minister Miguel Lerdo de Tejada, was issued to sell Church property and obtain the resources the country needed. The archbishop protested and argued that permission from Rome was required, but the Mexican government did not wait. All civil and ecclesiastical property not used in the normal operation of the Church was included in the sale.<sup>18</sup>

The liberals proposed a new constitution that would be sworn on February 5, 1857. The

winds of change made it seem that the new constitution would abandon the idea of revealed legislation, but this was not the case.

Despite the intentions of reform, of abandoning the idea of the confessional state, of opening the doors to free thought and religious tolerance, the liberal Constitution of 1857 begins with an attenuated formula of revealed legislation: "In the name of God and with the authority of the Mexican people."<sup>19</sup> Contrary to what the conservatives believed, the liberals still feared excommunication, and all were Catholics, as Francisco Zarco,<sup>20</sup> the classic chronicler of the 1857 Constituent, mentioned during the discussions on religious freedom, beginning his intervention as follows: "I am Catholic, Apostolic, Roman, and I boast of being so."<sup>21</sup> This position would be adopted by all the deputies in favor of freedom of conscience and religion. Subsequently, after this introductory declaration, they would present their reasons for respecting the thoughts of others who were not Catholic. This is the pluralism of 19th-century liberalism; since then, we have had this right to religious freedom, which prevailed even after several wars and which we must still protect.

Despite the liberalism of the 1857 Constitution, it was not entirely secular. On the contrary, as already mentioned, it returned to the old formula we knew since Hammurabi.

In practice, the Church did feel the change, as the Mexican State abandoned the patrona-

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Constitucion1917/Constitucion\_Federal\_de\_los\_Estados\_Unidos\_Mexicanos (date of consultation: 27 May 2024).

17. Guerrero Galván, Luis René, and José Gabino Castillo Flores. "Article 24. Historical Introduction." In *Rights of the Mexican People: Mexico Through Its Constitutions*. Section Three, edited by Héctor Fix Fierro and Diego Valadés, [page numbers]. Mexico City: Editorial Miguel Ángel Porrúa, 2016.

18. Frahm, Sara Ann. *The Cross and the Compass: The Introduction of Religious Tolerance in Mexico*. Bloomington, England, 2015.

19. Federal Constitution of the United Mexican States, 1857, available at: [https://www.diputados.gob.mx/biblioteca/bibdig/const\\_mex/const\\_1857.pdf](https://www.diputados.gob.mx/biblioteca/bibdig/const_mex/const_1857.pdf) (date of consultation: 27 May 2024).

20. Francisco Zarco (1829-1869), Mexican journalist and politician. Born in Durango, he was a self-taught polymath who mastered languages, law, theology, and social sciences – knowledge he demonstrated through his writings and speeches. Censored and persecuted for his journalistic work, he was elected alternate deputy for Yucatán. As editor-in-chief of *El Siglo XIX*, Mexico's most important newspaper of the era, he championed liberal ideals. In 1855, he joined the Ayutla Revolution and later served as both deputy and official chronicler for the Constituent Congress until the promulgation of the 1857 Constitution. Source: Microsoft Encarta 2008.

21. Rabasa, Emilio O. *The Political Thought of the 1856-1857 Constituent Assembly*. Porrúa, 1991, p. 82.



ge that had been maintained throughout the viceroyalty, the fleeting Empire of Iturbide, and the confessional Constitution of 1824. Therefore, a new revolt began, and the conservatives imposed a foreign Emperor, but this topic is not relevant to what we have tried to explain, so we will not address it.

What we can affirm is that with Porfirio Díaz as president, who governed for 34 years between 1877 and 1911, the country achieved political stability, but it would not have been possible without the hand of the Catholic Church. The Church was very weakened; it could not own property, and its income was limited, so it depended economically on the State. Additionally, worship outside churches was prohibited, and they could not own educational centers or hospitals.

Díaz did not repeal the Reform Laws, but neither did he fully apply them. On the contrary, his reconciliation plan allowed them to recover properties, educational centers, and spaces for charity. The Catholic hierarchy acted in favor of the government, disavowed some popular uprisings, and contributed to pacification by evangelizing the Yaquis and Mayos.<sup>22</sup> The religion-politics symbiosis continued to function.

The peace during the Porfiriato worked without repealing laws; each party simply contributed to the other and tolerated each other. The national anthem still invokes divinity: "... that in heaven your eternal destiny: by the finger of God was written." The idea of divine power united with earthly power remains and strengthens even today. Yuval Harari, the Israeli historian, considers that: "A single priest usually does the work of a hundred soldiers, and much more cheaply and efficiently."<sup>23</sup> The peace of the Porfiriato was built with the Church by its side. The alliance worked in the ancient world, worked in Europe throughout

the Middle Ages, also during the Spanish conquest, in the Porfiriato, and it still functions that way, but with a weakness that is no longer visible, as it uses figureheads who defend the family, virtues, and similar issues.

Even in the 20th century, after the great constitutional reform of 1917, the Church would strike a blow in Mexican politics when Plutarco Elías Calles became president from 1924 to 1928. During his term, there was a confrontation with the Catholic Church as he promoted cultural, educational, population control, and agrarian changes. The ranchers feared losing their lands due to agrarian reform, and the Church feared an attack on their beliefs. Therefore, both groups united in the National League for the Defense of Religious Freedom and began the so-called Cristero War, which lasted less than three years, from late 1926 to mid-1929.<sup>24</sup>

Prior to the war, in July 1926, the Mexican bishops decided to suspend public worship in Mexico, an unprecedented decision supported by Pope Pius XI. Paolo Valvo, a professor at the Catholic University of Milan, after the archives of the pontificate of Pius XI were declassified in September 2006, concludes that the Pope was deceived by a group of radical Jesuits who did not consult the apostolic delegate in Mexico, Monsignor Tito Crespi, who did not support them. Instead, they traveled to Cuba to seek the support of the apostolic delegate George Caruana, more sympathetic to their ideas, to send a telegram to the Pope on July 18, 1926, seeking his approval for the project to suspend religious services. Bishop Rafael Guízar y Valencia sent another telegram expressing his opinion that the suspension of worship would be detrimental to the country. In Rome was the Bishop of Tulancingo, Vicente Castellanos Núñez, who met with the Pope on the morning of July 21. That same

22. Speckman Guerra, Elisa, et al. *New Illustrated Minimal History of Mexico: The Porfiriato*. El Colegio de México, 2008, pp. 337, 392.

23. Harari, Yuval Noah. *Sapiens: A Brief History of Humankind*. New York: HarperCollins, 2015. E-book.

24. Garciadiego, Javier, et al. *New Illustrated Minimal History of Mexico: The Revolution*. El Colegio de México, 2008, pp. 393-468.

day, the papal message was transmitted, but it did not pronounce on suspending worship, neither supporting nor rejecting it, an ambiguous response interpreted in favor of the cause, and the clashes began. However, in subsequent telegrams, the heir of the Papal States asked the Catholic hierarchs in Mexico to seek a settlement but to include the modification of constitutional norms hostile to the Catholic Church.<sup>25</sup>

The constitutional modifications the Pope requested were not made, but once again, tolerance towards the Catholic Church continued, and the country, at least in religious matters, maintains a calmness that is occasionally interrupted and must be addressed.

## CONCLUSION

The times of revealed legislation as a social contract and cohesion are long gone. The historical journey leaves no doubt that Rousseau was wrong, at least partially. While there was indeed a primordial unifying social agreement in which society allowed part of its freedoms to be limited for the sake of coexistence, it was not something reasoned, nor was it a system of protection. Priests, shamans, prophets, sorcerers, and religious and political leaders used revealed legislation to enforce their power and threaten the loss of heavenly benefits and the threat of hell, Gehenna, or any other name that signifies eternal suffering. Understanding that life and death depended on divinity and its designs, the promises of a future life were only possible if one obeyed the interpretation of its representatives on earth. Yuval Harari, the Israeli historian, summarizes it in the following words:

*"Humans died because God decreed it, and the moment of death was a sacred metaphysical experience full of meaning. When a human was about to exhale their last breath, it was time to call priests, rabbis, and shamans, take stock of life, and accept one's true role in the universe. Try to imagine Christianity, Islam, or Hinduism in a world without death... which is also a world without heaven, hell, or reincarnation."*<sup>26</sup>

Despite being attributed other purposes, the reality is that history has only one clear goal: to understand our present. Analyzing the historical chain and the evidence we have, there is no doubt in postulating that revealed legislation was the true social contract, and Rousseau did not fully understand it. Subsequent generations accepted the premise with little questioning, as repeating an idea that most accept is part of collective knowledge that is not questioned and is known as "conventional wisdom," which we dare not refute. John Kenneth Galbraith coined this expression by stating:

*"We associate truth with convenience—what best suits our interest, well-being, or personal promises to avoid great efforts or the unpleasant disruptions of life."*

*... we cling, as if to a lifeboat, to those ideas that represent our understanding of things."*<sup>27</sup>

Rousseau's idea was liked from the beginning, and no one dared to point out that his vision was not exact. He grasped the essential, but the visual graduation of his time, with rationalism as a banner, did not allow him to understand that the means of cohesion was religion and not the free popular will.

Separating from revealed legislation cost wars in which the underlying motive was religion. In Mexico, we abandoned the confessional state in the Constitution of 1857 and

25. Savio, Irene. "When Mexican Bishops Deceived the Pope." *Proceso*, 2017.

26. Harari, Yuval Noah. *Homo Deus: A Brief History of Tomorrow*. Barcelona: Penguin Random House Grupo Editorial, 2016.

27. Levitt, Steven D., and Stephen J. Dubner. *Freakonomics: A Rogue Economist Explores the Hidden Side of Everything*. New York: William Morrow, 2005.

allowed freedom of conscience and religion despite the threats of excommunication from the Catholic Church.<sup>28</sup> However, this constitution began with some revealed legislation. It was not until 1917 that we left Hammurabi's formula. The change has been slow, and fortunately, religious intolerance is no longer felt, and Article 24 of the Constitution safeguards this fundamental right.

With the 2013 reform of Article 24 of the Constitution, we now enjoy the right to freedom of ethical convictions and conscience, and even the right of atheists and free thinkers to have no religion at all, but also to form and register another. The only requirement is that it does not constitute a crime.

Today we have a secular state, that is, one that is alien to religious doctrines, to the particular interests of each religion, and in which the government does not take sides. The secular state is one that guarantees all people the same freedom, whether religious, of conscience, or ethical, as we are all on an equal plane, both in rights and dignity, which is the engine driving the advancement of fundamental rights: human dignity. The secular state, then, can be defined as one that:

*"... assumes a position of vigilant neutrality towards different beliefs, ways of life, and religions, that is, none can legitimately aspire to acquire a position of privilege legally conferred and protected in the cultural, moral, and political life of a society."*<sup>29</sup>

28. Rabasa, Emilio O. *El pensamiento político del Constituyente de 1856-1857*. Mexico City: Porrúa, 1991.

29. Lara Bravo, Alonso. *Religious Freedom in Mexico*. Mexico City: National Human Rights Commission, 2015.

30. Cossío Díaz, José Ramón. «Secularism of the State and Religious Freedom: How to Harmonize Them.» *Letras Libres*, 2008, pp. 64-65.

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Federal Constitution of the United Mexican States (1824). Constitution 1917. Accessed October 4, 1824. [http://www.constitucion1917.gob.mx/es/Constitucion1917/Constitucion\\_Federal\\_de\\_los\\_Estados\\_Unidos\\_Mexicanos](http://www.constitucion1917.gob.mx/es/Constitucion1917/Constitucion_Federal_de_los_Estados_Unidos_Mexicanos).

The neutrality of the secular state does not mean rejection of religious beliefs, nor does it mean non-intervention by the state or assuming a passive position. On the contrary, it implies vigilant intervention to prevent state organs or individuals from limiting the beliefs of any person, from discriminating, attacking, or officially performing acts that favor a particular group or show favoritism. Instead, there must be rigorous impartiality that guarantees equal conditions for all creeds.

*"... what the Constitution fundamentally demands is impartiality, not inaction, and that the principle of separation between Churches and the State enshrined in Article 130 of the Federal Constitution does not exempt state organs in many cases from the duty to regulate at different levels (legislation, regulation, judicial application) issues related to the religious life of people."*<sup>30</sup>

The neutrality of the state exists, but it is not inaction. Sometimes it dresses in action to respect fundamental beliefs enshrined in norms, without losing sight of the fact that we are a Secular State, and publicly no authority can pronounce in favor of certain creeds. The path to achieving this neutrality has been very long, so we must protect the Secular State against voices that still try to mix politics with religion. May revealed legislation never return.

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