

The Road to Same-Sex Marriage in Mexico City

by RAFAEL DE LA DEHESA | CUNY-College of Staten Island | Rafael.delaDehesa@cuny.edu

On December 21, 2009, Mexico City legalized same-sex marriage. By a vote of thirty-nine to twenty in the Legislative Assembly of the Federal District (ALDF), with five abstentions, a center-left coalition led by the Party of the Democratic Revolution (PRD) overcame opposition to the bill spearheaded by the conservative National Action Party (PAN) of President Felipe Calderón. The erstwhile hegemonic Institutional Revolutionary Party (PRI) split, with two lawmakers opposing the bill and five abstaining. In a separate, narrower vote, lawmakers also defeated an amendment to the bill that would have eliminated same-sex couples' right to adopt children, thus ensuring the full gender neutrality of marriage. Final say on the matter did not rest with the legislature. Within weeks, the federal Attorney General's office and several state governments challenged the constitutionality of the measure, but in a series of rulings this past August, Mexico's Supreme Court upheld the constitutionality of the law, the right of same-sex couples to adopt, and the validity of marriages contracted in Mexico City in other states. This victory was but the latest chapter in ongoing efforts by the lesbian, gay, bisexual, and transgender (LGBT) movement to obtain the legal recognition of same-sex couples. In 2006, after six years of protracted debate, the ALDF approved a bill creating cohabitation societies, granting limited rights to same-sex couples, followed within weeks by the passage of a law creating solidarity pacts in the northern state of Coahuila and the introduction of similar proposals in at least five other states. This article explores some of the conditions that permitted advances in same-sex partnership rights in the Mexican capital.

Transformations on the Left

Same-sex marriage was ultimately passed in Mexico City by a coalition on the left that united the PRD, with an absolute majority in the ALDF, and the small Workers Party (PT). This disciplined backing of same-sex marriage was particularly striking given the less-than-forthcoming support demonstrated by the PRD in earlier debates on cohabitation societies. On the earlier bill, PRD lawmakers blocked a vote on more than one occasion by leaving the assembly to deprive it of a quorum; and in 2003, PRD mayor and presidential hopeful Andrés Manuel López Obrador stepped directly into the fray, arguing that the matter was too important for the legislature and should instead be put to a popular referendum, in what was clearly an effort to derail the bill behind the public face of participatory democracy. Several factors contributed to the consolidation of the party's support on the matter, most notably the absence of the electoral calculations that preceded the 2006 election (shortly after which lawmakers finally approved cohabitation societies). The new mayor of Mexico City, Marcelo Ebrard, elected that year, has also been more forthcoming in his support for the law and for LGBT rights more generally, for instance, creating a Program on Sexual Diversity in the city government in 2007.

As much as any shift within the PRD, however, the approval of same-sex marriage also speaks to the ongoing importance of small left parties in advancing the LGBT movement's political demands. The movement's reliance on such parties dates back to the Rosario Ibarra Lesbian and Homosexual Support Committee (CLHARI) in 1982, which backed the presidential candidacy of human rights activist Rosario Ibarra, then of the Trotskyist Revolutionary Workers Party (PRT), and supported the first openly gay and lesbian candidates to the

federal congress, marking the movement's electoral debut. In recent elections, a series of smaller parties on the left have made feminism and sexual diversity a centerpiece of their campaigns, all short-lived expressions of alliances articulated originally around the feminist political association *Diversa*, founded by Patricia Mercado, a former head of the PRT women's section, and herself a presidential candidate in 2006. It was through the first incarnation of these alliances, the Social Democracy Party, that the lesbian activist Enoé Uranga was elected to the ALDF in 2000, introducing the bill on cohabitation societies the following year. And in 2009, Deputy David Razú, the author of the marriage bill, was elected to the ALDF as a member of the recently created Social Democratic Party. After that election, the PRD cobbled together an absolute majority in the new legislature by wooing four deputies, including Razú, to its ranks. In the course of these negotiations, Razú was able to ensure not only the priority of the marriage bill but also the disciplined support of his new party, crucial to its passage.

Broadening the Debate: Sexual and Family Diversity

Another critical factor in advancing these efforts has been the ability of the LGBT movement to establish alliances with other actors in civil society, particularly feminists, through coalitional networks. Along these lines, activists organized the Citizens Cohabitation Societies Network and the Network of the Society United for the Right to Same-Sex Marriage, both including over 200 organizations in support of the respective laws. These networks have deep roots, reflecting a long history of activists pooling forces on the margins of the PRI-dominated party system, and have been particularly important given the historic

reluctance even of the movement's purported allies on the left to take up its demands. Such coalitional politics has encompassed not only activist networks and declarations of support but also the principal themes used to frame LGBT rights in public debate. The theme of diversity, in particular, has been key. Indeed, in some sense it heralded the movement's legislative turn, broadly embraced following the First Forum on Sexual Diversity and Human Rights organized in the ALDF in 1998, an event that marked a turning point in the relationship between activists and legislatures.

According to Mexico's National Population Council, over 30 percent of households in the country are not composed of nuclear families; 20 percent are headed by women, a figure that has doubled in the last three decades; and over two million people in the country live in so-called "non-familial" households, either living alone or in households whose members are unrelated by blood or marriage.¹ Such figures were routinely cited by advocates of same-sex partnership rights to displace the idealized notion of the traditional nuclear family with an acknowledgment of this much more heterogeneous terrain. Indeed, reflecting the important role played by lesbian feminists in early discussions on cohabitation societies, the initial proposal sought to recognize a broad array of domestic arrangements and affective ties in ways that de-linked cohabitation from sexuality and reproduction and extended beyond the conjugal couple. To this end, the proposal initially included a second category of "extended families," allowing more than two people to enter a cohabitation society and access the rights it conferred, though the stipulation was dropped in negotiations with the PRI, as the bill's author recalled:

Unlike what occurred in Europe ... what we decided in Mexico—because official figures in Mexico recognize this broad array of households that aren't structured around marriage—is that it's absurd for the welfare state to operate only through marriage. So the first proposal was divided into two rubrics: couples and extended families, households with more than two. We had to remove this section with "more than two" because it was impossible to desexualize the topic. Any time we spoke of "more than two," they imagined ménage, and they couldn't see the networks of women living together, elderly people living together—that was very difficult.²

Mexico is perhaps unique in the way debates on same-sex partnership rights initially opened room for discussions on a much broader array of household formations. The elimination of the stipulation is worth noting because, among other reasons, it points to the limits of diversity as instantiated in law and to the constitutive exclusions that have paved the road to marriage.

In the debates on same-sex marriage, some of the pitfalls of the discourse of diversity also became evident, being deployed not only by proponents, but also by opponents of the measure. Appropriated by the right, *panista* lawmakers repeatedly argued that marriage's privileging of heterosexuality was not discriminatory. Rather, pointing to cohabitation societies (which the party had also opposed), they contended that different groups simply required different institutions, grounding this "diversity" in a presumed heterosexual monopoly on reproduction. This "different strokes for different folks" argument was later reiterated by the Attorney General in his judicial challenge to the constitutionality of the law. While ultimately unsuccessful, the argument nonetheless reflects the not uncommon

tendency of multicultural celebrations of diversity to flatten identity categories and reduce social inequality to cultural difference.

Defending the Secular State

The PAN's adamant opposition to same-sex partnership rights reflects the party's roots in lay religious organizations and its important Catholic base. This said, the fact that *panistas* routinely appealed to diversity and human rights in framing their opposition also speaks to the hegemonic weight of laicism in shaping the broader terms of political debate. In a 2003 report, the UN High Commissioner on Human Rights underscored its importance: "The greatest concerns expressed [by representatives of civil society] concerned the enforcement and preservation of the lay state, which has been fundamental for the advances attained by Mexican women in the areas of sexual and reproductive rights; of their right to a free, lay, and compulsory education; of the right to work, equal liberties, and family rights; and to a life without violence."³ Given the historic weight of conflicts between church and state in the country, it is not surprising that the defense of the secular state is a particularly resonant frame of public discourse. Strategically, moreover, not only does it reinforce the kind of coalitional politics noted above, uniting sexual and reproductive rights advocates; it also finds resonance among potential political allies, particularly in the PRD and sectors of the PRI. Its hegemonic weight in public discourse was clearly demonstrated when, following the Supreme Court rulings, Cardinal Juan Sandoval Íñiguez of Guadalajara referred to the decisions as an act of treason and suggested the justices had been bribed by Mexico City's mayor, Marcelo Ebrard. The response by various actors uniformly reaffirmed the secular

DEHESA *continued...*

character of the Mexican state. Beyond the public outcry by activists, the court unanimously voted to censure the prelate, and the mayor filed formal charges against him for slander. By acting as secular watchdogs in this way, coalitions of activists and political allies have been able to shape the terms of debate in ways that arguably leave their opponents on weaker ground.

Defending the marriage bill in the ALDF, PRD Deputy Víctor Hugo Romo Guerra inscribed same-sex marriage within a broader modernist narrative predicting a gradual progression toward the universalization of law. “For centuries,” he argued, “unjust laws prohibited marriages between whites and blacks or Indians and Europeans; love of the foreigner, of the different, was banned. Today, however, all these barriers have disappeared. The only one remaining is the one that we propose to end.”⁴ The law’s passage, again, gives impetus to ongoing efforts to achieve formal equality. Since its approval, activists have turned their attention to the federal level. In November 2010, the Chamber of Deputies approved a bill, currently under consideration in the Senate, to extend social security benefits to same-sex couples that formalize their union. And activists in Mexico City have organized a series of collective weddings, facilitating bureaucratic procedures for couples from other states. A central challenge facing the movement, however, points to the limits of this universality. In the first three years since cohabitation societies became law, just over 700 couples took advantage of it. The demand for matrimony seems a bit higher, with close to 400 marriages in the first six months. Seeming to invoke the universal spirit of his namesake, the Director of the municipal Civil Registry, Hegel Cortés, noted that just as when the city first instituted the Civil Registry in 1859, most of the couples marrying are of relatively

comfortable socioeconomic standing, those informed enough to “exercise their rights,” implying that over time, law would translate into norm.⁵ Whether this will happen remains an open question.

Endnotes

- ¹ Mario Luis Fuentes, “Los Hogares: Cambio Acelerado,” *Excelsior*, May 20, 2008.
- ² Interview. Enoé Uranga, former Deputy in the ALDF and author of the Cohabitation Societies Law, Mexico City, August 7, 2008.
- ³ Miriam Ruiz. “Hay retrocesos en derechos humanos, advierte ONU a Fox.” CIMAC. December 8, 2003.
- ⁴ Versión estenográfica de la sesión ordinaria celebrada el día 21 de diciembre de 2009. Asamblea Legislativa del Distrito Federal – V Legislatura, Estenografía parlamentaria, p. 21.
- ⁵ Christian Rea Tizcareño, “Se han efectuado 168 matrimonios homosexuales y 736 sociedades de convivencia, informa Registro Civil” *Notiese*, May 28, 2010 <<http://www.notiese.org>.>; “Se han efectuado casi 400 matrimonios gay en el Distrito Federal,” *Anodis*, September 6, 2010 <<http://anodis.com>>. ■