



# THE MEXICAN CIVIL CODE

*Translated by*  
**Michael Wallace Gordon**

An Updated and Revised Version of the  
1950 Translation by Otto Schoenrich

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To John C. Bierley and Lucius M. Dyal, Jr.  
who have helped from the beginning

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The Mexican Civil Code was first translated in 1950 by the late Otto Schoenrich. Important revisions to the Code were adopted in 1978. This update and revision is built upon the Schoenrich work. I doubt that I would have undertaken a complete translation alone, and I thus thank Judge Schoenrich for his outstanding effort.

I also thank my colleague Fermin Perez, who spent many hours with me in discussing drafts of the Code amendments integrated in this work, and from whom I learned much in the process about the origins and substance of the provisions. Catharine O'Connell thoughtfully typed the final manuscript for the revisions.

## INTRODUCTION

The Civil Code of Mexico which appears in this volume is the Civil Code for the Federal District. Unlike the Mexican Commercial Code, which is a federal commercial code, applicable in all areas of Mexico, the application of the Civil Code is limited to the Federal District, thus directly applying to perhaps one-fifth of the Mexican population. Its influence is nevertheless far greater; it has been used as the model for the development of the Civil Codes in nearly all of the Mexican states. It is considered a model for the states both because the Federal District is looked to for guidance in the drafting of state legislation, and because there remains a significant measure of Centralism in Mexico.

The former territories of Mexico, including such geographically distant areas as Baja California and Quintana Roo, have Civil Codes modeled on the Federal District Civil Code because prior to achieving statehood status, the territories were governed directly by what was then called the Civil Code of Mexico for the Federal District and Territories.

Mexico achieved independence on September 27, 1821, but did not federalize its government until 1857. The 1857 Constitution granted state autonomy in developing civil legislation. Although Mexico did not federalize civil legislation, the future Civil Code for the Federal District was to become the foundation of the civil law system for all of Mexico.

The first Civil Code, promulgated in Mexico in 1870 and adopted in 1871, was limited to the Federal District and the Territory of Lower California, then the only federal territory. The 1884 Civil Code and the current Civil Code, adopted in 1928, but not effective until 1932, retained this limitation of applicability to the Federal District and territories. The states, left to legislate their own codes, generally did so by adopting, with few if any changes, the Civil Code for the Federal District. Some of the states continue to apply civil codes which are based on the 1871 and 1884 Civil Codes, although the vast majority follow the 1928 Code. The Code translated in this volume consequently discloses what is the law in the Federal District, and additionally provides a relatively accurate indication of the civil codes in each of the Mexican states.

Any general study of the civil law of Mexico would naturally focus upon this Code. For an application of civil law provisions to a specific case outside of the Federal District, one must obviously consult the specific code for the state in question. The variations among the civil codes of the states are not significant. The fact that variations do exist expectedly gives rise to questions of conflicts of law. The purpose of this translation is not to raise or discuss questions of conflicts, or the minor variations which exist in the state civil codes from this Federal District Civil Code; it is rather to make available in translation the most important Civil Code in Mexico, which has been the foundation upon which civil law has developed throughout Mexico, and which, not inconsistently, has reflected social change in Mexico occurring during the Revolutionary Period.

The Civil Code of 1928 reflects the revolutionary principles of the 1917 Constitution and the Carranza family law of 1917. The Carranza family law, sponsored by President Venustiano Carranza, was a federal law which replaced substantial portions of the 1884 Civil Code which regulated family relations. Code Napoleon doctrines and laissez-faire concepts tended to be replaced with provisions evidencing both concern for the good of the community and the individual, as opposed to a greater concentration on property interests. Members of the code revision commission undertook the 1928 revision having accepted the theory that the Code should not remain aloof from changes occurring in Mexico as reflected in the Mexican Revolution, particularly legislation in the 1920's emanating from social justice concepts of the Revolution. It is hardly a radical document, but in comparison with the earlier 1884 Civil Code, it evidences a movement toward replacing traditional vested interests with individual and community rights. Fortunately, the Civil Code did not subsequently become subjected to frequent amendments; it has become the stable basis for the Mexican legal system. Amendments to the Civil Code subsequent to its adoption have been important, but do not alter its basic concepts.

Although Mexico thus had three different civil codes enacted within a span of fifty-seven years, and the 1928 Civil Code does reflect the revolutionary spirit of the 1917 Constitution, much of that 1928 Code is similar to or duplicates provisions of the Civil Codes of 1871 and 1884. Since the promulgation of



the present Civil Code, five decades passed without significant alteration. The 1928 Civil Code exemplifies the stability of Mexico since the Revolution, a stability also illustrated by the infrequent amendment of the 1917 Constitution, as well as of the Civil Code, a stability which is further illustrated by the structures of the federal government.

Tracing the present Civil Code of Mexico one tends to at first compare the Roman Law, not unlike researching the law of any nation with a civil law system. This may suggest little more than that the system under study is in fact a civil law system. What is of greater importance is how the influence of the Roman Law reached Mexico, a route which was not always direct. In preparing the civil codes of Mexico, drafters have not always felt compelled to accept Spanish law as having adopted the only appropriate form of development of the Roman Law. The drafters extensively used Spanish sources, particularly laws which applied to Mexico during Spanish rule, and also reviewed directly the Roman Law sources from which many of the Spanish provisions were derived. The original drafters additionally considered the Code Napoleon, and civil codes from numerous other nations as diverse as Brazil, Chile, Germany, Spain and Switzerland. With the subsequent enactment of the 1884 and 1928 Civil Codes, the drafters had an even richer source of civil codes from which to research and compare concepts; the current Civil Code evidences similarities to civil code provisions of such countries, in addition to those noted above, as Argentina, Austria, Czechoslovakia, Russia, The Netherlands, and Uruguay, legislation from particular states within Mexico, and even particular laws from the common law systems of Great Britain and the United States. Many of the provisions thus reflect a variety of origins. There is nevertheless a consistency in the law, evolving from the Roman Law as received in Spain, and then transferred to the New World by the Spanish expansion.

The division of the Mexican Civil Code into four books, with a preliminary chapter stating general principles, follows generally the form of the Code Napoleon. The four books encompass persons, property, succession, and obligations and contracts. The preliminary chapter is devoted to general principles, and some rules which relate primarily to the application, interpretation and scope of the Code, and questions of conflicts. Following the four books appear transitory

articles, those adopted with the Code in 1928 relating to the Code's application to earlier law, including provisions which repealed previous civil legislation, with the exception of certain federal laws regulating specific civil matters, and stipulating where the new Code continues to enforce provisions of the earlier 1884 Civil Code. The transitory provisions to the 1978 amendments relate to the time of application of the amendments, the relationship of the amendments to other laws and a mandate to the Director of the Public Registry regarding lists of holographic wills.

The periodic revisions to the Code have been for the most part minor corrections and changes to reflect social change, such as the increasingly equal treatment of women. The 1978 changes are significant; they alter numerous provisions applying to the Civil Registry, contained in Title Fourth of Book First, "Of Persons;" revise several sections of the law of holographic wills and of wills made in foreign countries, both in Title Third of Book Third, "Of Successions;" also revise a few provisions dealing with contracts in Book Fourth, "Of Obligations;" and, most importantly, completely revise and replace Title Second of Book Fourth, the laws governing the Public Registry. The translation of these amendments and their integration with the original translated edition of the Code should provide a useful volume for anyone studying the Mexican legal system.

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**THE CIVIL CODE**  
**FOR THE**  
**FEDERAL DISTRICT AND TERRITORIES**  
**OF MEXICO**  
**ANNOTATED WITH REFERENCES TO ANTECEDENTS**

## ABBREVIATIONS

Used in the References to Antecedents under the  
Several Articles of the Civil Code

Art. ....	Article
C. C. ....	Civil Code
C. C. 1884 ....	Civil Code of the Federal District of Mexico, promulgated in 1884
C. Civ. Proc. 1884 ....	Code of Civil Procedure of the Fed- eral District of Mexico, promul- gated in 1884
C. Com. 1889 ....	Code of Commerce of Mexico, pro- mulgated in 1889
Const. 1917 ....	Federal Constitution of Mexico, promulgated in 1917
Law Dom. Rel. ....	Law of Domestic Relations of the Federal District of Mexico, pro- mulgated April 12, 1917
Penal C. 1872 ....	Penal Code of the Federal District of Mexico, promulgated in 1872
Span. Mtge. Law ....	Spanish Mortgage Law of 1909

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