

CHIAROSCURES OF THE DEMOCRATIC TRANSITION IN MEXICO: A CLOGGED DEMOCRACY

By Demetrio Sodi de la Tijera

It is not at all easy to set a date for the commencing of the transition to Democracy in Mexico. Ever since the Independence War, back in the early 19th Century, the Country has been struggling to establish a true democracy and a regime ruled by Laws. Periods in Mexican history in which the political system have truly respected the division of powers and the Federal pact, as stated in our Constitution, have been brief. In few periods Congress has been able to act independently from the Executive branch, and less still have been the elections which have not been stained by fraudulent practices. Some 100 years had to pass for the motto “effective suffrage” to become a reality, and it was not until 1997 that having a Congress independent from the President was made possible. Corruption, authoritarianism, and abuse of power are patterns of behavior that can be observed throughout most of the history of Mexico.

Just for the sake of being able to analyze the progress being made in the recent years, I’ll consider the 1988 elections as the starting point of the transition process. The social movements back in the 1950’s; the student revolt in 1968, which ended with the up to that date government and official party monopolies for public demonstrations; or, the extended social mobilization in 1985, in the aftermath of the major earthquake that devastated Mexico City, in response to the lack of capability of the Government to assist the population, cannot all be ignored. But the year 1988 is, nonetheless, the first great citizen revolt taking place in the voting ballots, which forced the Government to stage the greatest electoral fraud in Mexican history.

THE PRESIDENTIAL-ISM AND THE OFFICIAL PARTY

From 1988 onwards, political changes accelerated. The PRI, having been in power since 1929, was close to losing majority in Congress, and did not win enough seats in the Chamber of Deputies to engage in changes to the Constitution. The President lost the monopoly of power and, for the first time, was forced to negotiate with the opposition (PAN) to be able to govern. Only a year after that, the triumph of a State Governor coming out of the ranks of the opposition (PAN) had to be recognized. Also, a compromise to grant autonomy to the electoral institutions was established. In less than 12 months, Mexico changed from a government centered around a President with absolute powers and a unique political party, to a government with several parties, each

of which having a hand on the wheel.

In recent years, absolute Presidential power concentrating all the power of the State has been left behind. A true Federal system is being built, in which the forces of each of the three Powers are more balanced, and with a more equitable relationship among the three levels of Government (Federal, State, and Local). The Federal Judicial Power has gained independence from the Executive branch, and Congress is now a true independent power. Federalism has been strengthened and now, State Governors and Heads of Municipalities have more power and autonomy. Independent institutions have been created to conduct elections, to protect Human Rights, and to promote transparency regarding Public Information. Mexican democracy is still trapped, however, within State and Local governments, in social (non-government) organizations, and by the lack of interest and participation of a great majority of the people in public affairs.

THE ELECTORAL INSTITUTIONS

All political institutions at the Federal level have been strengthened and granted autonomy. In particular, this has been so with those involved in electoral processes. We now have independent and autonomous electoral institutions that have made possible cleaner and more competitive elections. The Federal Electoral Institute (IFE) and the majority of the electoral authorities at the State level, have public respect and credibility, in spite of the heavy criticism and attacks they have suffered in the recent months. The same has happened with the Federal Electoral Court. This Court handled successfully the hard task of qualifying and declaring valid the 2006 Presidential election. Nonetheless, electoral processes in Mexico are still too expensive and the IFE still lacks of powers to oversee and supervise the use of public funds transferred to political parties and their candidates, and of funds coming from other sources. This loophole has allowed for electoral expenditures well above legal limits.

We in Mexico are well aware of the necessary actions to be taken to simplify and to reduce the cost of elections. However, obscure interests of political parties and State Governors have impeded any progress in this regard. It is required to synchronize the timing of the different electoral processes throughout the Country, to reduce the campaign periods to reduce costs and make for more equitable elections, to grant IFE with greater powers to audit the finances of political parties, to supervise and establish limitations for expenditures in the media, and to punish with the loss of registry or the annulment of elections whenever flagrant and mayor violations to

the electoral codes are in place, in particular, in cases in which campaign expenditure limits are ostensibly violated.

THE CONGRESS OF THE UNION

The Mexican Congress has achieved an unprecedented political force, hard to even imagine a couple of decades ago. Unfortunately, the lack of agreements and compromise has implied that along with its strengthening, loss of prestige to the eyes of the public has also arisen. Intervention of political parties in the works of Congress has seriously hindered the freedom of elected Legislative officials to serve their constituents, and has become the main obstacle to reach agreements that would benefit the Country as a whole. It's been more than 15 years now in which Mexico has not been able to advance towards the so badly needed structural reforms, such as in the fiscal, labor, energy (petroleum), generation of electricity, and telecommunications arenas, to mention a few. The inability of Deputies and Senators to run for consecutive reelection implies that legislators are too much dependent on party leaderships and State Governors to stay active (changing from one chamber to another at the will of party leadership or State Governors).

Regardless of the heavy criticism they have encountered, and their sometimes deep differing positions, Legislative officials have managed to build spaces to reach agreements. A good example of this is the very recent reform to the government-employees pension regime. Congress has achieved, on the other hand, the ability to consolidate its powers of overseeing and supervision of public affairs, a critical piece in the combat of corruption and unequitable privileges still in place in the Mexico of the 21st Century.

PROCUREMENT AND DISTRIBUTION OF JUSTICE

The lack of agreements and compromise between the Executive and Legislative branches of the Federal Government, have forced the Supreme Court to play the role of referee to avoid a clash of those two said branches and to help provide support to some governance. The Court is rendered with high prestige, gained inch by inch. This prestige and trustworthiness is unfortunately not shared by other instances of the Judiciary branch of Government. Distribution of justice at all lower levels of the Judiciary system is being still slow and most of the times, biased. The creation of the Judiciary Committee as an institution to supervise and appoint or remove Judges and Magistrates of different judiciary Courts, has not yet translated into a more expeditious and fair distribution of justice to the people, particularly not to those in the

lower echelons of the socio-economic scale. At the State level, the problem is still even greater. An enormous lack of confidence on State Judiciary systems is a common place, for they are perceived as corrupt and unfair, to say the least. Distribution of justice is unnervingly slow and ostensibly biased. State Governments' Justice procurement bureaus are still subordinated to the will of States' Executive branches, and do not fulfill their responsibility to act as legal counsel to both governments and people. On the other hand, we ought to recognize that significant progress has been achieved in the protection of Human Rights.

STATE AND MUNICIPAL GOVERNMENTS

At the Federal level, there is no doubt about the progress attained in the recent years in terms of Democracy. Unfortunately, it has not been paralleled in most State and Municipal governments. Authoritarianism, abuse of power, violation of the Law and, above all, widespread corruption are, unfortunately, frequent in these levels of government. As examples, we can mention cases like the recent brutal repression in the State of Oaxaca; scandals like those cast by the so called "Precious Governor" (Puebla); the still unproved but ostensible corruption of former Governor Montiel, in the State of Mexico (Estado de México); or, the cover up and protection of a convicted murderer by the Governor of Yucatan, to mention only a few.

The majority of State Governors have an absolute control of power within their State boundaries. They control State legislatures through generous contributions or "gifts" to both parties and legislators; Superior Courts of Justice, through exercising the power to decide over the reelection of Magistrates; Heads of Municipalities, by assigning or reducing public funds; the Human Rights and Public Information Transparency Commissions, by appointing their Commissioners; and, the local media, by means of contracts, gifts, or threats.

State Governors have an absolute control over how public funds are spent, without any supervision from Federal Government or State Legislatures. Corruption within State and Municipal Governments is still outrageous. The mechanisms that have been created at the Federal level to counterbalance the formerly absolute Presidential power are non-existent at the State and Municipal Governments level. Municipal councils rarely act as a check point for the Heads of the Municipalities, their power thus being almost absolute within their boundaries. The people and private investors usually have to cope with arbitrary and corrupt governments. State Governors are still intervening with all their power in the nomination of candidates for

Federal Senators and Deputies, for Local Legislators, and for Heads of Municipalities, taking advantage of the widespread poverty to put pressure for, if not to purchase, the votes of the electorate.

Unfortunately, much of what has been achieved at the Federal level to curb the absolute power of the President, to curtail ancient authoritarian practices, and abuse of power, has been nullified at the State level, because of the abuse of Governors. Democracy in Mexico is therefore clogged within State and Municipal Governments. The challenge here to consolidate Democracy is to replicate the changes that have been instrumented at the Federal level at the State and Municipal levels.

THE MEDIA

A clear example of what I just said is, the excessive pressure frequently imposed by State Governors on the media and news persons. While nationwide the media has an unlimited freedom of speech, sometimes exercised somewhat irresponsibly, within the States, and in particular the local media, is constantly pressured and harassed by State Governors. Shamefully, Mexico is one of the leading countries in the world in statistics of news persons that have been murdered or “disappeared” for doing their job. The media with nationwide coverage, press, radio, and TV, have played, and are still playing, a crucial role in the quest towards Democracy in Mexico. However, an even stronger compromise is still needed, particularly from TV networks, to promote political participation and to infuse a democratic culture to the people. One of the major problems we are facing nowadays is the lack of compromise of the people with Democracy. This is especially true among politicians. Political parties and politicians are far away from the people, and there really is no mechanism to ensure rendering of accounts. To be nominated as candidate for any elected position, all one has to do is to be close to the heads of any political party, no matter how far one could be from the citizenry.

THE POLITICAL PARTIES

In recent years, diverse political parties have been instituted, thus creating a true and close electoral competition. However, while political parties prompt for changes at the national level, they are resistant to allow for democratic advances and transparency in their internal structures. The imposition of candidates by party leaders or by State Governors, frequently translate into clashes of forces and to resignations of affiliates to look for positions somewhere. The lack of a

Code of Law to regulate the internal affairs of political parties has allowed for the control of 5 out of the 8 existing major parties by a sole individual, or a family group. It is an urgency to legislate in order to strengthen the spirit of Democracy and financial transparency within political parties. The political class, which was in control before the transition, is still in office.

THE SOCIAL (NON-GOVERNMENT) ORGANIZATIONS

In a similar way, those social, peasant, labor unions, and popular organizations and leaderships, created and controlled by the former PRI-regime, still prevail, although now somewhat weakened. Corporative-ism, lack of democratic practices, and simulation in all social organizations and, in particular, in labor unions is a ballast that hinders the flight towards Democracy of the Mexican society. Political parties which for years were opposition, and governments that have sprung within their ranks, instead of disarticulate those social organizations created and controlled by the former PRI-regime, have used them as a support in order to govern. On the other hand, a new independent labor union structure has appeared in recent years, but it soon showed its lack of compromise with Democracy, similar to that of the organizations of the old regime.

The consolidation of political parties, of Congress, and of Senators and Deputies, has been achieved by sacrificing or, at least, setting aside, social and citizenry organizations. The legislative agenda has centered around passing changes to benefit the political parties, or Legislative officials, and have not put attention to badly needed economic and social reforms that if enacted, could very well bring a significant improvement in the standards of living of millions of people. Structural reforms are necessary, however unpopular they may be, and political parties and Legislative officials have not been willing to pay the political cost of passing and enacting them.

THE ROLE OF SOCIETY

At the beginning of the transition, the roles of the citizenry and of society were crucial in order to achieve major changes. Unfortunately, once the political parties consolidated their existence, they soon forgot about the people. Most of the former members of independent social organizations joined the new Government and the citizenry movement weakened. In Mexico, more than building a Democracy, we have managed to come up with a "Party-crazy". Mexico is one of the countries in which citizen involvement in public matters is more limited; also, there are only a quite limited number of social-civil

organizations. Our Constitution lacks of a mandate to oblige the powers of the State to promote citizen organization and participation in public affairs.

LEGITIMACY OF THE SYSTEM

The improvement in the standards of living of Mexican nationals has not been the *raison d'être* of the regimes that sprung from the transition to Democracy. For that reason, the people have alienated from the political life and show a lack of trust for politicians and members of Congress. The change towards Democracy has brought about a new political stability, but it has failed to bring improvements to the standards of living of the majority of the people. Congress has gained in political plurality, but it has lost in representing their constituencies and in achieving social plurality. Mexican Democracy will not be able to consolidate while half of the population is still living in poverty and half of our young cannot get a decently paid job.

The Mexican economy has not been performing appropriately for the last 20 years. Social pressure derived from the lack of employment opportunities has been partially relieved by the fact that half a million people per year come to the US, looking for better opportunities. The distribution of wealth in Mexico is outrageously concentrated. A few of the most-rich men in the world live in Mexico, while myriads of the most-poor breath around them. The possibility that a populist Government comes to power, like it has already been happening in some countries in Latin America, will be there while the economy keeps performing poorly.

The Presidential-ism regime has now been dismantled, but there have arisen new obscure powers that attempt against the incipient Democracy. The growth and strengthening of social organizations that oppose the current economic strategy is a real threat to governance. The influence of the economic powers in the national arena has partially filled the gap left by the end of Presidential-ism regimes. Mexico has gained in Democracy, but it has lost in governance and in the ability to introduce the reforms so badly needed to improve the economic conditions.

AN ASSESSMENT OF THE TRANSITION

In summary, the assessment of the political situation achieved during the recent years is no doubt positive. We managed to come to a more open, transparent, equilibrated, and with a better distribution of power system, leaving behind a system characterized for being closed,

centralized, authoritarian, and lacking a true division of powers and rendering of accounts. Nonetheless, the pending agenda is still quite large:

- 1) The accomplishment of an electoral reform to ensure transparency as to the origin of funds obtained by political parties; that synchronizes electoral calendars; reduces the duration and costs of political campaigns; and, that guarantees the neutrality of the media and the economic powers.
- 2) The consolidation of a continuous dialog and the reaching of agreements between the Executive branch and Congress, in order to make Government actions more effective. To grant greater autonomy and strength to Legislative officials by allowing for their reelection, and making mandatory for Congress to legislate in those matters which the Executive branch defines as prioritarian.
- 3) The attaining of better political balances and transparency in State and Municipal Governments. To strengthen the position of State Legislatures and Municipal Councils and to guarantee autonomy for the Judiciary branch, Law procurement agencies, electoral and financial overseeing institutions, and for the State commissions for Human Rights and Transparency.
- 4) The infusement of Democracy in political parties, and in social and citizenry organizations. To promote the passing of reforms to allow for, and guarantee, a better organization and more active participation of citizenry in public affairs.
- 5) The accomplishment of economic and social reforms, such that Democracy can bring an improvement in standards of living for the majority of the people. To continue with the promotion of economic competition, in order to cope with the excessive influence and strength of some economic groups.
- 6) The restructuring of the Judiciary branch at both Federal and State levels, in order to expedite the distribution of Justice. To grant more autonomy to Law procurement agencies and to increase the powers of the Judiciary Committee to oversee and supervise the performance of Magistrates and Judges.
- 7) The bringing of political institutions close to the people, promoting participation, political education and the building of a democratic culture among the citizenry. To embed citizenry into politics, and to embed politics into citizenry.

200 YEARS AS AN INDEPENDENT NATION

In the year 2010, Mexico will be commemorating 200 years of the beginning of her quest for Independence, and 100 years of the beginning of the Mexican Revolution. In the last 20 years, Mexico has achieved in terms of political advancement, more than what she accomplished in almost a couple of centuries. The assessment that anyone can make is positive, but these accomplishments can easily reverse if social disparities and the extreme poverty in which more than half of the population live are not drastically reduced. The economic and social disparity problems are the most important threat for political stability and the consolidation of Democracy.

The great development potential of Mexico has not been fully been taken advantage of. The stability and maturity of the Mexican political system, and the strength and robustness of her institutions, offer us the un-valuable opportunity to give that gigantic leap that all Mexican nationals wish for.