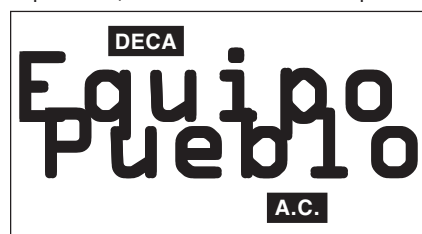


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EDITORIAL

THE ACTUAL SITUATION AND OPPORTUNITY FOR CIVIL SOCIETY

Laura Becerra Pozos*

In accordance with the evolution of the events no doubts were left about the presidential decision and the other powers which accompany him to eliminate beforehand Andrés Manuel López Obrador (AMLO) from the elections for the presidency in the country, the reactions of discontent, confusion and inconformity started growing in an accelerating and diverse way.

➤ The reactions

On April 19, in a meeting in the Mexican Autonomous National University (Universidad Nacional Autónoma de México (UNAM), indigenous leaders of social organizations pointed out that above all party positions,

"they were very worried about the trial process of taking away immunity from prosecution perpetrated against the Mayor of Mexico City, because it means a severe attack on the incipient democracy in our country". In addition to the decisions taken like these, open the doors to authoritarian and anti democratic actions, which were believed to have been overcome. In the same way, members of the same UNAM, among them important researchers, presented in the Chamber of Deputies a petition to take legal proceedings against the 360 Deputies who voted in favor of stripping AMLO of immunity from prosecution; an act which they considered in violation with the Political Constitution of the United States of

Mexico. Similar expressions came from peasant organizations, trade unions, intellectuals, artists and civil organizations, which influence became clear with the big march of one million two hundred thousand persons, last April 24, in Mexico City.

The fact provoked the condemnation of the Social Pastoral Commission (Comisión de Pastoral Social) as well, within the framework of a polarization of opinions in the interior of the Conference of the Mexican Episcopate (la Conferencia del Episcopado

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WHAT IS CONSTITUTIONAL IMMUNITY?

Having the privilege of an immunity status has its origin in the XIVth century in England, when the king accepted that the Parliament could be judged by his equals and is a guarantee which the majority of the public servants enjoy.

The immunity status means that no judicial authority can start a trial against some public servant unless the Chamber of Deputies received a petition. The Chamber of Deputies has to evaluate whether it is convenient or not to initiate a trial to strip “the accused” of his immunity from prosecution, based on the evidence offered by the accuser.

Somebody who infringed the law can be deprived of his privileges or can be taken away the exception status he enjoyed for not having obeyed the law.

In Mexico the privileges are described in article 111 of the Political Constitution; it establishes that those who enjoy the privilege of immunity are: the senators and the deputies of the Congress of the Union; the Ministers of the Supreme Court of Justice; the magistrates of the supreme court for electoral crimes; the ministers of state; the deputies of the legislative assembly and the mayor of Mexico City, as well as the counselors of the Federal Electoral Institute. State governors, local deputies, magistrates of the Supreme Courts of Justice in the federal entities as well as the counselors of the local judicatures also benefit from the immunity status.¹

¹ www.terra.com.mx

THE CASE “EL ENCINO”, A SAMPLE OF ABUSE OF POWER*

The abuse of power is one of the ballasts with which Mexican society has lived for years; which brings about arbitrary decisions taken by the leaders of the decision making powers and executed by the Attorney’s General Office. That’s why there is an urgent need for an authentic division of powers, a real autonomy.

A shocking example this year was undoubtedly the trial of infringement of the law against Andrés Manuel Lopez Obrador, in the case El Encino, which proofed the use of a legal appeal for a political cause. This is a chronology of the facts.

The case El Encino is unique in the history of the country in which was asked to strip a first rank public servant of his immunity from prosecution in violation of a court order, and would be the only one in which sanctions would be applied in violation of a suspension order, for which would be dealt with unusual penalties, which violates Article 22 of the Mexican Constitution.²

CHRONOLOGY

In the year 2000, Rosario Robles, that time Mayor of Mexico City, expropriated a property called “El Encino” in order to endow private hospital ABC with a direct road access. A federal court decreed that the expropriation was anti constitutional and demanded to give back the property to its owner.³

December 2000, Promotora Internacional Santa Fe SA de CV presented a lawsuit protection

against the expropriation of the property and the suspension of the claim with the object of “preventing any excavation or movement of soil or work within the property”.

March 14, 2001, the ninth District Judge conceded the definitive suspension of the the acts “...with the only object that the responsible authorities paralyze the construction of roads only in the part of the expropriated fractions which served as an access to the property named El Encino located in the Cuajimalpa district of Mexico City, as well as to refrain from blocking and canceling the access of the property of the displeased”.

The suspension judgment has the object of ordering the responsible authorities to maintain the things as they are from the moment of the pronouncement of the provisional suspension and indicate which is the situation in which the things have to remain from the moment of pronouncing the definitive suspension; it implicates

* With information from the newspapers: *La Jornada* y *El Universal*. Summarized by Norma Castañeda, Editor of *The Other Side of Mexico*.

Electronic pages consulted
www.esmas.com/noticierostelevisa/mexico/392696.html
www.lopez-obrador.com.mx/encino.html
www.eluniversal.com.mx
www.terra.com.mx
www.canales.aol.com.mx

¹ **El desafío, Abuso de Poder**, por Miguel Ángel Gracia-Domínguez; appeared in the magazine *Coyuntura*, No. 125, page 64.

² <http://estadis.eluniversal.com.mx/graficos/animados/desafuero.html>

³ <http://estadis.eluniversal.com.mx/graficos/animados/desafuero.html>

an obligation not to do something which might alter the situation in which the things were found on the moment suspension was pronounced, not that of ordering the restitution of the things to its anterior state or distinct from which these were found on the moment of pronouncing suspension.⁴

In this sense, the Judge ordains that the construction of access roads should be paralyzed, that is to say that they should refrain from continuing building roads, but delimits this abstention exclusively to part of the expropriated fractions, which are giving access to the property.

The order was not in the sense of paralyzing the opening of roads in its totality of the expropriated fractions, but only in the part of the

fractions that served as access to the property El Encino. That is why the construction was only paralyzed in the part of the expropriated fractions which served as access to the property. If the will of the Judge would have been to decree the total paralysis of the constructions, he would have decreed explicitly.

March 14, 2001, the person who lodged a complaint, reported the violation of the provisional suspension that had been granted, claiming that the access to his property was blocked.

The Judge decrees an ocular inspection on the property in which it was certified that there was machinery present; these visits reported the state of affairs on the moment the inspections were carried out, but not if these were distinct of

what existed when suspensions was pronounced; likewise it overruled that there was no access to the property, as the person in charge of the inspections demonstrated that he had access without any difficulty.

August 30, 2001, a new District Judge resolved that the definitive suspension had been violated.

The government of Mexico City challenged the resolution; by then the mayor was Andrés Manuel López Obrador (AMLO).

January 23, 2002, Two of the three judges of The seventh circuit court (Tribunal Séptimo Colegiado de Circuito) came to the conclusion that there had been violation of the suspensión, in spite of the fact that the president of the Court explained that there was no proof whatsoever that the property were blocked.

January 31, 2002, The Ninth Judge decreed "...inform the agent of the Department of the Public Prosecutor of the Federation, assigned to this court, with the object of proceeding according to what is stipulated in article 206 of the Law of Protection, in regard to the rights subject of the accusation of violation of the suspension, reporting to this jurisdictional body the steps taken ..."

February 13, 2002, The District Judge decided illegally to modify the scope of the granted suspension, with the argument that there was "not any proof" that the authorities would have paralyzed the construction or access roads in the part of the expropriated fractions and neither that they refrained from blocking the access to the property of the displeased and requested the Mayor of Mexico City and the other authorities responsible to withdraw all the machinery and construction equipment that could be found on the expropriated fractions, because that would give the certainty that they are not nor would they building a road.

May 17, 2004, The Attorney's General Office (PGR) considered that the Mayor of Mexico City did not

CASE THE ENCINO ■ Fisgón



⁴ See articles 124 and 130 of the Protection Law (Ley de Amparo)

obey the definitive suspension sentence of the construction,⁵ and asked for canceling his immunity from prosecution. About the matter, López Obrador confirmed that the construction had been suspended and added that this was more due to a political decision to prevent him from competing in the presidential ballots of the Republic.

May 19, 2004, The PGR hands over to the Chamber of Deputies the request of submitting a trial against the Mayor of Mexico City.⁶

May 27, 2004, an examining commission department is structured in the Chamber of Deputies in order to start the trial about a possible declaring to cancel the immunity from prosecution and is integrated by Rebeca Godinez and Cuauhtemoc Frias of the Institutional Revolutionary Party (Partido Revolucionario Institucional [PRI]), Álvaro Elías Loredó of the National Action Party (Partido Acción Nacional [PAN]), and Horacio Duarte of the Democratic Revolution Party (Partido de la Revolución Democrática [PRD]).

Junio 3, 2004, the Commission notifies the Mayor of Mexico City that the trial will take place.

March 29, 2005, the examining department convenes at March 30 to approve or rejects the report about the immunity issue.

March 30, 2005, surprisingly, the examining department postpones the discussion of the report to April 1.

April 1, 2005, the Deputies of the PRI and PAN vote in favor of starting the trial about revoking immunity and constitute the whole Chamber of Deputies as a jury.

April 2, 2005, the president of the board of the Chamber of Deputies, Manlio Fabio Beltrones convenes the Chamber of Deputies to install itself as a jury on April 7 in order to withdraw or not the immunity from prosecution of the Mayor.

April 2, 2005, the Mayor receives the notification of the Chamber of Deputies, signed by the president of the board of the Chamber, to present himself on the

“Immunity from prosecution trial” in the legislative precinct at 10 in the morning.

April 7, 2005, before presenting himself in the Chamber of Deputies, the still Mayor assists at a meeting in the center of Mexico City, and in front of more than 370,000 persons asks them to refrain from instigation. Likewise, he convenes to a silent march against the immunity trial on April 24.

April 7, 2005, at 19.20 hours, Andrés Manuel López Obrador has been stripped of his immunity status from prosecution with 360 votes in favor (PAN, PRI and 8 of the Ecological Green Party (Partido Verde Ecologista), 127 against (PRD, Labor Party (Partido del Trabajo), Convergencia, 11 of the PRI, 1 of the PAN and 8 of the Green Party) and two abstentions (PRI and independent Deputy).

April 24, 2005, more than one million two hundred thousand persons gather in the centre to support Andrés Manuel López Obrador and repudiate the trial.

April 25, 2005, after 17 days of absence, without immunity, decides to pick up again his functions, because the fact that he does not have immunity from prosecution does not impede him to continue in charge of the local public administration.

April 27, 2005, General Attorney, Rafael Macedo de la Concha resigns.

May 2, 2005, the President of the Republic maintained that the new General Attorney, Daniel Cabeza de Vaca, will find a judicial solution which permits Andrés Manuel López Obrador to participate in the 2006 ballots; in addition he points out that he will wait the resolution of the Attorney “to analyze the case and in the light of the analysis he will know if the judicial trial has terminated and the Mayor will be reestablished again with immunity from prosecution.⁷ In essence he declared that the case AMLO has been settled.

⁵ <http://estadis.eluniversal.com.mx/graficos/animados/desafuero.html>

⁶ <http://canales.aol.com.mx/nacional/notas/gcg/?id=1286>

⁷ <http://www.jornada.unam.mx/2005/may05/050503/003n1pol.php>

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A CONSPIRACY AGAINST HOPE

LUIS PINEDA*

The three powers of the Union, the Institutional Revolutionary Party (el Partido Revolucionario Institucional (PRI), the National Action Party (el Partido Acción Nacional (PAN) and the Ecological Green Party (el Partido Verde Ecologista (PVEM), orchestrated a state conspiracy in order to prevent a candidate, with a history of struggle in favor of democracy, could win the presidential elections of the year 2006.

On April 7, 2005, a majority of the Congress of the Union (with 360 votes in favor and 127 votes against) voted to strip the Mayor of Mexico City, Andrés Manuel López Obrador (AMLO), of his immunity from prosecution for an allegedly illegal act by his administration, which "affected" the interests of a Mexican citizen.

That was the version, which the federal government had circulated in the media for more than a year. However, truth came out with the passage of time, as it turned out that the trial was plagued with irregularities. The AMLO administration had been required because of an administrative illegal act, which is not typified as such by the law and, moreover, does not have an established penalty, which could have made possible jurisprudence or the legal opinion of the judge.

From this mere administrative situation derived the strategy to eliminate the Mayor from presidential elections. His political adversaries thought to have found an opportunity against a person who is leading the opinion polls for more than four years, even above the president of the Mexican Republic, Vicente Fox. The power groups, together with the president and his wife, moved all legal structures trying to incriminate publicly López Obrador till succeeding in stripping him of immunity from prosecution and therefore the disablement to be registered as a presidential candidate in the elections of 2006.

Nevertheless, the strategy failed because of legal vacuums and incompetence combined with inflexible attitudes of the operators of the conspiracy. They bumped into a public opinion that disqualified the shady trial, not only because AMLO is a personality with a history of struggle in favor of democracy, or belongs to a leftist party, but also because it is considered inappropriate that the Mexican administration is using all the power structure to affect the civil rights of a citizen, whomever he might be.

Local administrations, political analysts, artists, scientists, social activists and extended strata of the population as well as a vast range of international expressions declared strongly and openly of what they considered a deterioration of the movement towards democracy and a violation of social and civil rights.

But why the decision had been taken to articulate a conspiracy? The explication of this "strategy" of the administration of "change"

is quite simple: maintain the historical status quo of the political and economical dominant class and maintain trade policies imposed by a neo liberal model of development. In other words, to preserve the prerogatives and financial benefits of a social class and of disproportional and unfair trading relations which only benefit foreign companies and the big national enterprises.

On April 7, faced with a national and international public opinion that rejected the prearranged measures against the eventual presidential candidate AMLO and within a framework of a weak strategy to achieve their goals, the organizers opted for a "political" solution, which, added to the bursting conflict, put into risk the control of the country.

With a declaration on the national networks, the President of the Republic climbed down the conflict and made resign his principal operator, the General Attorney, Rafael Macedo de la Concha. Furthermore, Vicente Fox promised before the citizens not to impede nobody in the run for presidency nor exert penal action against the Mayor of Mexico City.

Many are the lessons learned from this conflict and many are the damages caused. The incipient Mexican democracy suffered a loss of credibility in foreign countries; the power institutions have been brought into discussion; it clearly demonstrated the factional use of power by the ruling class; it endangered the national stability and international relations, but above all it demonstrated that the power groups at all cost try to hinder making progress in democracy.

On the other hand, the Mexicans knew how to take advantage of the opportunity; the intention to strip AMLO of his immunity from prosecution acted as a kind of catalyst in agglutinating organizations and citizens and in putting pressure on the authorities not to commit injustice. In this sense they reaffirmed the lessons learned in the years of struggle, that is to say that they can practice their rights and elect the government they want.

For the next months it is expected to reach a final solution to the conflict and that in July AMLO will resign to postulate as the running candidate for the presidential elections of 2006. It is also to be expected that the pre-candidates of the parties who participated in the conspiracy will start an internal battle in order to win the nomination, knowing that they have a handicap to overcome as the experts concur in their opinion that in the end they will be the real losers of the conflict and that nothing can be done to stop AMLO.

* Coordinator of the Municipality Program. DECA; Equipo Pueblo.

NATIONAL MEETING

FOR TRANSITION TOWARDS DEMOCRACY

WITH JUSTICE AND EQUITY

APRIL 28, 2005

JOINED DECLARATION¹

This pronouncement gathers and articulates the expression of multiple social actors who affirmed in various meetings the urgency of a broad social confluence. Mexican society ratified that effective elections and inclusion are non transferable, non renounceable democratic norms, which prevented that the federal government could continue with the ongoing conflict against the Mayor of Mexico City. The announcement of President Vicente Fox is praiseworthy but insufficient because it does not resolve the problem to the bottom in view of the necessity that the transition continues and consolidates a fairer and more equitable democratic regime in our country. The economic, political and social problems continue worsening in an inertial movement in which predominates the excessive power struggle, leaving to the future the solutions and answers to the enormous national necessities. There has been progress in the electoral shift, but now we have to move towards democracy understood as the civic participation in public decision making processes.

The Federal Government has contributed to the crisis in general we are living nowadays, in not giving an accurate answer to the necessities and proposals made by the citizens in aspects like security, democracy and transparency, employment; and the recognition of basic rights of the workers like the freedom of joining a trade union of his choice, collective contract and trade union democracy for peasants; of the agreements established in the National Agreement on Agriculture; of the indigenous people and the Agreements of San Andrés; of the women

and Human Rights, liberties and full citizenship with Equity; of sustainability and environment for the Mexicans who see how flora, fauna and in general non renewable natural resources are deteriorating; of sovereignty and giving privileges to transnational capital and in maintaining the conditions of a foreign economic relation without a national project of its own; of social cohesion in which cultural resources and forms of coexistence do not receive the proper attention nor the necessary respect; of education and social security, the lack of quality and in the dismantling of the system of retirement pensions and health services; with regard to the problems of poverty and inequality, the government has not offered a solution but instead maintains the privileges of the few owners of capital; and of the primitive forms of accumulation, of social exclusion in marginalizing vast sectors of the population.

The social deterioration and the threats put the viability of the Nation in danger and therefore need emergent solutions that have to be assumed before it will be too late.

Dialogue, tolerance, harmony and plurality are republican virtues, which oblige to construct space in order to generate consensus which have to be institutional, public and transparent, governed by the respect of the laws and the norms, and this cannot only be by and on behalf of the ruling political class; it is clear that if something motivated to prevent a clash it were the mobilizations of hundreds of thousands women and men who believe in liberty, in democracy and in the necessity that Mexico should change; Mexicans to whom one cannot assign the role of electoral quotas or masses, to verify popularities, if these are the foun-

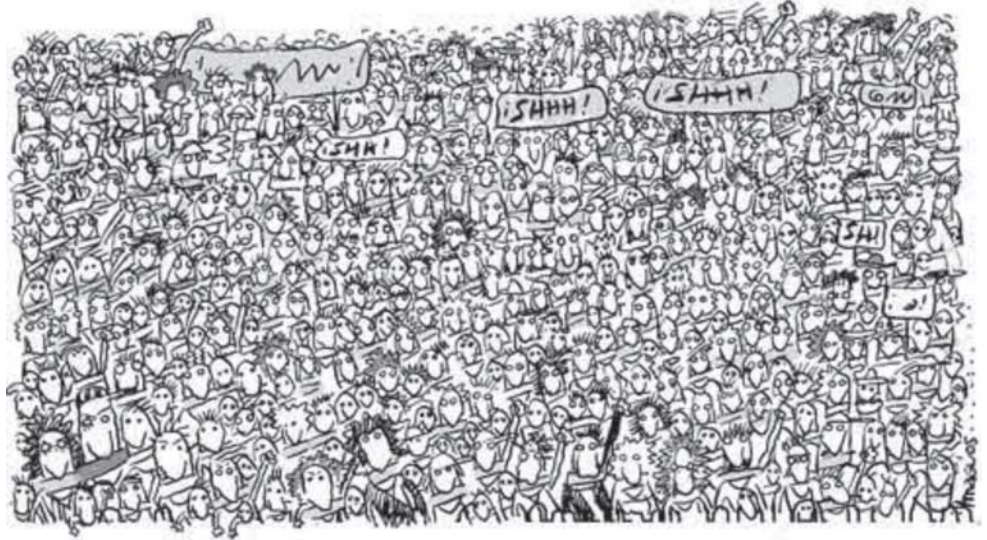
ation and the strength of democracy and governability of any non authoritarian regime.

Because of what is described above, those who sign this Declaration, we coincide in defending and in the necessity to pay attention to the social agenda and not in favor of some candidature. Assembled in the National Meeting in favor of the Transition towards a Democracy with Justice and Equity, celebrated in the offices of the Trade Union of Telephone Operators of the Mexican Republic, on April 29, 2005, we declare that:

- It is urgent to arrive to a National Agreement for Transition in which participate in addition of the forces and political actors and the three Public Powers, the organized Civil Society as well.
- As minimum bases of the Agreement it should be taken into consideration a political and electoral reform which guarantee that the electoral dispute will be equitable, also in the access and disposition of the communication media, costs will be reduced, and the use of economic resources will be transparent. A State Reform which obliges to constitute a Government of Majorities which guarantees governability establishes the plebiscite, referendum, the revocation of mandate and popular initiative. Likewise, it should decree the creation of a Social and Economic Council as an instance of obliged consultation, with legacy of its own and without participation of the Government.
- A real State Reform is needed, not only administrative, not only electoral, but understood as the transformation of the institutions and in the integral fulfillment of the human rights.
- The judicial system and the demand for justice require a reform in order to guarantee its

autonomy, particularly in the functioning of Mexico's Attorney General's Office, without the monopoly of the penal action, in restoring to the citizen his right to exercise penal action before a Judge, the unification of Penal Codes, the simplification of oral and transparent trials, the repair of the damage and the defense of the human rights of the victims of a crime.

- A non-corporative Labor and Productive Reform should be approved in order to increase competition, open up the affiliation to trade unions, collective contracts and democratization of the country.
- The National Agreement on Agriculture should be carried out entirely and the chapter on agriculture of the North American Free Trade Agreement (NAFTA) should be renegotiated, excluding maize and beans. The Congress should, above all, be acquainted with, evaluate and revise the commercial agreements.
- A viable agricultural, fish and aquatic culture policy must be promoted in concert with the peasants which will lead to sovereignty and food sustainability
- The Social Security Reform should be integral and with the participation of the workers.
- Equity of gender should be a structural part of the development of the country and therefore it is the task of men and women to guarantee it. It is fundamental for democracy and justice that discriminatory bias should be corrected in legislation and that public policy should attend in particular the problematic of the female salary and non-salary earners, rural women, female peasants, female indigenous people as well as female migrants.
- That an emergent program will be established for economic growth and employment.
- That the Agreements of San Andrés will be enforced.
- That PEMEX as well as the Electric Sector will receive autonomy and that a reorganization program will be promoted in the energy sector.
- The secular state should be respected as well as the principle of non discrimination and equality of opportunity, by sex, age, social situation, health level, sexual orientation or whatever other cause.
- The rights of the worker migrants should be respected.
- Financial strength will be given to the State, eliminating the privileges from all the regulations.



- Political and financial crimes should be clarified as well as the murders on women in the country.
- All who want to participate will be convoked to the Constitutive Assembly of a Great Coalition for National Reconstruction, on July 2, 2005.

The Organized Civil Society does not admit to continue being excluded from the process of change of the country; it claims its right to be heard and to be taken into account; it is inadmissible that economic or political oligarchies detain the monopoly of the fundamental decisions of the Nation; democratic progress should not be usufruct in benefit of a few people, who for a long time have counted on privileges and conditions of exception; on the contrary, democratization is meant to achieve progress, which the majority of the Mexicans have not had yet; it is meant to construct a horizon of collective progress of new expectations and conditions that move the energy of the communities and the big cities towards the creation of a Project at the service of the Nation, which will be sustainable, inclusive, plural, equitable, non-discriminatory and in defense of sovereignty in the face of globalization.

Because of what is said earlier it should be priority of this Convention to promote a process of dialogue between social diversity in order to continue and widen a great movement, which pays attention to the socioeconomic agenda, capable of integrating the regions, to the full diversity of soci-

ety and to those without voice nor organization. That many local experiences will flow towards the national and global ones. It should flow from below to the top, from the peripheries to the center, from the local to the global.

We have an enormous opportunity to make changes and to leave behind decades of uncertainty and crisis; let us give a certain future to our infancy and youth; let us push transition and consolidate a new regime, democratic, fair and equitable. Let our behavior be committed to the long-term and let us see the things which have to be changed as a whole; let us not get lost in the moment. Civil Society is an determining factor to favor a new course of national life, a condition to organize and act in a broad common front, offering viable and efficient solutions to the problems and challenges we face; let us do it and bring the mobilization without rest and without fear to its ultimate consequences. Mexico and the Mexicans deserve a better life.

**Auditorium of the Trade Union
of Telephone Operators
of the Mexican Republic**

Mexico City
April 29, 2005

¹ Trade Unions, Peasant Organizations, Non Government Organizations, Students, Women and Feminist Organizations, and Workers of Art and Culture signed the said declaration.

ORGANIZED CIVIL SOCIETY FACED WITH THE CHALLENGE OF THE ACTUAL SITUATION*

We are talking here from a standpoint of accumulative experience acquired in more than forty years of work in different programs, from indigenous communities, peasant organizations, the very rich and important experiences of gender and sexual diversity, in defense of the integral human rights, in the training of local powers in the municipalities, favoring peace since 1994, to electoral democracy since 1988. We are also talking from a view acquired by many experiences of convergence with trade unions, peasant organizations, electoral mobilizations in favor of peace and democracy, from which diversity and interaction arose civil society, non identifiable with one of them, but only identifiable as a whole. From these experiences we would like to underline various features of the actual situation before this Convention of April 29.

We are faced with a society in motion that achieved to stop the factional use of the law and under its thriving force a diversity of individuals, groups and projects converge one single social stream, from which one can distinguish three levels of interventions: on one hand a broad whole of actors operate on the level of defending a democracy threatened by acts of power; on the other hand there is a level of intervention by those people who sympathize with the nomination of the Mayor of Mexico City to run for president and, finally, there is a diversity of identities and organized groups who join together with the intention to strengthen their positions and their projects. This society in movement lives a propitiating situation to consolidate its autonomy, its articulation and its interpretation of the national priorities. As civil and

social organizations we adhere to the defense of democracy and the recovery of the agenda of civil society, but we do not adhere to the candidature of anyone in particular.

It is a historical opportunity of great transcendence if we could see beyond the actual situation, which is focused on the political struggle between Vicente Fox and Andrés Manuel López Obrador. This might be the moment of closing down two decades of application of the neo liberal project, which has been destructive to the integral rights of the citizens, either with the second generation of structural reforms or the beginning of an alternative project committed to the real practice of integral human rights and the creation of citizens. It might be either the consolidation of a democracy of corrupt, factional political classes without social responsibility, that is to say a democracy of fellow partnerships which will erode up to bankruptcy democratic progress completed up to today, or the recovery of citizenship and the strengthening of responsible institutions toward society, respectful to its diversity, the practice of human rights; towards equity and coexistence.

This is in essence the strategic challenge, in a country where poverty, illegality and informality, inequity in the treatment of social diversity reign, this is the only option for their majorities, as well as the systematic negation of economic, social, cultural rights, and the manipulation of political rights. That is why we believe that the actual situation allows us to make progress towards a new democracy. In which the political representation assumes substantive commitments in view of a society in danger. It is that kind of democracy

which makes it possible to extend thoroughly the participation of society in the decisions of the administrations and in politics. To build a democracy, not only political, but keen to admit social diversity which the country needs. It will be a democracy for people who are in the need to commit themselves to development, social and state reform.

That is why we think that the actual situation is important. A political struggle unleashed the social energy needed to express repudiation to corrupt, factual politics without responsibility towards the electorate. This social energy can face the great dilemma of our time: to imagine a way to convergence, a convergence in which, from different angles, positions and actors, it will be possible to achieve a common stream opposed to neo liberalism and in favor of democracy, in favor of a country doing its utmost for its citizens and to the practice of its full rights. That is why we exhort:

That the political actors and the media should not distract public opinion from the basic problems of our country. The actual priority should be the social issue of the country and how to create a new economic order, a new state as well as democratic order which are able to attend the priorities.

That is why it should be a priority of this Convention to promote a process of dialogue among this social diversity in order to continue and extend a big movement, which draws attention to socioeconomic agenda. That it may give her strength and autonomy, that it may give her cohesion and that it may

* Pronouncement of 40 organizations of civil society, in the Convention of April 29, 2005, to integrate a national front.

be capable of integrating regions, a full diversity of society and of those without voice nor organization whatsoever.

This agenda has already been built up, partially by distinct social and political situations and mobilizations. Time has come to integrate these agendas and construct an extensive front that supports and promotes the common agenda.

That the movement that will be generated to carry out the agenda may stream from the many local experiences towards the national ones, in a global perspective. It goes from below to above, from the periphery to the center, from the local to the global. This new movement will not be born out of new ways of making pacts with and between powerful political leaders.

This agenda of civil society rests upon diversity of people's rights, upon the construction of the conditions of liability and upon the subjects who can make them liable. From then on it will be important to us to promote an extensive social reform that will be nourished by the necessary state reform so that the institutions will adopt themselves to the practice of human rights, promote equity and respect diversity, opposing themselves to any retrocession and the validity of the laic state, preventing the political manipulation of beliefs.

If in the eighties and nineties a civil society was required that could articulate the distinct actors and a critical mass of initiatives and alternative visions to defeat authoritarianism, now it will be necessary that this civil society gives an impulse to a civil reconquest of democracy and substitutes an efficient neoliberalism, with the social reforms the majorities are demanding. Again, it is needed that it may be an open space, promoter of the articulation of the three levels (electoral, social and institutional) in which civil society can develop that which has put itself into motion; again it is needed that civil society promotes a medium term itinerary in order not to lose sight on the fundamental challenges of the actual situation.

SUMMARY OF THE SPEECH OF

ANDRÉS MANUEL LÓPEZ OBRADOR

PRONOUNCED IN HIS DEFENSE

IN THE CHAMBER OF DEPUTIES

Part of the speech of the Mayor of Mexico City, Andrés Manuel López Obrador, before the federal deputies in Congress, in relation to the trial to strip him of immunity from prosecution

Citizens, Deputies, People of Mexico:

With dignity I appear before this court because of the trial to take away from me my immunity from prosecution.

I am not going to argument very much in legal terms about the falseness of this trial. We have repeated our defense in numerous occasions. I can only tell you that I did not violate the law, that I have never behaved against justice and never has it been my intention to do wrong to anybody.

I never signed a document nor did I order not to respect the suspension of the protection granted to the presumed owner of the property "El Encino". On the contrary, there is evidence that all public servants responsible in the case did their duty.

In spite of the fact that the Attorney pretended to convince them to accuse me, as you can verify in the dossier, creating insidious interrogations, he was not successful in his assignment. None of the public servants of the government of Mexico City declared against me.

The Administrative Judge did not bother to present himself in "El Encino" to verify whether there existed or not conducts of violation attributed to me. However, he had the villainy to grant complete probative value to supposed legal inspections practiced by actuaries. That is to say, the Judge limited himself to receive of what was said by his employees and with these illegal proofs they accuse me.

The file is full of falsities. They accuse me, purely and simply, to be the hierarchical superior of the Government of Mexico City. Finally, I would like to ask you: where is the fraud and dishonesty if the road has not been built?

The fraud and dishonesty come from who accuses me, those who accuse me. My conscience is clear. Since many years I fight for my ideas and in doing so I am attached to principles, one of them being precisely to speak the truth and conduct myself with uprightness.

I have the absolute certainty that I am not judged for violating a law but instead for my way of thinking and behaving, and what could represent, together with other Mexicans, for the future of our fatherland.

Let us pay attention to the obvious: deputies, today in Mexico there is an ongoing discussion between two projects of the Nation, and the Nation and a global view, different and opposed to each other, and those who really are in command, together with those who govern the country in a very bad way, are worried and annoyed that our program in Mexico City of economic growth, creation of employment, construction of public works, education, health services, housing and the support of the most humble and forgotten people continue to be spread more and more each day, has been growing in credibility among the people and will be applied on national level.

That's the bottom of the matter. And that's why they want to block us, and for no other reason; and that's why they want to take away from me my political rights, with a view to the elections of 2006.

Those who defame me, calumniate and accuse me are those who think of themselves

as the masters, the owners of Mexico. Are those who really rule and are in command in the high ranks of the Institutional Revolutionary Party (Partido Revolucionario Institucional; PRI) and National Action Party (Partido de Acción Nacional; PAN). Are those who maintain an anti popular and betraying policy at all cost.

Are those who ambition to privatize the oil and electric industry, something they still not have obtained after the successive handing over of the national properties. Are those who use the State to defend private interests and rescue bankrupt financial institutions.

Are those who at the same time consider the State as a burden and want to make it disappear in everything, which is related to the promotion of the wellbeing of the poor and the dispossessed, which is, simultaneously, if one is considering well, the welfare of a nation, corroded by injustice.

Are those who are in favor of privatizing the gains and socialize the losses. Are those who triplicated in twenty years public debt in Mexico. Are those who defend the ongoing politics in economy, despite its series of failures, which resulted in zero growth and continuing increase of unemployment.

Are those who want to charge value added tax (VAT) on medicine and food, but exempt his friends and protectors from taxes. That the majority may pay for everything and the select minority may give us alms, please.

Are those who have undermined quality of life of the middle classes. Are those who converted the country in an ocean of injustice, with more economic differences than when Morelos proclaimed that poverty and opulence should be moderated.

Are those who have ruined productive activity of the country and forced millions of Mexicans to leave their homes and their families to emigrate to the United States, risking everything in search for what might alleviate their hunger and poverty.

Are those who want to perpetuate corruption, favoritism and impunity, which are their signs of identity. Are those who are frightened that the people opt for real change. And they cowardly fear to lose privileges makes them try to destroy whoever tries to interfere with their interests and proposes a mother country for everybody, including the humiliated.

That's why they use the president, whom they raised to a high social position in order to be able to continue devouring the country and whom they set up against me to prevent that the movement for national transformation makes progress, capable in creating a new legality, a new economy, a new policy, a new social coexistence with less inequality and more justice and dignity.

That's why, with certainty and firmness, from this tribune, although it may not be the maximum tribune, I accuse the president of the Republic, Vicente Fox Quesada, of this shameful method for our incipient democracy.

I accuse him of behaving in a factious way, with the purpose to degrade the institutions of the Republic. I also accuse the president of the Supreme Court of the Nation, Mariano Azuela Gúitron of complicity in subjecting the high principles of justice and the Constitution to pure political instructions dictated by the vested interests of the moment.

Evidently, and we have heard this here, those who accuse me try to justify their behavior, speaking in name of the law and invoking the Constitutional State. That is what has always happened: every authoritarian act is usually covered by a speech of apparent devotion to legality.

The truth is that these persons not only are devaluating the institutions but they are also making themselves ridiculous. Now it turns out that in the country of impunity, in the country of Fobaproa, Friends of Fox, Pemexgate and other robberies committed, permitted and covered up by those who now accuse and judge me, who want to strip me of my immunity from prosecution, who want to put me into jail, who want to take away my political rights because I tried to open an access road to an hospital.

That is the kind of Legal System they proclaim? Which Constitutional State can there be if in Mexico those who are in charge to demand justice, in stead of protecting the weak, are only useful to legalize the plundering committed by the strong?

Of which Legal System we are talking if only those people are punished who do not have money to buy their innocence? What Legal System exists if the majority of the judges, magistrates and ministers do not have the courage to feel free and still behave as if they were the employees of the Federal Executive Power?

No, ladies and gentlemen!

That is not a Legal System. Unfortunately, in Mexico usually the Law has meant the opposite to the reason of being, the Law which has dominated has been that of money and power above everything else; the Law of a country model exclusively for the privileged and the Right to destroy those who dare to put into danger this model.

It is a claim to pride that I am judged like in other times those were condemned who acted in defense of social, civil and political rights.

Deputies: As you have to assume, I am used to fight. I am not one of them who accept obediently an unfair sentence. I am going to defend myself and hope to count with the support of men and women of good will who believe in liberty, in justice and in democracy.

I repeat: I do not want to ask protection against prosecution nor will I ask bail because, simply, I am not guilty and because that is how I will protest, in a peaceful way, against the abuse committed against me and against those who fight for democracy and reject injustice.

Nor will I appeal to tricks or shameful negotiations. Nothing, not even the ambition to the highest rank of the Republic could justify putting aside dignity and principles.

I am not a vulgar ambitious man. I will not bring anybody to confrontation. Everything we might do will be inscribed within a framework of peaceful civil resistance.

Finally, deputies, with all sincerity I tell you that I do not expect a majority vote in favor of maintaining my immunity from prosecution. I am not naïve. You already received the order of the leaders of your parties and are going to act according to the instructions received, although you might call yourself representatives of the people. It goes without saying that other deputies, unfortunately a minority, will vote with dignity and respect

But those who are going to vote against me and those who will abstain, thinking there is a way of preserving a happy way between the extremes of being consequent or being a flunkey, do not have to be proud of having succeeded in a kind of taking away patriotic immunity because your behavior has yet still to go through public scrutiny, through the opinion and decision of the people.

I am convinced that a majority of you will vote in favor of stripping of my immunity status

without measuring the consequences of your acts, or because you believe that you could justify yourself, as, incredibly, a deputy did, I believe it is deputy Rebeca Godínez¹ who came to say that, and I quote, “With this starts the Constitutional State in Mexico!”

Let be clearly understood that the mentioned State did not delay and made a very bad first appearance.

I repeat: since when the most persistent violators of the law, the plunderers, want to appear as guarantors of the Constitutional State?

You are going to judge me, but do not forget that it will take some time before you and me will be judged by history.

Hurrah for dignity!
Hurrah for Mexico!

Mexico City, April 7, 2005

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Mexicano). The bishops of the Social Pastoral Commission considered that it was their duty not to remain silent about the disablement of the Mayor of Mexico City. “Our mission, they declared, asks us to interfere with opportunity so that the Light of the Gospel and the ethic principles from which they arise, enlighten situations, like the present, that, because of its transcendence are a decisive sign in the course of the tradition towards democracy that our nation is going through since years.”¹ Bishop Sergio Obeso, from Jalapa (Veracruz), after the polemic declaration, affirmed publicly that they were convinced to have made a pronouncement, yet although it is true that discretion “is a good counselor, it will stop to be so when it will become an accomplice of injustice”.

The Bishops manifested that they were worried about the conflict that has meant the immunity process in a context in which the democratic transition and the return to authoritarianism are under constant pressure. Because of that they made a call to the citizens to continue participating in the construction of democracy, so that it is understood that the political community has to be constituted at the service of civil society.

The feminist organizations organized a meeting as well in order to revise the national context and consider we are living a democratic involution and that the process against immunity from prosecution was the “detonation to define our position and to contribute to and regain space between society and the institutions, as well as to contribute to the construction of participative citizens”. The immunity process, they said, constitutes an insult to political rights which are rooted in and gave birth to the construction of an incipient democracy in our country. This situation has an enormous negative impact and the exercise of liberty to elect our governors on local and national level².

The head of the Mexican Autonomous National University, Juan Ramón de la Fuente,

pointed out that the legal system must be equal for everybody, without prerogatives for the authorities in turn, without diminishing the political rights of those who raise their voice from the opposition. He thinks that taking away the immunity status is a political error, which may bring along serious consequences for national life.³

At the same time, on April 29, civil organizations gathered together in a meeting in which each sector expressed its concerns and the principal issues to be attended in face of the conformation of a national front which would incorporate the proposals coming from peasants, trade unions, students, women and feminist organizations, workers in the culture sector, and non governmental organizations. The idea is to include different forces and actors into one big articulated alliance positioning itself as the spokesman of the movement.⁴

➤ Lessons learned

The interpretations about the immunity process and the reactions it generated are multiple and that is why in the very end the unfair decision of president Vicente Fox, with the support of the deputies of his National Action Party (Partido Acción Nacional (PAN) and of his ally, the Institutional Revolutionary Party (Partido Revolucionario Institucional (PRI), has converted itself into one big opportunity of contemplation and reflection and meeting point for the diverse expressions of organization which exist in this country.

One recurrent concern has been the question about the transition towards a democracy promised by the president four years

¹ Towards a New Political Coexistence (Por una Nueva Convivencia Política), Sergio Obeso, Miguel Angel Alba, Luis Artemio Flores, Raúl Vera, Gustavo Rodríguez, Bishops of the Commission, Mexico City, April 21, 2005

² Resolution of the Meeting of Feminists in favor of the State Reform (*Resolutivo del Encuentro de Feministas para la reforma del Estado*), Mexico City, April 29, 2005

³ To strip López Obrador of immunity from prosecution, political error, confirms De la Fuente (*Desaforar a López Obrador, error político, afirma De la Fuente*), La Jornada, April 12, 2005.

⁴ See pronouncements in this edition of *The Other Side of Mexico*.

ago; the discussion revived about what kind of democracy we need in order to prevent to go steps back in the standards of electoral processes. During the last decades the organized civil society fought to obtain respectful and clean elections and today, when other priorities have been recognized related to social democracy, the process of immunity from prosecution constituted a violation of the political rights of the citizens who elected democratically AMLO as Mayor of Mexico City.

The matter went further than planned and once positioned the issue outside the Mexican borders, the press in New York, Washington, Paris, Madrid and London expressed in editorials its concern about the way of proceeding in view of the elections of next year and criticized the measurement of the immunity process instrumented by the federal government, in spite of not sympathizing with the personality in question, nor with the Mexican left.

The unfair trial in taking away from AMLO his immunity from prosecution with a doubtful legal argument, which was demonstrated when the Attorney General's Office of the Republic accepted the change of signals of the President of Mexico, and so practically considers having ended the trial, revealed at the same time the exhaustion of the institutions, of a political transition which never came due to the political actors who were not capable of coming to an agreement.

Porfirio Muñoz Ledo, the former ambassador of Mexico in the European Union qualified as an error of the governments in transition to think they will continue to be in power, using the instruments of the institutions. Governments cannot struggle to conserve power, they should transform power.⁵

The extensive debate about the merits of the immunity trial brought us to the definitions of what nowadays represents the right and the relevance to restore the political left; an understandable discussion when there was the intention to eliminate a possible leftist

candidate with high indices of popularity and who is leading the opinion polls.

Today more than ever it was evidenced that a conservative president and party govern us, more keen to market fluctuations and more concerned to please foreign investors and the administration of the United States. It seems that the government is blinded by power at the cost of violating the legal order and canceling the still insufficient development of representative democracy.

The immunity trial has been transformed into the dispute about the legal status of Mexico City. It made us remember an interrupted state reform, in 1996, which left Mexico City, the biggest city of the world, in legal and political uncertainty, with "inferior" citizens, with a legislative assembly, which does not have for a hundred per cent all the attributions compared to the other 31 local congresses. The citizens of Mexico City lived in the paradox being able to vote for their Mayor, but not to keep him back.

➤ **The opportunities**

On several moments the debate about the immunity trial provoked partial amnesia about the strategic problems of Mexico, but at the end the substantial issue of the role of the State was channeled to the organized civil society. The behavior of the executive power and the lack of independence demonstrated by the other powers: legislative and judicial powers evidenced the weakness of the State and the urgent need of a profound reform by common consent.

Suddenly it appeared that we got back to 1988 when the most important electoral fraud took place, which, moreover, opened the doors to the neoliberal project, which turned out to be so costly for the country and especially for the population. The intent to strip AMLO of immunity from prosecution converted into a kind of "pre-electoral fraud", as the novelist Paco Ignacio Taibo II called it. It did us remember the impunity in which the serious national crimes are maintained like *Pemexgate*, Friends of Fox and Fobaproa.

The organized civil society recognized the fact as an enormous opportunity to put the

strategic national issues back again in the public debate in order to claim a democracy in its most profound and integral sense, to remember that it is not possible any more to govern on the fringe of society; that Mexican citizens are not the same any more; to insist in a strict respect of the civil, political, economic, social and cultural rights; to inform the political class that the electorate expect to proceed in liberty and vote for a country's project that responds to our necessities.

In order to achieve this they recommend to recover the social agenda as an agglutinating center, the social agenda being the starting point to demand of the candidates for presidency and congress that they present their political project of the nation; ratify the necessity to conform a big national front with various actors and sectors of Mexican civil society and propose a debate and reflection about the democracy we want.

We are now in the middle of a complex situation; the fact that the immunity process has been put aside the scenario did not imply that the rivalries between the political parties stopped. On the contrary, a very tough, hard-fought competition is to be expected, which will continue to polarize society and the factual powers will take advantage of the situation in benefit of their private interests.

Today more than ever the influence of a society in movement and with an own vision, might help an electoral process which puts in the center the solutions of the problems of the majorities and which proposes to work for a fairer and more democratic country. It is necessary to recover the civic community as a meeting room of the diversity of identities, motivations and associations.

To say no to the trial against immunity cannot be translated into a defense of a candidate; it only means that the organized civil society acts to make it possible that a political stream may come into power, which will defend the social causes and the most honorable values like sovereignty and national independence.

⁵ *Riesgo de crisis económica por el desafuero: Muñoz Ledo, Reforma, 15 de abril de 2005*⁵ *Riesgo de crisis económica por el desafuero: Muñoz Ledo, Reforma, 15 de abril de 2005*