

BEYOND MEXICO'S MID-TERM ELECTIONS OF 2003: THE RISE OF *CIVIC* SOCIETY TO ADVANCE DEMOCRATIC CIVIL GOVERNMENT

James WILKIE*

Greetings to colleagues on this panel and to the distinguished audience assembled here at UNAM-San Antonio on this day of October 17, 2003. It is a pleasure to be at this important meeting as the “outside” analyst. (Clearly I am the only participant here who is not a Mexican political or Civic Leader. The last time that I served as outside analyst was at the 2001 Conference of former mayors of Mexico City, at which time I participated with the distinguished former mayor who is with us here today, Manuel Camacho Solís.)

I am pleased to recognize UNAM's Ramón de la Fuente for having conceived of and convened this forum to carry out the first major assessment of the meaning of the 2003 national election at the midpoint of the presidency of Vicente Fox. As rector, Juan Ramón de la Fuente has led UNAM into a major role in the development of Mexico's new Civic Society, which has been confused with “civil society”.

It is important here to make the distinction between civil society and Civic Society. Mexico's civil government was firmly established by leaders such as Benito Juárez to end the roles of Church and military in government. By the 21st century Mexico's civil government has gained the guidance of enlightened citizens who

* Chair, UCLA Program on Mexico; president, PROFMEX (Worldwide Consortium for Research on Mexico).

make up non-governmental Civic Society. This Civic Society is accomplishing several goals:

- It serves as the civic conscience necessary to insist that civil government (a) be responsive to citizen demands, (b) set goals and be publicly accountable, and (c) be subjected to monitoring by organized citizen groups.
- It makes contributions to national, state, and local development that government cannot make owing to its bureaucratic and too often “statist”-oriented policies.

UNAM’s leadership of Civic Society in mediating among politically contentious forces has been vital, for example, in defusing tension about the framework of how national budgets will be developed. In effect, UNAM has developed a team that analyzes the national budget-making process from the point of view of Civil Society, negotiating reasonable solutions to seemingly intractable political intrigue.

I congratulate my distinguished colleagues on this panel who have emerged as Civic Leaders in the Federal Electoral Institute (IFE) and the Federal Electoral Supreme Court (TEPJF). Together with the political and university leaders represented here today, they have transcended mere political ideology to lead Mexico into full democratic elections in 2000 and 2003. These Civic Leaders merit a round of applause from all of us. Please join me in this applause.

I take up in this paper five aspects of U.S.-Mexican interlocking domestic relations. Although the ideas may not appear to be fully related, I hope that by the end my logic will become clear.

1

Mexico has added new dimensions to the organization of society by adding two powers to the usual three (executive, legislative,

and judicial) that oversee national life in most nations. The two new powers are the Federal Electoral Commission (IFE) and the Federal Electoral Supreme Court (TEPJF), each of which is independent and not subject to veto by Mexico's other four independent powers. If the USA had had an IFE and a TEPJF, it probably would not have its current president and very possibly not be involved in the unilateral quagmire of Iraq.

Although Chile and Costa Rica have a fourth power lodged in the Contraloría General, only Mexico has five powers, thus becoming a model for the world. The IFE that oversaw the elections of 2000 and 2003 is especially important because its members are nonpartisan, universally respected Citizens of irreproachable standing, named by the Mexican Chamber of Deputies, which itself has had to step aside from "politics as usual" to select this august body.

The great gain for Mexico produced by the role IFE plays is that its members have represented each of the major political parties, yet maintained Civic Objectivity.

The danger for Mexico's future is that one or more of the major parties may not be included in IFE's membership, thus threatening its gains as a fully representative and respected body of Civic Society. Let us hope that the fines levied by the IFE on the PRI and PAN for illegal 2000 campaign activity do not result in the PRD being omitted from membership when the IFE's General Council soon comes due for renewal.

The TEPJF may face dangers as some political parties may seek to limit its independent role as the agency of Civic Society empowered to assure that all parties operate as legally organized and do not violate their own rules of internal election of officers and accountability to party members.

Mexico faces the problem of abstentionism, as seen in the 2003 election. This problem can be seen from three angles:

1. As the inevitable consequence of any mid-term election in this case magnified by the absence of any compelling “cause” such as the 2000 voting of PRI out of the presidency after 71 years;
2. As caused by the proliferation of political parties, eleven of them diluting issues and confusing voters with too many options;
3. As caused by the fact that many Mexicans are “trapped” in the USA and can no longer return to their home town with ease because of the 2001 attack on the Twin Towers. Although this aspect may be small in the Mexican total vote, it is large in the fact that Mexicans in the USA feel that they are not included in the electoral process of Mexico.

This third factor has been compounded by the fact that the many millions of Mexicans without documented status permitting them to be in the USA cannot leave for any purpose if they hope to be eligible to pay a fine to the U.S. Citizenship and Immigration Services (USCINS, formerly INS) to “adjust” their status and be able to work while they await full “legalization.” If they leave and are detected to be returning, they cannot pay a mere fine but must remain outside the USA for five to 10 years before they are eligible even to apply for admission in any status at all.

To permit these Mexicans to vote in Mexico, provision needs to be made for IFE either to (a) establish voting from and/or in the USA and/or (b) develop legal representation in the Mexican Congress and state legislature for Mexicans who have dual nationality. Just as Romania allows elected representatives from abroad, voted into office at polling places in the USA, Mexico could consider the same method to give its citizens a voice in Mexico.

Although many political party campaign platforms have advocated giving Mexican abroad the right vote in Mexico’s elections, other Mexican leaders have argued that such voting could antagonize relations with the USA. In my view, voting by Mexican from

and/in the USA would not be a problem because U.S. citizens themselves can vote in U.S. elections from anywhere in the world, usually by absentee-mail ballot.

Because the Mexican Congress has made commitments several times to allow voting by Mexicans living in the USA, but has not focused on developing a feasible method that can be implemented, I offer the following method to be considered by the distinguished legislators here with us today. I give only a brief overview and do not go into the details, for which the solutions have been developed.

Mexico could adopt an absentee voting plan that allows ballots to be mailed to IFE post office boxes in U.S. border cities for easy pick up by IFE; or an IFE mailing office could be established in the USA. Mexicans with a passport or driver license issued by any U.S. state could vote in an IFE approved absentee-ballot method, and have their signature verified by a U.S. notary public.¹ Expansion of this program could be undertaken with relative ease by converting the Mexican Consular Identification Card to a passport, as is discussed below in Section 4.

2

Beyond voting, it is my view that Mexico could best protect its citizens in the USA, and protect itself against often-irrational unilateral U.S. actions, by establishing full-scale lobbying offices at the national, state, and local levels in the USA. This is not only necessary but also feasible.

¹ Notaries are chartered by each U.S. state, who verify and record information on credentials of identification, and maintain their records open for public inspection. The cost averages US\$ 6. The role of U.S. notaries (who only verify that the signatory has signed) is very different from that of Mexican notaries.

Although some Mexican leaders still seek to follow the corollary of the country's 1930 Estrada Doctrine,² the problem is that the affairs of Mexico and the USA have become deeply intertwined. Because in this age of globalization when

- U.S. remittances to Mexico now exceed US\$13 billion yearly;
- Los Angeles is the “second largest city of Mexico”;
- the Mexican economy is “dollarized” to at least 76%;
- millions of Mexicans have worked half their life in Mexico and half in the USA.

It is evident that Mexico could re-establish the effective type of lobby with which it won Mexico's place in the North American Free Trade Area (TLCAN).

Indeed foreign lobbying is encouraged in the USA in order that U.S. policymakers can receive input from foreign nationals to balance that received from U.S. businessmen who have invested in foreign countries. All that the USA requires is registration of foreign lobbyists with the U.S. government, stating which country they represent.

What is desperately needed by Mexico is not to turn inward and become “lost” in its internal politics, but to organize the country's method of influencing policy in the USA—regulations as well as legislative policy.

For example, what I call Mexican Los Angeles,³ is “administered” by a Consul General who does not have the power, budget, or staff needed to protect fully Mexican citizens as well advocate new U.S. policies and regulations needed to advance the rights and living standards of Mexicans, especially undocumented ones.

² According to this corollary, traditionally Mexico does not allow any other country to intervene in its internal affairs, and Mexico does not interfere in the affairs of other countries.

³ See James Wilkie, “Afterword” in James Wilkie and Clint E. Smith, eds., *Integrating Cities and Regions: North America Faces Globalization*.

With a population greater than many Mexican states, there is no “governor” of the Mexicans, no cabinet, legislative or judicial system, no police force, and no Mexican federal subvention system.

To begin to resolve such problems, I urge that Mexican Civic Leaders, such as those assembled here today, consider how Mexico might organize an Office of Mexican Affairs in the USA. Such an Office is needed to coordinate the various levels of lobbying issues involved in U.S.-Mexican international economic and social relations—“international” issues which have now intersected with domestic issues in both countries. Such an Office needs to be staffed by persons with broad knowledge about both countries, ready to negotiate with the decentralized forces of the USA: government officials, congressional leaders, captains of industry, and labor union leaders as well as key foundation president, and university professors. This Office could sponsor the development of position papers needed to place Mexico at the center of U.S. policy, rather than the periphery.

Need to develop a revised U.S.-Mexican Treaty on Double Taxation is important not only to expand provisions affecting big business but also to add coverage of individuals ranging from independent contractors to day laborers. What is needed is to end double withholding taxes on individual wages.

There is urgent need to “Totalize” U.S.-Mexican Social Security Accounts so that workers can benefit by combining their social security payment in both countries to be able to win the pension that otherwise is unavailable to them. The USA has agreements with 20 countries in the world (including Canada and Chile in this hemisphere), but no agreement with the country that is most important to it. With Totalization, many Mexicans living in either or both countries would receive payments directly to them, proportionate to the amount of credits earned in each country.

After research in the records of the U.S. Social Security Administration (SSA), it is my independent estimate that Mexicans living in Mexico should receive at least US\$ 27,000,000,000. (SSA esti-

mates that the amount is at least \$30,000,000,000.) These amounts exclude interest. Once we agree on the amount, it could be paid by SSA via the Mexican Social Security Institute (IMSS) to persons and their families, according to protocols that we develop for them to demonstrate that the head of family paid into the U.S. Social Security System. Payment will be made regardless of the fact that the work was performed with U.S. incorrect or fictitious social security numbers.

Issues such as double taxation, double withholding, and social security coverage are complex and need to be developed by Mexican lobbyists working both with elites and grass-roots leaders in the USA and Mexico. Although such issues overlap many ministries and agencies in both countries, they all have financial implications that fall under the negotiating aegis of the Secretary of Treasury (SHCP).

The USA invites lobbyists to be active to represent the many citizens of the world's nations resident in and contributing to the U.S. economy-if the lobbyists duly register with the U.S. government. Mexican citizens in the USA also expect that Mexico will lobby on their behalf, especially in California, where already 38% of the population use Spanish as their primary language. Indeed in Los Angeles, the Mexican Consulate serves as the convention center for Central American and South American citizens, who realize that when Mexico speaks it helps all Latin Americans, indirectly if not directly.

3

The movement of U.S. banks into Mexico offers possibilities to “bancarizar”⁴ the country’s popular sector. There are more Mexicans of the popular sector “bankified” in the USA than in Mexico, and this merits change. The U.S. banks in Mexico are following

⁴ Once persons are provided access to bank services and benefits, they are “bancarizado” or “bankified.”

the same pattern as in the USA, first offering to open free bank checking and savings accounts, then offering credit cards and consumer credit, and finally seeking to issue small business credits and home mortgage loans.⁵ Perhaps some member of this group, such as my good friend here Diputado Francisco Sáurez Dávila, can take advantage of the experience in banking to develop regulations that will speed up integration of the popular sector into the formal economy.

Mexican consulates in the USA led the way in opening the possibility of Mexicans without U.S. immigration documents to join the U.S. formal economy by issuing since November 2001 more than 1.5 million high-security Consular Identification Cards. With each of these cards, the consulates distribute the booklet *La matrícula consular y los servicios bancarios*,⁶ written by PROFMEX vice president Raúl Lomelí.

This non-profit booklet is distributed without charge because it is sponsored as a public service by U.S. banks (and other institutions such as newspapers, food markets, and airlines). It provides a simplified guide to Mexicans on how to use their Matrícula Consular to join the formal U.S. economy. It explains that the Matrícula is one of the major documents that can be used to:

- open a checking account and write checks;
- send funds inexpensively to Mexico;
- obtain a U.S. Federal Income Tax Identification (ITIN), Number (in lieu of a social security number for which they may not be eligible), and
- open a saving account that earns interest, thus beginning to establish the credit history,

⁵ Some banks, such as Bank of America and Washington Mutual, even permit up to four families “living under the same roof” to pool their income in order to qualify for a home loan, thus buying property jointly.

⁶ Los Angeles: PROFMEX-LEAP Publications; 1st Edition, 2002; 2nd Edition, 2003.

—gain a credit card and bank loans, based on credit history.

The massive opening of bank accounts by Mexicans of the popular sector now living in the USA were expected to result in initial deposits of US\$ 300, but the result has turned out to average \$US 3,000.⁷ With this money moved from under the mattress at home and into the bank, home invasions by criminals have declined dramatically, and Mexicans without immigration documents have begun to join not only the formal economy but to integrate into the U.S. legal systems.

A person with a bank account, a car loan, and a home loan as well as paying federal and state income taxes to establish a basis for becoming a documented migrant is hardly “illegal.” Indeed, it is very difficult for the U.S. government to deport such a person, the concept of illegality not being a case of black or white, but rather mitigated by the extent of community roots.

This month Blue Cross of California began accepting the Matricula Consular as primary identification for obtaining health insurance. As Blue Cross expands this program throughout the USA, it will be increasingly difficult for Project USA to argue that the Mexican popular sector in the USA is an enormous cost to U.S. tax payers.

4

Although the long-term goal has been delayed to gain amnesty for all of the Mexicans with many years of having lived in the USA, there are many important steps that can be taken in the meantime. Even while lobbying efforts are redoubled to achieve the full civil and human rights of legal status in the USA for law-abiding

⁷ Deposits to the bank accounts of Mexicans new to the banking system total at least \$1,000,000,000 monthly, according to the *Dallas Morning News*, Sept. 30, 2003.

Mexicans, legal documents can be improved to assure some basic ability to participate fully in modern life.

Because many U.S. states require that Mexicans present “non-falsifiable” documents such as a verifiable U.S. document or a verifiable foreign passport, Mexico’s Secretary of Foreign Relations Luis Ernesto Derbez suggested at our Monterrey Tec meeting of August 28th that Mexico could consider converting the Consular Identification Card into a passport. This can be done relatively easy in Los Angeles, where the Consulate General’s Office has been fingerprinting all applicants (which is not required for issuance of passports by the USA) for its file on each recipient. By replacing the Matrícula with the standard-size international passport with several pages, and by recording the data on the applicant in a central Mexican data base the conversion could be completed at relatively low cost.

Mexican citizens with a passport issued by their consulate in the USA could be enabled not only vote in Mexican elections in the absentee manner suggested in Section 1, above, but also gain a driver license in many states of the USA, where they cannot not presently gain one.⁸

The present tendency among some anti-immigrants to deny a driver license effectively seems to be aimed at creating a system of

⁸ Only 13 of the 50 U.S. states allow Mexicans to obtain driver licenses with the Matrícula: Delaware, Idaho, Indiana, Iowa, Michigan, New México, North Carolina, Oregon, Pennsylvania, Tennessee, Utah, Washington, and Wisconsin, according to the Mexican Secretariat of Foreign Relations, Oct. 13, 2002. One anti-Mexican group in the USA claims that other states permit driver licenses to persons regardless of any documented status in the USA: Alaska, Connecticut, Louisiana, Montana, Nevada, Ohio, Rhode Island, and West Virginia, according to FreeRepublic.com *Conservative News Forum*, Sept. 9, 2003, <http://209.157.64.200/focus/f-news/984033/posts>. In this fast changing picture, two states apparently may or may not accept the Matrícula and/or permit driving without documented status in the USA: Nebraska and South Dakota, if we accept the view of the *Los Angeles Times*, Sept. 10, 2003. California’s law accepting the Matrícula as a valid identification to obtain the driver license is scheduled to go into effect Jan. 1, 2004, but anti-Mexicans seek to repeal that law before hand.

apartheid, with popular-sector Mexicans reduced to immobility. The slogan of anti-Mexican groups could well be: “Work, work, work, and if you try to gain mobility by driving a car you will be arrested and charged with three serious crimes.” (a) driving without a license; (b) driving without auto registration (which cannot be obtained without a driver license); and (c) driving without auto liability insurance (which cannot be obtained without a driver license). With no driver license, driver training and testing are considered moot, and when Mexicans are stopped for violating traffic laws for which they have never been tested, they go directly to jail.

For U.S. states to deny the driver licenses to Mexican immigrants in this highly mobile 21st century is to deny a basic human right to enjoy mobility—the mobility to get to work, take the children to school, seek health care, and live with effectiveness in a complicated modern society.

5

Let me conclude by bringing together several ideas in this paper and putting them into larger contexts.

First, Mexico has achieved a fully democratic society only if the autonomy of IFE is guaranteed to include enlightened leaders of the three major political parties.

Second, Mexico’s political leaders should resist the tendency to focus inward on life inside the D.F. and look beyond to the “provinces,” especially those in the USA. Mexicans in the USA are increasingly frustrated by a lack of representation in Mexican legislatures and their inability to appeal to the government for moral (if not financial) support. They want a voice in Mexico’s electoral system, which they see as only fair given the importance of the remittances they send home to Mexico.⁹

⁹ Although at one time it was widely believed that persons voting in the USA could not vote in other countries, such is clearly not the case. With or with-

Third, we need also to encourage the shift from the Consular Identification card to the Mexican passport, a relatively low cost for high gain.

Fourth, Mexico could benefit by establishing an effective Office of Mexico Affairs in the USA to coordinate lobbying on behalf of its citizens, especially for protection against double-taxation and Totalization of social security benefits.

Fifth, we can apply in Mexico at least one gain that Mexicans have made in the USA. Given the success of Mexicans entering the U.S. banking system, let me propose here that we revise the non-profit PROFMEX banking guide for distribution in Mexico, thus helping the Mexican popular sector to join the formal economy of Mexico.

The examples of successful programs analyzed here suggest that there are many ways to enhance the living conditions in the USA of Mexicans who lack immigration documents.

If we work together to create an effective bi-national Civic Society, we can reach new and expanded ways of helping to make civil government in both countries increasingly receptive to solving “bi-national domestic relations,” previously considered to be “international relations”.

Mexico’s national elections of 2000 and 2003 need to be consolidated to protect the integrity of IFE and TEPJF; and the elections offer a breakthrough to examine the future of democratic society, regardless of an arbitrary border, which now “traps” many Mexicans in the USA.

Thank you.

out dual nationality, voters in the USA have the right to vote in the USA and/or the countries where they eligible to vote.