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3. Reflections on the International Leadership and Constitutional System of China as compared to the Historical and Constitutional Aspects of Mexico

SUMMARY: I. Background. II. The Present Leadership of the People's Republic of China. III. Brief Constitutional Background of China. IV. Current Evolution of World Constitutionalism. V. Historical Reference to Mexican Constitutionalism. VI. Basic Traits of the Present Mexican Constitution. VII. Thematic Structure of the Mexican Constitution. VIII. Constitutional Reforms in Mexico. IX. Conclusion. X. Bibliography

I. Background

Economically and politically, Mexico has always looked towards North America. This has without doubt benefited the most competitive and predominantly exporting sector of our economy, with the resulting side effect of diminishing internal development, and has affected the formation of our political and legal structures.

The foregoing shows that national planning and development have not surpassed the regional situation of a geopolitical nature faced by our country since the nineteenth century. Stronger alliances and ties with other countries of Latin America have also been prevented.

In view of this geopolitical reality, we find in recent universal history and in active international trade an apparently-sleeping giant, of whom many know very little, has astonished many and, today, surprises us overwhelmingly by its national pride, communism business, extraordinary productive capacity and, above all, by the massive placement of its competitive products on the International markets.

Experts have recently emphasized the fact that China should represent, for the world and for Mexico, a subject for priority attention and a chapter to be fundamentally included on agendas.

The regrettable fact is that, aside from a small circle of Experts, this has not been done. The reflexions contained in this document have their origin in an International Seminar carried out in conjunction with experts on Chinese law coming from that country's most select circles, and

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Reflections on the International Leadership and Constitutional System of China as compared...

Mexican researchers, mainly from the Instituto de Investigaciones Jurídicas (Institute for Legal Research) of the Universidad Nacional Autónoma de México (Mexican National Autonomous University), an event coordinated by Dr. Arturo Oropeza García of that centre of studies. Chinese jurists are interested in exchanging experiences in this important field of regulation of the contemporary states.

A comparative analysis of our constitutional and legal system in general is, naturally, of the greatest interest and could be highly enriching, since it puts forward the great challenges faced by contemporary states who find themselves undergoing strange, and hitherto unheard of, processes of transformation.

We are convinced that this integration offered to us by the excellent disposition of the Chinese authorities, business leaders and outstanding academics, will provide us with a better and brotherly knowledge of Chinese political, legal and economic phenomena, and can also represent a historic opportunity for Mexico and Latin America if we know how to act in consequence.

II. The Present Leadership of the People's Republic of China

Important conclusions can be reached from the events occurring in China over merely a few decades. We know that all international phenomena achieving leadership proportions before the community of nations in any of their facets, also recognizes the existence of an efficient, committed, informed, organizational, audacious national leadership which proposes clear goals in viable stages. This leadership was, without doubt, developing in China over several decades, arrived at the right time and recognizes the vision and clear goals of those knowing how it should be exercised.

In order for leadership to be efficient, a political structure permitting this phenomenon is required. A great political leadership has traditionally existed in China, which failed however to guide the country to the decisions and goals we are now able to confirm. The political apparatus and the moment in History permitted an efficient application of this type of leadership, without which the goals we now witness could not have been achieved.

The leadership we mention knew how to guide a country with semi-feudal traits to well-selected specific goals in the political, and also in the economic, field. For this, it knew how to take advantage of efficient production techniques. Many doctrines which have advocated economic development and been decided politically, never managed to even remotely attain their most modest goals. If it is not possible to generate wealth translated into the production of goods and services which improve the living standards of the population, any related effort becomes a costly Utopia. The communist and socialist regimes ideologically opposed the so-called capitalist productive

system and failed to recognize, within its perfectible aspects, its advantages for the generation of wealth, improvement of the markets and as a result, the economic conditions of the population. This explains in good measure one of the primary reasons for the failure of these systems. China, being a popular republic, amazes us by having evolved into a highly competitive economic power, revealing, under the considerations to be put forward, the existence of efficient production and distribution methods.

The Chinese leaders have also managed to take advantage of a sympathetic International environment facilitating market development, thanks to the phenomenon of globalization, which did not at that time conflict with insurmountable hegemonic obstacles. Every country which knows how to take advantage of favourable circumstances within the international environment, is predestined to triumph. Keeping all proportion is like the businessman who perceives and anticipates the opportunities offered to him by the market, above all when areas of benefit appear which others did not even imagine. There were Chinese leaders who possessed this capacity and who managed to place their country within the areas of opportunity presented by international occasion by development of the society of understanding, by the repositioning of markets as a result of the end of the cold war, by the fall of the Soviet Union, the formation of new regional blocks, the notorious and massive advance of globalization, new geopolitical conditions, etc.

Finally, and this is the main theme of our work, it is important for countries to have suitable and flexible legal systems which permit the establishment of a State of Law to structure, accord certainty, offer security and permit an adequate resolution of controversies, forming the framework necessary to consolidate and assist in providing this leadership with continuity, as previously fostered in national development. The great transformations which occur when nations progress to new objectives undoubtedly require a restructure of the legal system on which, doubtless, China is actively working, having dedicated its best legal brains to achieving this essential activity of consolidation.

III. Brief Constitutional Background of China

The lawmaking activity of the Chinese People's Republic has been extremely intense in recent decades. A series of provisions were issued on the triumph of the Chinese Communist Party in 1949, to lead in the near future to the birth of the new China and the resulting proclamation in 1954 of the first Constitution of the People's Republic, consisting of 106 articles. Ratified therein, under the strong influence of the then-Soviet Union, were the Socialist principles which were to guide the Chinese Republic and also establish the basic principles of this political-economic regime for the development of the country. However, notwithstanding the foregoing, formal principles on multi-

Reflections on the International Leadership and Constitutional System of China as compared...

nationality, the division of Powers and the equality of all citizens in the eyes of the law were also introduced in this supreme mandate.

Twenty years later nationalist activities reappeared in the Chinese State, since the legal principles of the 1954 Constitution were inoperable in view of the enormous tradition of warlordism to which the Chinese people were fully accustomed, the radicalization trends of the governing left not being supported for this reason by a legal tradition. This occurred as from the year 1966 with the outbreak and results of the Cultural Revolution, moulded at the IV National Popular Assembly which was to give life to the 30 articles of the 1975 Magna Carta, completely imbued by the class struggle, and as maximum legalizing authority of the different levels of the Revolutionary Committee. A new Constitution was to be adopted in 1978 during the first session of the V National Popular Assembly under the inherited weight of the currents of the extreme left, despite the death of Mao which occurred in 1976. However, none of the constitutional instruments mentioned managed to channel the relevant legal theme of State reform and consolidation to the benefit of the State, and a new effort was therefore required to put into practice the current 1982 Constitution of the People's Republic of China, containing 138 articles distributed throughout four chapters and returning to the original inspiration of the 1954 Constitution. Given the accelerated economic growth of the country, four stages of constitutional revision of this ordinance have already taken place, occurring in the years 1988, 1993, 1999 and 2004.

The 1982 Constitution and its most recent revisions represent tremendous effort and a cornerstone in the modernization of China and the reconstruction of its legal system. In addition to matters of a characteristically-political nature, such as those referring to the structure of the State and the national symbols which had already been dealt with for nearly four decades, this Constitutional instrument establishes a significant protection in favour of political and social human rights and faces the challenges implied by a reformation of the State of Law.

The most outstanding jurists of the Chinese People's Republic, including the Doctor at Law Mo Jihong of the Chinese Academy of the Social Sciences, the professors Li Lin,

Liu Huawen, Chen Su, Liu Jingdong, Guan Yuying, and Xu Hui, among other outstanding academics and thinkers, are engaged in a struggle to establish the new State of Law demanded by the current conditions of contemporary China. Already possessing the Constitutional bases which the country requires, they are reviewing all pertinent aspects of the legal system while, at the same time, academically and politically consolidating the elements of Constitutional Theory, the limits of power, the basic principles of all legal systems and the sensitive matters of Democracy and Human Rights which form a part of any constitutional agenda.

IV. Current Evolution of World Constitutionalism

We know that, in universal legal history, Constitutionalism is a relatively-recent phenomenon which appeared barely 222 years ago as a defining element of the contemporary State. Constitutionalism was doubtless inserted in the Western codifying trend and in the transition from a monarchical-absolutist national State, inaugurated by the U.S. Constitution of Philadelphia proposed in 1787, and signed by the respective supporting States around 1790, following publication in the New York press of the arguments to represent “The Federalist” doctrine put forward by the lawyers Hamilton, Madison y Jay.

Constitutionalism gave a turn to the evolution of the contemporary State. It signifies the passage from the old monarchical State towards a State replacing the previously essential figure of the monarch by a legal document incorporated to the “pertaining to the state” definition, and creating a new political entity no longer requiring a monarch but self-existent, with its own legal status and heritage. Constitutionalism was, in its moment, so innovative that it could not be well received in the majority of countries since it also implied a breakup of an entire previous construction of the state, which many were not prepared, or disposed, to accept. Even in the United States, when the decision had to be taken for a formal break with the English monarch, the greater part of the population were never prepared to take this step. In other European countries, such as France and Tsarist Russia, this radical transformation of the contemporary State pre-supposed the disappearance or physical elimination of the sovereigns, together with all their family members and descendents able to maintain a line of continuity with the old regime so radically replaced.

The United States Constitution would be followed by the French, commencing an agitated process for the acceptance of constitutionalism worldwide, to provoke strong opposing reactions in the Conservative sectors and leading to inflamed internal struggles.

V. Historical Reference to Mexican Constitutionalism

Mexico incorporated itself promptly to the constitutional processes, receiving the influence of the successful United States Constitution at almost the same time as that of European liberal thought. While Mexico was still a viceroyalty incorporated to the Spanish crown, a direct influence was exercised by the constitutional experience of Cádiz occurring in the year 1812. The Constitution of Cádiz in 1812 had a special significance for the Mexicans since it involved Spanish America, of which our nation formed a part. Against the background of the French invasion of 1808 and the uprising of the Spanish people around the same time, a sentiment of national rebuilding was born which led to the promulgation of the first Spanish Constitution on March 19, 1812, in the city of

Reflections on the International Leadership and Constitutional System of China as compared...

Cádiz. The 1812 Constitution, a rigid, lengthy (384 articles), popular and representative document, was prepared without the intervention of the King but not against him, although in the end it was imposed on him. It gathers strictly together the principles of sovereignty in favour of the Nation and the division of powers, following in the latter the ideas of Montesquieu already outlined in the United States Constitution of 1787 and its French equivalent of 1791. A new representation was also created following dissolution of the representatives of the traditional estates so that deputies would represent the Nation in its entirety and act for themselves, being freed from any specific mandate and thus being able to comply with the high functions of their office and agree on everything intended for the good of all. This concept of integral national representation would subsist for a long time in subsequent constitutions. In the matter of human rights, the Cádiz constitution of 1812 included establishment of the concept of Spanish nationality, protected the freedom of the press, incorporated guaranties of legality for legal procedures, prohibited torture, confiscation and the use of pressure, forbade transcendental punishments, and protected the houses of Spaniards from search. This Mexican Constitutional experience was due not only to the printing, swearing and entry into force, rather systematical, of said supreme ordinance, but also to direct participation by the representatives of New Spain, who came to discuss and vote thereon. Fifteen representatives who had come directly from New Spain participated in the Courts, some of whom, such as Miguel Ramos Arizpe, took an active part in subsequent constitutional processes.

During our country's Revolution of Independence, begun on September 16, 1810 by D. Miguel Hidalgo y Costilla, an interesting constitutional experiment took place promoted by founding father D. José María Morelos y Pavón and known as the 1814 Constitution of Apatzingán. This constitutional effort lacked practical effect but achieved the formation of a Code of 242 articles recognizing popular sovereignty and its exercise in national representation, established the division of Powers into legislative, executive and judicial, conferred the status of citizens on those born in this America, defined the Law – to be equal for all without distinction – as an expression of popular will, recognized the principles of equality, security, ownership and liberty for all citizens, regulated the forms of supreme government, provided with precision some electoral boards for suffrage, and included a Resident Tribunal to hear accusations against public servants.

The constitutional work of our country continued, once independence was achieved as from September 27, 1821. A "Statute of Empire" preceded Mexico's first formal Constitution which, adopting the form of a federalist State, was promulgated in the year 1824. It is possible that the first moment of the federalist decision was influenced, in addition to the active leaders convinced of this position, by the centrifugal forces of the provinces, whose autonomy had been encouraged by a more or less prolonged factual absence of central authority and also by the relative success of regionally-organized political uprisings. The decision to adopt the North American (United States)

federalist model as the organizing system of the recently-independent Mexican State, responded possibly not only to the admiration and prestige enjoyed by the latter, but also to an attempt to contain the dismemberment of the provinces which, by that time, accorded little or no recognition to the representation of central government. Two blocks of deputies stood out clearly at the discussions for the respective constituent Congress: the centralists and the federalists. The first group included Becerra, Jiménez, Mangino, Cabrera, Espinosa, Mier, Ibarra and Paz, while amongst the latter were Ramos Arizpe, Rejón, Vélez, Gordo, Gómez Farías, García Godoy, among others. The trends were headed by Fray Servando Teresa de Mier and D. Miguel Ramos Arizpe, respectively, the second also appearing as President of the Constitution Committee. The Federal Constitution of the United Mexican States of October 4 in the Year of Our Lord 1824, was issued in the name of God Almighty, author and supreme legislator of society, and consisted of 172 articles divided into eight sections which governed the nation, its form of government, legislative power, the supreme executive power, judicial power, the States of the Federation and the observance, interpretation and reform of the Constitution. As can be seen, under the 1824 Constitution, the concept was established of a free and independent, Catholic, representative, popular and Federal Republic consisting of States and possessing a supreme power of the federation divided, for the purposes of exercise, into a two-chamber legislation, an executive power and a judicial power. This Constitution remained in force until the year 1835, and continued without alteration until it was repealed.

A centralist Constitutional parenthesis followed the 1824 Federal Constitution. The interval elapsing between the first already-mentioned federalist option, and the second, which would not appear until the year 1857, contained the 1835 constituent proposal, the Grounds for the Constitution and the centralist Constitution of the Seven Laws of 1835, the equally-centralist Constitution of 1843 – also known as the Organic Grounds – the constituent Congress of December 1846 and the Reform Act of 1847, which would order restitution of the 1824 Federal Constitution and, finally, the new Federal Constitution of 1857, politically linked to the current 1917 Constitution. As can be noted, an intense and polemic constitutional life. This, without considering the attempts at reform and the constitutional projects which will not be detailed here, but which also form part of Mexican constitutional life and discussion.

The 1836 Constitution, also known as that of the Seven Constitutional Laws since it was organized into seven different sections, was the result of a pacific adoption of the unitary regime which prevailed with its respective incidences from the initial date, 1836 until the following decade, the year 1846. The subject of federalism versus centralism led to an intense debate during the first years of a free Mexico, as well as to internal confrontation. The men of the “pure” or progressive party, who would end up being classified to date as those of liberal thought, advocated a

Reflections on the International Leadership and Constitutional System of China as compared...

Republican, democratic and, above all, federative form of government, as stated by Dr. José María Luis Mora, the brain of the reformist movement to which we refer. By contrast, the so-called members of the “Conservative” or moderate party recognized a unitary or centralist government as the suitable form for organization of the Mexican State, their most outstanding intellectual representative being D. Lucas Alamán. In the background, each of these groups brought together and dissolved, as is natural in human societies, sundry types of interests both national and International. The people were mainly onlookers, often passive, of the disputes between them, into which their active leaders were eventually drawn. Around 1835 and following an unsuccessful, at that time radicalized, attempt at reform, the moderates and conservatives obtained a representative majority and formed a Federal Congress, resolved on the formation of a constituent Commission and, subsequently, transforming and unifying the chambers of deputies and senators into a constituent entity with full powers to approve and issue the seven constitutional laws of 1836.

The first of the constitutional laws of 1836 laid down in 15 articles the Rights and obligations of Mexicans and the inhabitants of the Republic. It is interesting to note that sundry fundamental rights were incorporated here, including the right of transit, freedom of the press, the prohibition of special laws and courts, the prohibition also of seizure, freedom of expression, and various guaranties of legality loosely referred to as the procedures of arrest, detention and search. The second law, especially characteristic of these constitutional grounds, provides for the organization of a supreme conservative power, to be regulated under twenty-three articles. Five individuals were considered as appointed through a special, renewable process and endowed with important constitutional control faculties and others of a political nature, such as declaring the President incapable or suspension of the sessions of Congress, among others. In this aspect the ordinance in question was remarkably innovative in matters the formal adoption of which within Mexican constitutionalism would be long delayed. The third of the Constitutional laws was dedicated to the integration and organization of Legislative Power, consisting of a Chamber of Deputies and another of Senators. The periods for sessions were established, together with the rules of legislative procedure for formation of the laws, the faculties of the Chambers and prerogatives of their members, and the composition and function of the Standing Committee. The fourth law is dedicated to the organization of the Supreme Executive Power, renewing the characteristic Mexican Presidential system by the appointment of a President for an eight-year term, elected jointly by the Council of Ministers, the Senate and the High Court of Justice, each with a group of three individuals, to be passed directly to the Chamber of Deputies which is responsible for remitting a resulting list of three Candidates to the departmental councils for election of an individual by an elective process. The requirements for election as President were also established, together with a wide catalogue of his prerogatives and attributes. The existence within Executive Power of a

Council of Government was also provided for, to be formed by thirteen unceasing counsellors with indeterminate constitutional functions, the direct appointment of whom is entrusted to a secondary law. The existence of four ministries is also established: the Interior, Foreign Affairs, the Treasury and War and Marine. The fifth Law is intended to regulate the Judicial Power of the Mexican Republic and covers a total of 51 articles, some of which are considerably lengthy. The Supreme Court of Justice is established, consisting of eleven ministers and an attorney general. Provision is made for the establishment of a high court in the capital of each department, for subaltern judges of the first instance to exist in district capitals, and general provisions are dictated on the administration of civil and criminal justice. The sixth law deals with territorial division of the Republic and the internal government of the people, all based on a territorial division by departments, districts and parties. The existence is also mentioned of governors, prefects and sub-prefects, respecting the existence of town councils in the department capitals where these have previously existed. The seventh law, in turn, is dedicated in 6 brief articles to the establishment of rigid rules for “constitutional variations” or amendments thereto (petrea clause).

Another attempt at a Constitution of a centralist nature occurred in the year 1843, under the title of bases of political organization for the Mexican Republic, better known as Organic Bases for the Mexican Republic, agreed to by the Honourable Legislative Council established under the decrees of December 19 and 23, 1842, and authorized by the Supreme Provisional Government according to the same decrees.

It so happened that on December 23, 1842, the President of the Republic, Don Nicolás Bravo, appointed eighty outstanding or “notable” personages who, by forming said National Legislative Council, were to prepare a new constitutional ordinance. The so-called Organic Grounds were approved by President Antonio López de Santa Anna, who had resumed presidential functions and celebrated the effect of the new ordinance, over which he was to nominally preside for a little over three years during the development of an extremely turbulent period of our evolution as a nation. Santa Anna swore to uphold the new Constitution in a solemn ceremony which took place on June 12, 1843, a date on which he also commemorated his Saint’s day and birthday. For this purpose, from the central balcony of the National Palace, he threw coins to the people, subsequently dining in the company of eighty guests and, surrounded by military elements, attended the principal theatre the posters of which announced the opening performance of a work entitled “A Glass of Water” by the Spanish comedian and playwright Bretón de los Herreros, whose name is remembered by a street at cross angles to the Paseo de la Castellana in the Madrilenian district of Chamberí. For the common people there were firework displays in the main Square despite the rain, and a special fountain located in the Paseo de la Alameda was filled with sangría for jugs of drink to be extracted for enjoyment by the population. The following day the bases were published by

Reflections on the International Leadership and Constitutional System of China as compared...

solemn ordinance and a military parade organized with close to six thousand men belonging to all the gun and canon batteries. This was the personal style of government of President Santa Anna, whose inadmissible and selective constitutional adventure culminated in the fall of his government, the renewal of the struggle between federalists and centralists and a subsequent return to the federal project.

The organic grounds contained 201 articles divided into 11 chapters which regulated the territory of the Nation, its form of government and religion, Catholic Apostolic and Roman. It also defined who the inhabitants of the Republic were, together with general obligations and specific rights, establishing an extensive human rights catalogue. The third chapter was reserved for nationality and citizenship aspects, the fourth regulated legislative power and the formation of laws process, together with the standing committee. Included in the fifth chapter were the regulatory principles applicable to the Supreme Executive Power, article 86 containing a long catalogue of presidential obligations covering 30 sections and also establishing the grounds for the ministries and the creation of a Council of Government consisting of 17 members appointed by the President. The appointment of Counsellor was a permanent one, Counsellors being responsible for opinions returned against the Constitution and the laws, that is, this was a constitutional control agency also possessing propositional powers. The purpose of the sixth chapter was a constitutional regulation of Federal Judicial Power consisting of a Supreme Court of Justice and higher courts and lower judges in the departments. Also provided for was the existence of a martial court and a tribunal to judge the Ministers of the Supreme Court of Justice.

The seventh chapter included provisions applicable to the Government of Departments having their respective departmental assemblies, with their Governors and a system for the administration of justice. It is very interesting that the eighth chapter expressly created an electoral system called Electoral Power, with an Electoral College in each department possessing the necessary functions for celebrating and classifying electoral processes. The ninth, tenth and eleventh chapters contain general provisions on the administration of justice, two criteria applicable to the public treasury and the obligation to respect and honour the Constitution, together with brief grounds for the reformation of same.

The constitutional elements of a centralist nature so celebrated by President Santa Anna, were practically not noticed and, as already indicated, led to new conflicts which re-established the federal Constitutional system with more force.

Among the disputes between partisans of a centralist structure and government and those upholding progressive, liberal and federalist principles, and also the economic difficulties which hindered consolidating an efficient front to armed and International struggles, in this case the defensive war waged in view of the country's invasion by United States forces and, as can be seen,

due to these very serious incidents, the re-entry into force of the Federal Constitution of 1824 was proposed in Congress shortly before the invading army took Mexico City, being subject to a series of reforms contained in a document entitled the “Reform Act”, the discussion of which ended on May 17, it being approved on the 21 of the same month and published the following day.

The Reform Act endeavoured to consolidate national independence, support freedom, provide national defence, establish peace and procure national wellbeing, recognizing the first Federal Constitution as the only legitimate source of the Supreme Power of the Republic, and the constitutive principle of federal union as the superior force to achieve the foregoing goals. The Reform Act consisted of 22 articles emphasizing establishment of the guaranties of liberty, security, ownership and equality to be enjoyed by the inhabitants of the Republic, ordering procurement of the necessary means to make these effective, determining their inviolable nature and solidly establishing, exceptionally and in the face of a foreign invasion or internal rebellion, that the Legislative Power could suspend the established forms for individual arrest and detention and the searching of houses, for only a limited period of time. It also established a precedent for depriving high-ranking officers of their privileges, eliminated the office of Vice President of the Republic, indicated the liability of the President for common felonies committed during his term of office, and also established the possibility of a law of Congress being opposed as contrary to the Constitution. A very important and new aspect for Mexican citizens of the Reform Act of 1847 was the introduction of “Amparo” (Relief) proceedings as a means of defence available to any inhabitant of the Republic, in the exercise and preservation of rights granted by this Constitution and against any attack by the Legislative and Executive Powers, whether of the Federation or of the States. This important means of Constitutional defence was limited to the corresponding Tribunals according their protection in the specific case in question, without making any general statement with respect to the law or the action motivating same. As already mentioned, the Reform Act was approved as a Charter and Reformation by the Special Constituent Congress of the United Mexican States on May 18, 1847, and sworn and promulgated on the 21st of the same month and year.

The Federal Constitution of February 5, 1857 was a Constitutional doctrine of outstanding importance which would subsequently have a transcendental effect on the Mexican Nation, being very similar in context and political-liberal inspiration to the present Constitution, which was to succeed it as from the year 1917.

This Constitution consisted of 8 chapters and 128 articles, returning to the principle of federalist organization, the division of Powers and the concept of national sovereignty.

VI. Basic Traits of the Present Mexican Constitution

In the case of Mexico, we have the pride of possessing the first social Constitution worldwide which, although related to its predecessor in political terms and established under the classic principles of liberal political thought, had its social part extensively renewed on that 5th day of February in the year 1917.

The Mexican Constitution of 1917 introduced the principal claims concerning the Constitutional legislator, resulting from the Political and Social Revolution which gave them birth in the year 1910, and adding a very important series of principles to it.

Included among these principles, the original ownership of the lands and Waters contained within the State was established, which conferred and continues to confer the right of transmitting dominion to individuals, establishing private ownership and imposing the forms dictated by public interest for the benefit of Society.

As a result of the Social Revolution, the contents of the Constitution emphasized the need to achieve a redistribution of rural ownership through Agrarian Reform, establishing limits for smallholdings and granting guarantees to peasant and communal groups in order for them to exploit their lands and their resources. Originally the social agrarian ownership assigned could not be transferred and stock companies were unable to acquire property of a rural nature. At the present time these two last provisions have become more flexible.

A third social concern of the 1917 constituent was to achieve the educational development of the population at that time. For this purpose concurrent faculties were granted at all levels of government in order for these to take charge of efficiently imparting the greater good of education and culture to those having no access to same. It was also endeavoured to regulate the budgetary resources necessary to meet this challenge, together with private education.

Before the Mexican Revolution of 1910, there was no legal provision to take into account a growing Group of the population: the workers. As from 1917 extensive regulations were created to protect the rights of the workers, their recognition as a social class, their minimum benefits and the faculties to assist them in performing their duties. The social right to work was established, the types of workers' contracts regulated and social security mechanisms created under the tripartite responsibility of the State, the employers and the workers themselves.

Although a series of individual guarantees already existed in the Human Rights area under the previous Constitution, the protection and extension of the latter towards the social rights of collective ownership now became a novel reality. These are the cases of the already-mentioned social right to work, to health, to education and to suitable housing, among others, and which accord precisely to this Magna Carta its specific nature of social protection.

Another feature of the 1917 Mexican Constitution was the establishment and coexistence of a mixed productive system in which companies of a public nature, a social nature and a private nature intervened simultaneously. In this sense the intervention of public companies in the market has developed intensely but also fairly moderately, at the same time as the business intervention of the main social groups of a labour and agrarian nature has been fostered while an intense productive and commercial activity is being developed by the private sector. In this sense the legal structure permitting the production of goods and services in our country is multiple and varied, making more flexible the possibilities of all sectors intervening in the economy. Mechanisms even exist which sponsor an integration of the social sectors in the productive processes.

One of the most reiterated intentions in the current Mexican Constitution is the search to extend and distribute economic benefits to the social majorities of the population. As in all countries, this has been a relatively-slow process and continues to be a matter pending more efficient attention and resolution.

In the political aspect and as regards a more participative and comprehensive democracy, the Mexican Constitution does not restrict democratic intentions to a mere legal structure and a political regime, but visualizes them as a life style based on the constant economic, social and cultural improvement of the people. That is, it demands, in order to be able to speak of an authentic democracy, for this to cover all the aspects of human life, that is, that one is able to speak correctly of a democratic economic structure, of a social structure which is also democratic and that the entire population, taken as a whole, has access to the benefits of information, education and culture.

The Mexican Constitution has also included under article 25 the principle that the governance of national development corresponds to the State, and that this be comprehensive and maintainable, that it strengthen the sovereignty of the nation and its democratic regime and allow a fairer distribution of wealth and full exercise of the freedom and dignity of individuals, groups and social classes whose security is protected under this Constitution.

To achieve the foregoing, the State will organize a national development democratic planning system to be governed by the purposes of the national plan contained in the Constitution, which will reveal the goals of said planning. In view of this a National Development Plan will be established every six years, to which all government programs must be subjected.

We remember too, also within the legal field, the environmental and ecological conditions which affect us all and which have given rise to extensive secondary regulations within the Mexican Legal System, which contemplates a series of obligations for individuals and corporate entities involved in the daily task of preserving the environment, protecting biodiversity, healing and restoration of the atmosphere, basins and natural areas, and the necessary action and legal procedures required to achieve these objectives.

Reflections on the International Leadership and Constitutional System of China as compared...

In the field of trade competition and of the formerly-styled Anti-Monopoly Act, now known as the Economic Competition Act, the Mexican Constitution also includes the necessary principles to avoid absolute monopolistic practices, to sanction relative monopolistic practices and to regulate and, as applicable, impose manners on so-called concentrations.

Principles are also established to regulate foreign trade and Customs traffic, inspired by generally-accepted international principles and the needs and circumstances of the internal markets, always procuring mutual benefit in the field of International trade.

We consider it interesting to note that the current Mexican Constitution, despite its original mechanisms of rigidity, has managed to adapt itself to the new International environment and to the needs of political decentralization faced by the modern State due to their greater complexity. Several autonomous constitutional entities have now emerged such as the competent electoral authority, the citizen advocate for Human Rights and the new financial power of the State which is now also autonomous with respect to the traditional division of Powers. The institutional mechanisms of interpretation and control of constitutionality have also been reinforced which, in the case of Mexico, lie in different areas for which the Supreme Court of Justice of the Nation is responsible.

VII. Thematic Structure of the Mexican Constitution

In a manner very much in line with the legal or constitutional definition of the contemporary State, the Mexican Constitution contains a dogmatic portion which refers to the recognition and protection of individual basic rights under articles 1 to 29, and an organic part which describes exactly the constitutive elements of the Mexican State.

The organic part covers articles 30 to 136 of the Mexican Constitution, and if we allow that the contemporary State is made up of its essential elements comprising the population, the territory and the government, we can see that the Mexican Constitution describes these elements accurately in the articles contained in organic part.

The population is regulated under articles 30 to 38. The territory is described accurately in articles 42 to 48, government is constitutionally decided by articles 50 to 107, which also clearly describes the division of powers as follows: Legislative Power, described by articles 50 to 79; Executive Power regulated under articles 80 to 93, and Judicial Power described under articles 94 to 107.

Chapter IV of the Constitution, covering articles 108 to 114, describes the nature of a public servant of any of the powers and establishes the rules of conduct to which he/she is subject. This section also regulates responsibility for the wealth of the State.

Articles 39 to 41 and 49, contain the higher principles of national sovereignty, the form of the State and the form of government over the division of powers, together with the basic rules of the electoral system comprising autonomous authorities and the party political system.

Articles 116 to 121 establish the constitutional grounds of the federative entities or States of the Republic comprising the Mexican Federation.

Article 115 incorporates a figure of ancient Spanish origin entitled Free Municipality, first level of the Mexican Government located within the political system of the States of the Federation.

Article 122, which is of considerable length, determines the organization and government basis of the Federal District federative entity, which for many years formed the capital of the Republic.

Article 123, divided into two sections, contains the provisions applicable to the already-mentioned subject of work and social security.

The last three chapters of the Constitution refer to general provisions, to the ability to amend the Constitution and the inviolability of same. Outstanding among these precepts is article 130, which applies to and governs the traditional principle of separation of the State and the Church, together with provisions applicable to the latter, to ministers of religion and to the remaining religious groups.

VIII. Constitutional Reforms in Mexico

This aspect is governed by article 135, which has never been regulated in detail and which, despite establishing a procedure which is rigid in principle, has not prevented the Mexican Constitution being the subject of constant reforms in such a way that it bears very little similarity to the original text, and practically no articles still exist in their original form. Constitutional reforms have been imposed one after the other in an endeavour to adjust the supreme mandate to the new and complex conditions and political demands of a twenty-first century contemporary State. In the opinion of the undersigned, the traditional tripartite division of powers has been amply surpassed by the appearance of new autonomous constitutional powers. The political role of the States of the Federation has been recently reinforced. Legislative power has gained influence in the exercise and assumption of new Powers. Although the executive power continues to be that of a protagonist and possesses an enormous centralized and decentralized system, its relative importance has diminished institutionally-considered, as compared to the other powers.

All these changes reflect the notable political evolution currently being experienced by the contemporary State of the twenty-first century.

IX. Conclusion

As the undoubted fruit of globalization, the competent States of the International community are exercising their leadership while, at the same time, expanding a propitiatory interest in the enrichment and exchange which said globalization makes possible. We are certain and fully convinced that the events which make this fruitful exchange and extremely valuable presence of our Chinese colleagues possible, together with our reciprocal interest in the sharing of experiences, represents an enormous opening of exchange and benefit for our countries.

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