

Julio Faesler

CALL FOR NEW LAWS ON VOTING PROCEDURES

Our experience at the end of the 20th century makes obvious that no social-economic progress is solid if citizens are not guaranteed an effective participation in processes of decision making about events and conditions that affect their personal lives.

At a time when an intense crisis is forcing us to walk paths of solidarity previously unexplored, it is logical that we also search for means to make our political system advance towards the efficiency demanded by more intense national efforts.

This task includes the reform of the democratic system. This reform should be genuine, as it will fail if it lacks the profound conviction that the Nation can democratize itself and become authentically plural. A reform of the system made with the aim of installing oneself in power, perhaps for another 60 years, is not valid.

Electoral reform should be genuine, as it will fail if it lacks the profound conviction that the nation can democratize itself and become authentically plural

Current efforts made by the government to awaken the corresponsibility of the governed in resolving the problems of the crisis, can easily be explained, and furthermore, if the participation of citizens in decision making processes is not achieved, the economic structure could deteriorate even more, with greater chaotic growth of the already notorious "underground" or "informal" economic sector. Besides, if legitimate and orderly political channels are not strengthened, growing anxieties will lead us to another dark world, also sub-

terranean, in the political sphere. Mexico cannot permit that it be left behind the rest of the world in the new stages of community living and sharing. The steps that we take in the immediate future will determine the possibilities of finding our place in the concert of nations and contributing to universal well being.

The Constitution should Guarantee Respect for the Vote

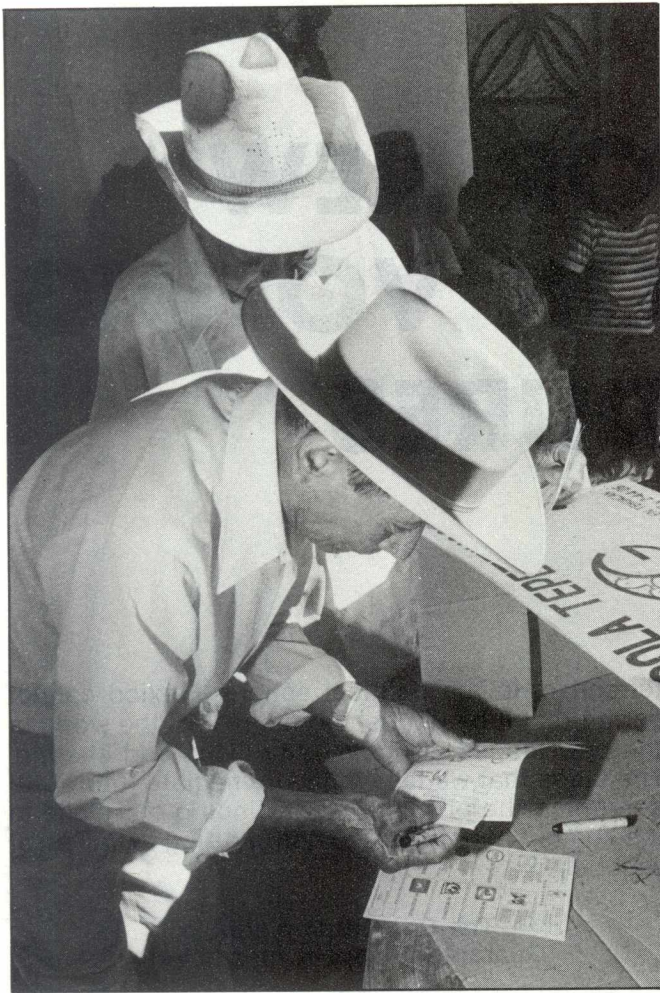
The Universal Declaration of Human Rights specifies that the will of the people should be expressed through authentic and free elections. If the citizen finds his effective participation in national affairs blocked, this will provoke his divorce from the government. Thus it is of maximum interest and urgency that Mexico begin its political advance with a firm and clear Constitutional declaration which protects citizens' political rights, and which, leaving behind antiquated and fraudulent practices, protects and guarantees the efficacy of the suffrage, and defends it against anything and everything that obstructs free exercise of the vote.

Thus, in Chapter 1 of the Constitution, which refers to individual rights and guarantees, a paragraph should be inserted to establish that every citizen has the right to participate on equal terms in electoral processes without interferences, pressures or coercion of any kind which might intervene in his or her free, personal and secret voting.

The same Article would also establish the following citizens' rights: to be informed in an impartial and objective way about national problems, and about the programs and ideas proposed by the various registered political parties to resolve these problems; to have access to an electoral roll without alterations, and to a prompt and reliable computation of electoral results, as well as the right to be protected promptly and efficiently against any violation of these guarantees.

According to this Constitutional guarantee, anybody who is victim of actions which affect his or

Director of the Mexican Foreign Commerce Institute.



Elections in the state of Tabasco. Photo by Marco A. Cruz/Imagen Latina

her right to vote, could demand the immediate intervention of relevant government officials (Article 292 of the Federal Electoral Code), who should act to terminate the interference or obstruction immediately.

Electoral crimes and infractions of the electoral law, should be severely punished.

Freedom of Information and Political Propaganda

In the field of political information and propaganda, sanctions should be applied to those who, during election campaigns, refuse to operate their radio or television stations according to the principle of equal time for all parties, as the Federal Electoral Commission dictates. These refusals mean that the electoral public is kept in ignorance about the positions of different political parties, or —what is even worse— the media may constantly belittle and misinform about those parties in opposition to the interests of the owners of these media. Those in control of the mass media are principally responsible for the apparatus of official conditioning which aims to consolidate or create in the electorate the conviction that the only respectable options and candidates are those of the government party.

In view of these conditions, the new Electoral Code should consider the following situations:

Mexico needs a clear, firm Constitutional declaration which protects the political rights of citizens

- The refusal of a radio or television station to transmit messages for any candidate or party during electoral processes;
- The charging of fees for political messages in the press, radio or TV at higher rates than those charged for commercial spots;
- Announcements of political opinions of media owners during news bulletins or other programs of general interest without a clear warning to the public that this is an editorial opinion and not an informative bulletin;
- Disrespect for the dictates of the Federal Electoral Commission (CFE) about times, frequency and schedules of political messages during election campaigns;
- Destruction of political propaganda of opposing parties.

With respect to the misuse of official funds, there is even more to be done. Public officials should be subjected to political processes for the commission or omission of acts which damage “fundamental public interests”.

The Federal Law on the Responsibility of Public Servants, which in reality is ineffective, establishes that attacks on the freedom of the vote constitute a damage to fundamental public interests. But this kind of attack occurs constantly when public servants, acting in favor of the government party, commit an abuse or an undue exercise of their power, or use funds designated to their job for political purposes.

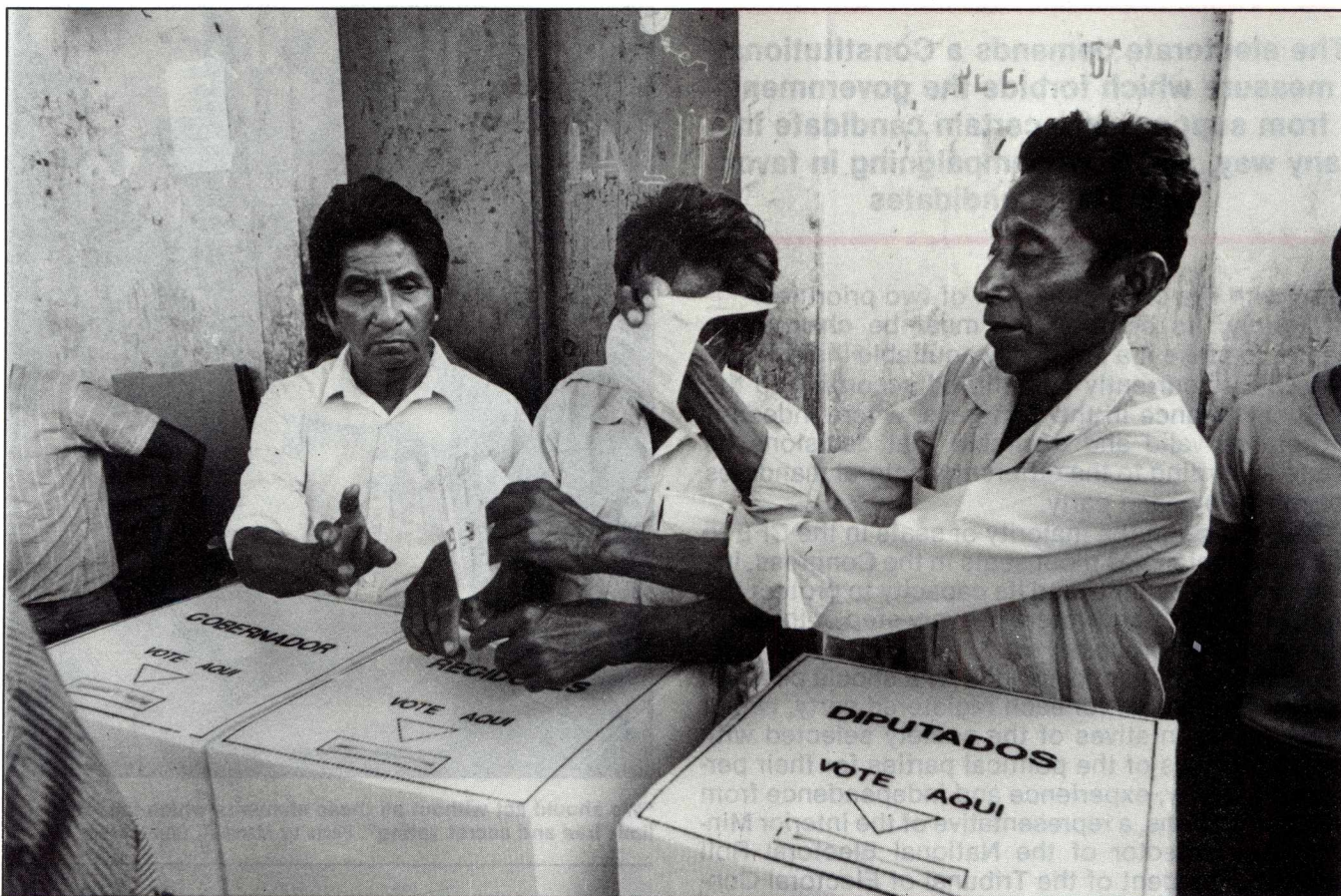
A public servant also violates the said law when he authorizes absences from work or the formation of commissions of subordinates so that these can take part in political acts organized by the governing party. During the electoral process of 1988, for example, tens of thousands of teachers, as well as other public servants, were named “promoters of the vote”. The PRI, which has hardly a thousand civil servants in its ranks, grows astronomically during presidential campaigns, thanks to abundant groups of “commissioned” persons provided by State ministries and by public companies.

The CFE should be on the alert to call on the corresponding authorities to investigate and take other actions to discipline public offices where offenses of this kind take place.

Equal Treatment for All Parties

However this vigilance is not sufficient for the purposes of supporting the new stage of consciousness and political action that we wish to inaugurate. The electorate now demands a Constitutional measure which forbids the government from supporting a certain party in any way, and from campaigning in favor of certain candidates.

The new Electoral Code would include defin-



"The starting point should be respect for citizens' political rights". Photo by Marco A. Cruz/Imagen Latina

itions of the following electoral offenses:

- Use of government funds and materials, public offices and public companies, for activities of any kind aimed at favoring campaigns of candidates or parties; and
- The active participation of public employees in political activities during work hours.

The distorted ubiquity of the government which infests the national electoral atmosphere has to be eradicated. This matter just in itself holds the key to the success that we hope to have in the reform of our electoral system. A political reform without this element — which merits the category of a Constitutional amendment— would not be possible.

Now it is imperative to make adjustments to the party now known as "official", reducing it to the condition of a party on a normal scale which has to confront its opponents without privileges.

Only in this way can we overcome the category of a Nation only partially democratic and even authoritarian, as we are classified on an international level. Only in this way will we achieve credibility in our

Every citizen has the right to participate on equal terms in electoral processes without interferences, pressures or coercion of any kind

Sanctions should be applied to those radio and television stations which do not respect the Federal Electoral Commission principle of equal time for all parties

democratic processes. Only in this way will Mexico take authentic steps towards modernity.

Equilibrium in the Federal Electoral Commission

The State is responsible for the preparation, realization and vigilance of electoral processes. This task implies a compulsory and obsessive respect for the principles of impartiality and equilibrium so as to protect the interests of a varied spectrum of political positions and ideologies, each of which are equally valid and respectable in the democratic paradigm.

This is why the composition of the CFE has to be re-structured. The exaggerated weight which the Law grants to the majority party is incompatible with the mission of the CFE, which needs to be a strong institution which embraces the aims of democracy, translating these into the many concrete decisions demanded in the political operation. The CFE exists to defend equality of opportunity in citizens' access to the exercise of public power.

— The CFE must be urgently modified for its central

The electorate demands a Constitutional measure which forbids the government from supporting a certain candidate in any way, and from campaigning in favor of certain candidates

task, with the clear definition of two priorities:

— Firstly, its composition must be changed in depth, to make it a politically equitable instrument. The CFE is currently constituted according to the political balance in the Congress, where indeed it is correct, valid and desirable that decisions be made according to the different electoral mandates exercised by each party.

But, to assign the majority of seats in the CFE to the party which has most seats in the Congress, impedes its impartiality and its capacity to protect the rights of parties and voters in every step of the intricate electoral process.

For impartial functioning, the CFE should be made up of one member for each registered party, two or three representatives of the society selected with the consensus of the political parties for their personal integrity, experience and independence from party affiliations, a representative of the Interior Ministry, the Director of the National Electoral Roll and the President of the Tribunal of Electoral Contention. The President and the Technical Secretary of the Commission will be elected by the Commission's members.

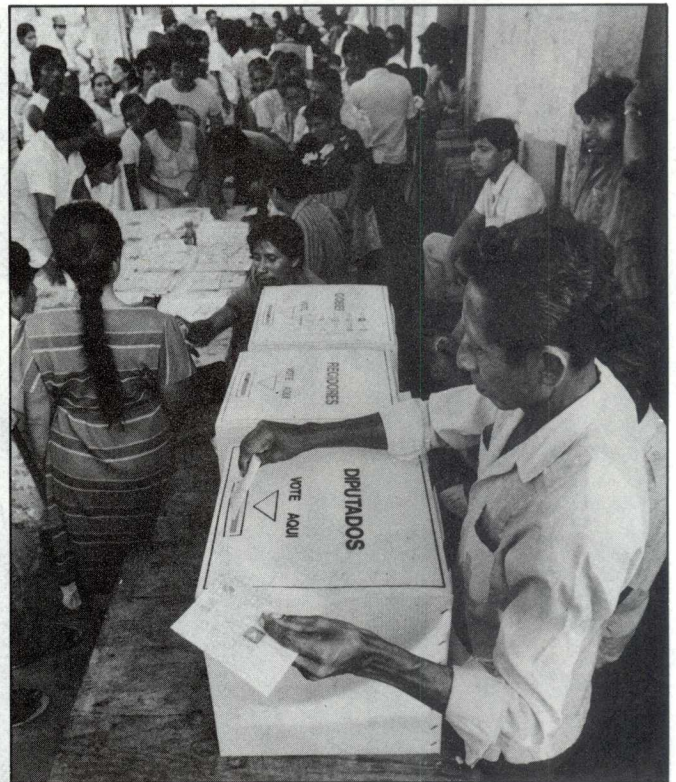
— Secondly, the Commission must be economically independent, with its own budget approved by the Chamber of Deputies. In this way its autonomy will be real, and it will stop depending on the Interior Ministry for all elements of its work.

The functions of the CFE include the naming of the Director of the National Electoral Roll and the presidents and secretaries of local commissions and district committees. It should also watch over the use which parties make of their incomes, be these private or public, thus assuring that the parties give accounts to citizens about their use of funds.

The decisions of the CFE about who earns the majority of votes in any district should be final. Currently the CFE decision is passed on to the Congress, where it is debated in each of the Chambers to confirm the number of seats won by each party.

This very particular system of self-calification by the legislature must end, so that the CFE makes its decisions without manipulations or struggles where the party with most weight imposes its option. In cases of disagreement with any resolution,

The composition of the Federal Electoral Commission must be modified, to make it a politically equitable instrument



"We should act without all those elements which impede or limit free and secret voting". Photo by Marco A. Cruz/Imagen Latina

the Tribunal of Electoral Contention will pronounce the last word, which cannot be challenged.

It was this very Tribunal which saw its functions limited during the 1988 electoral period. The main element which frustrated its efficacy was the requisite of formal public proofs demanded in cases where electoral results were challenged. The majority of incidents which occur during an electoral process cannot be sufficiently appreciated through such rigid mechanisms. The fact that citizens had to produce public documental evidence to back up a complaint was sad, ironical or perhaps even perverse. Our Code of Civil Procedures lists other kinds of proofs which should also be admitted, such as testimonies, confessions and photographs.

Confidence in Mexico is at Stake

Finally, we will look at the lessons learned from the 1988 electoral process.

Everything indicates that in the future the Presidents of Mexico will not win an absolute majority in the elections. The Mexican electorate is heading towards a democracy with a diversity of political parties: the two-party system which has so worried the official party has disappeared as a real possibility.

Given these circumstances, it would be a good idea to establish a second round of elections, to be held at a pre-determined date shortly after the first round, so that citizens have the possibility of expressing their definitive preference between the two candidates who won most votes in the first round.



Protest against the Tabasco election results. Photo by Marco A. Cruz/Imagen Latina

Giving the President of the Republic a clear majority will enable him or her to develop a more effective relationship with the Congress, which in its turn will be increasingly more diverse. This system should induce the President to create a more convenient plurality in his Cabinet.

Summarizing the proposed reforms:

a) To the Constitution:

- Include Constitutional individual guarantees to participate in electoral processes through the issue of a free, personal and secret vote.
- Extend Constitutional protection against all interference, pressures or coercion which impede or weaken the effectivity of the electoral suffrage.
- Prohibit the government from participating or favoring by any means any determined candidate or party.
- Establish the system of a second round of elections for President.

b) To the Federal Electoral Code:

- Establishment of a process to provoke the effective intervention of public officials to end immediately any act or omission which interferes in the free issue of a free, secret and personal vote.
- Acceptance of other proofs, apart from public documents, to substantiate complaints about the electoral process.
- The definition of new electoral crimes with respect to the communication media and to the use of public resources to the detriment of freedom in voting.

— Modification of the actual composition of the CFE and additions to its powers.

Today elections are being prepared in various states of the Republic, and denunciations have already begun to be made about irregularities and interferences which obstruct the free exercise of the right to vote.

The Mexican electorate is heading towards a democracy with a diversity of political parties

The electoral reform can wait no longer. It should not be superficial, nor should it be treated by the authorities as a simple procedure to simulate the fulfillment of promises made on December 1 (when President Salinas de Gortari took office).

The fundamental reform of objectives and of certain dispositions of the Federal Legislation should serve as an example which inspires in each of the State Legislatures similar modernizing actions. The session of Congress due to be held in the middle of this year to discuss this matter should not be put off. Electoral reform is being demanded by Mexican citizens.

Confidence in Mexico is at stake. □