

Antonio Tenorio Adame

# RESPECT FOR CITIZENS' WILL

In the course of this debate on electoral reform, it is now time to discuss electoral disputes. This field can essentially be reduced to an examination of those bodies responsible for determining the validity of elections.

On this occasion we consider it appropriate to discuss certain fundamental principles which regulate the electoral process, as well as the process itself, that is, from the formation and installation of each voting booth, the local and state committees, the Federal Electoral Commission, the electoral tribunals, to the body responsible for the final and definitive qualification of the elections, the Congress.

## About the Qualification of Elections

When we talk about the qualification of elections, we are talking about a complete process, nothing simple, nothing easy. According to our point of view, this process, we repeat, begins in the formation and installation of each of the directive committees in charge of voting booths. We are of this opinion for historical reasons, for example, the legislation issued by the Spanish courts of 1810-1812, gave really transcendental definitive powers to the local electoral base to qualify the electoral process held there, including the examination of eligibility to vote, and resolution of doubts and complaints to determine whether electoral crimes, such as bribery and corruption, had been committed.

The legislation of the Courts of Cádiz established a system of indirect elections, and had some serious limits on the suffrage. However, here we want to emphasize that the powers given to the local committees, were also assumed by District and provincial committees, and the process was finalized with the intervention and the definitive qualification of the elections by the Courts.

The local committees known as Juntas, were made up by neighbors and residents in any given district, and were presided over by the political head or Mayor of the city. Decisions were made according to the majority of votes. They had the power to resolve, with further appeals being permitted, complaints about bribery and corruption, and could also impose the corresponding political sanction, for example, quitting them the right to vote or to be voted to a political position, although these Juntas did not have the power to impose a penal sentence for electoral offenses.

The last decision making body in this system were the Courts or the Congress, made up by the presumably elected deputies, who worked in commissions to examine the papers relating to each deputy and then issued the respective qualification. This decision was final and no appeals were permitted once the Congress declared the deputies formally elected.

---

**The electoral legislation which regulates all the stages involving electoral disputes, at present confronts a very serious problem, that of a massive and generalized electoral fraud. The challenge for us is how to avoid this**

---

This legislation from Cádiz, in spite of its imperfections, was a big and important step in the path towards democracy. It was taken as the base for electoral legislation made in Mexico in 1823-24, although only with respect to the election of deputies, not for that of senators, nor of the president of the federation, nor of the magistrates of the federal justice system (Supreme Court of Justice). These were elected by state legislatures, in the first phase, and by the Chamber of Deputies with one



Cuauhtémoc Cárdenas in the demonstration in favor of the registration of the new Democratic Revolution Party. Photo by Angeles Torrejón/Imagen Latina

vote for each state (independently of how many deputies were accredited).

As time passed, this legislation was modified; passing through a period of federalist romanticism, the direct election of Presidents of the Republic and of Senators by popular vote was admitted. In the case of Judges unfortunately there was a return to the almost royal procedures of nominations. One aspect which has remained constant, without any change, is the final and definitive qualification by the Chambers of the election of each of its members, as well as the decision by the Chamber of Deputies on the election of the President.

In the past elections of July, serious problems arose which led us to present a ridiculous demand to the Supreme Court, and we also resorted to the no less ridiculous Electoral Tribunals which were rejected at the very moment in which they began operating.

If this were not enough, the recourse of investigation, entrusted to the Supreme Court, also failed, because the Court, unfortunately, refused to act upon a demand presented by a man who re-

ceived at least six million votes during the past elections. Due to this, the Court has lost all respectability, at least in electoral matters: to put it simply, it could not, nor can it be impartial, because its economic and moral dependence on the Federal Executive does not permit such impartiality.

The electoral legislation which regulates all the stages involving electoral disputes, at present confronts a very serious problem, that of a massive and generalized electoral fraud, and the challenge for us is how to avoid this. That's why we ask ourselves: must we ask for a change in the legislation which regulates the processes which judge the validity of elections? We have already tried out various formulas: is it a good idea to try out new ones?

The answer is of course, yes. We must demand that the existing legislation be changed. At the end of this discourse I will dare to suggest the introduction of new formulas for determining the validity of elections, but I would like to make one point clear at this stage: in no way do I believe that the electoral fraud is caused by imperfections or deficiencies in the current legislation, or that the existing qualifying bodies (voting booth committees, Tribunals, Congress and the Supreme Court) are in themselves bad. No.

Like it or not, the electoral fraud is caused by persons, and by the political behaviour of authorities towards persons who are involved in the said process.

That is to say, the Tribunals failed in their work

---

**Electoral fraud is not caused by defects in the current legislation, rather, it is due to the political behaviour of individuals**

---

---

**The Senate has never been, more than the Chamber of Deputies, genuine representative of the federal interest. In any case, both trample on the federal pact when they act in the shadow of the official party**

---

because their members failed and acted partially, the Court also failed because of its members, who lacked —and here I do not wish to offend anybody— a real consciousness of their public and historic responsibilities; the Congress failed because the dominating group prostituted itself and imposed its majority over the evidence of electoral packages which they refused to open, either stubbornly or “wisely”. The system failed because the persons who constitute it, failed. The very Interior Minister of that time still has a formal accusation against him in the Attorney General’s Department, which is sure to do nothing, because its members also fail in their duties.

#### **About Principles**

The electoral fraud which is the problem of our times, is not due to the legal structure, although it is necessary to make suggestions for its improvement, to incorporate advantages which can be appreciated in the legislations of European nations, for example, or in the neighboring countries of Latin America. But this will be of no use at all, because the problem is generated by individuals, and consists of the unsatisfactory political education and illegal conduct which prevails and which is allowed to go unpunished.

In other words, the problem is not one of legal structure or of mere electoral and juridical techniques, but one of failure of the principles which regulate not only electoral processes which are the most sacred part of democracy, but which also govern social coexistence. This failure affects the most elemental part of the principle of legality: it tramples on this principle, damages it, with the absolute complacency and support of officialdom.

This situation is truly serious because it places us in the barbarity of prepotent and arbitrary abuse. This is not modernity, it is definitely not democracy, nor is it work in service of the nation, rather, it is use and abuse of the nation and of its people.

I repeat: the dominant party shamelessly and openly orders its members to break the rules in the electoral processes.

This is why the people have lost confidence. Their loss of confidence is total and complete, because of the lack of respect for legal behaviour, and for the excellence and distinction of moral behaviour —two requirements without which, authority loses its authority.

As we have seen, repeated illegal practices have now deeply affected the very spheres of morality. But the principles of morality and legality are not the only ones that have been betrayed.

With this customary form of proceeding immorally and illegally, other principles have also been affected —principles which are fundamental pillars of our republican and democratic institutions. I refer to the principles of the so-called division of powers and to that of federalism.

It is better that we recognize that, of the division of powers, only the formalities remain, without real and effective content. The counter-weights established to guarantee legal order, the rights and freedoms of persons, established above all as an integral part of the division of powers, do not exist.

In this power game, what part does the Congress play? It is bad to say this, but it is no worse to recognize it: it plays a subordinate part. To prove this, one just has to examine the behaviour of the Congress, as a body encharged with the final decision on the validity of elections, in its judgement on the elections of past July 6: the fraud committed in those elections is now a memorable event, written indelibly in the pages of Mexico’s history. Or one can examine its role with respect to the foreign debt: the Congress has supported the payments made by the Federal Executive although the formal approval of the Congress has not been granted and thus the payments lack full legality, because they violate the eighth item of the 73rd Constitutional article.

When has the Congress of the Union insisted on the due carrying out of responsibilities by state officials? Their errors and mistakes are obvious, they have sunken the country in the greatest economic crisis the nation has ever known. This is even recognized in the past government’s National Development Plan. When has the official majority in the Congress ever abandoned its subordination to the slogans of the Executive? There is a widespread opinion that our system does not correspond exactly to a parliamentary regime.

As for the legal system, lawyers know that tricks and contradictions exist everyday in the courts especially when the interests of workers and peasants are at stake. Many of these corrupt actions are motivated by hunger, hunger imposed by the said Executive with its miserable wages which condemn workers to economic dependence.

Finally, the Senate is said to be an excellent form of representing federal interests, and thus is not subject to reforms on the numbers of individuals who compose it: two for each state. But really, deep down, this is nothing but a hoax, a mere pretext which facilitates the conservation of the absolute domination of the official party in the Senate. Let us examine this further.

Given that we usually celebrate the 1824 Constitution, precisely so as to demonstrate federalist

---

**Structural changes are needed so as to put a legal brake on fraudulent actions which are currently allowed to go unpunished.**

---

love and devotion, why don't we recall some of the federalist principles outlined in that Constitution? For example, the number of Senators was established with reference to the proportion these would have with the number of Deputies —not very high because at that time the population was small; why do we forget that the Chamber of Deputies was assigned the most federalist functions of all? These included the election of the President and vice-president of the Republic, and of the Supreme Court judges. Furthermore the Chamber voted by states, that is, with one vote per state, justly representing the federal interest.

The Senate has never been, more than the Chamber of Deputies, genuine representative of the said federal interest. In any case, both trample on the federal Pact when they act in the shadow of the official party. This party permits, without objections, that the federal Executive nominates people to all the public posts which should be determined by elections in the states and at the federal level, even though this practice goes against the internal rules of the said party, and of course, it is against the interests of the masses whose vote was denied them in the past federal elections.

Thus it can be seen that through all these kinds of illegal actions, consequence of all those immoral and illegal practices, fundamental principles of the social coexistence are now directly and gravely affected, such as the principle of legality, such as the principles inherent to the equilibrium of public

powers —and without this equilibrium the guarantees of the so-called state of law are lost— such as the principles of democratic life, putting the public peace at risk. Besides, opportunities for economic growth with social well-being have been lost, affecting the standard of living of all Mexicans, making this recede by a decade.

### Reforms Proposed

Structural changes are needed, not because the existing legal structure in itself is bad, but mainly because changes should be made so as to try and put a legal brake on fraudulent actions which are currently allowed to go unpunished.

### Call for Legality

Above all, we must make a formal call for legality. It is not good or correct to break the law. Currently we have the impression that it is easy for electoral

---

**It is in our interests to have a reciprocal vote of good faith in electoral contests, and we should all act with good faith, with respect, until we achieve respectability**

---



"The Mexican electorate is heading towards a democratic system with a diversity of political parties". Photo by Angeles Torrejón/Imagen Latina

**The official party should democratize itself internally, and at the same time, learn how to lose**

authorities to break the rules, to carry out electoral frauds with impunity. But these are very dangerous practices. The people can get tired of them, and end up defending their vote as best they can, with arms if necessary. If this were the case, we would all lose. Outside the law there is no community, nor prosperity, nor peace, there is no nation. Just consider, that those who today form a majority, tomorrow can be a minority, and can then receive the treatment they give today to those who constitute a minority.

**Call for Respect**

A call for respect and respectability is not superfluous. We all work for Mexico. We all desire the progress and well-being of Mexicans. It is in our interest to have a reciprocal vote of good faith in electoral contests, and we should all act with good faith, with respect, until we achieve respectability. Authority without respectability is no longer authority, it loses its moral entity. The current authorities, if they want respectability, should be respectful even with minorities, with those who lose in the electoral contest. The official party, hegemonic and dominant, should democratize itself internally, and at the same time learn how to lose. This is not easy. But it is more practical, more honest, more patriotic, than electoral fraud.

**Creation of Electoral Juries**

If illegal and immoral behaviour is not changed, the best technical and juridical precautions will be useless. Assuming that these minimal conditions of legality and respect exist, we suggest the establishment of a juridical and political structure, of a temporary nature, to overcome fraud and intransigence. We propose the creation of an electoral jury of a federal character, presided over by the political authority but formed by citizens elected by the political parties.

a) We propose the creation of district juries with powers to resolve and define. These juries would carry out the preliminary computation of all voting booths in their area when these have not been challenged.

b) We propose the formation of a federal electoral jury with powers to resolve and define all situations of electoral conflict: a Federal Electoral Or-

**If illegal and immoral behaviour is not changed, the best technical and juridical precautions will be useless**



A new party on the electoral scene. Photo by Angeles Torrejón/Imagen Latina

**Respect for electoral results means an acceptance of social consensus as the only source of legitimacy**

ganism which will carry out the final computation, resolve conflicts and impose sanctions for electoral offenses committed in the contested districts.

These juries should have the power to resolve definitively and irrevocably all electoral problems which might arise.

**Reform of the Electoral Calendar**

The current electoral calendar must be changed. The election of the President of the Republic must be separated from all other elections, and not combined with other elections as now is the case, causing confusions in the voter's mind and generating mountains of red tape.

In the same way, the election of each state Governor must be separated from other elections, including the direct and democratic election of the Governor of Mexico City — whether or not the Federal District is converted into a state.

Elections for federal deputies, senators, local deputies and municipal presidents should be separate.

Elections are only a pale reflection of social aspirations but up to the moment they are the only resource available for capturing the people's will.

Respect for electoral results means an acceptance of the social consensus as the only source of legitimacy and a strengthening of good government at the service of the people. □