

The Legislature that Held The Reins of Change

Ricardo Raphael*



Pedro Mery/Cuatroscuro

In Mexico, one of the most socially disparaged professions is that of legislator. Being a deputy is almost as badly viewed as being a prosecutor or a judicial policeman. In the public's imagination, the legislator is a person, both lazy and pushy, who abuses power and contributes little to society. A large part of this perception about legislators was constructed during the long decades that our country lived under a practically single-party system. Congressmen were seen as mere "hand raisers" pushing through presidential

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ills. That is why their credibility as representatives of the citizenry has been so low. Just as public officials were the employees of the president in government offices, legislators were nothing other than subordinates to the chief executive in the Congress. It is clear that after 1997 when the opposition won a majority in the Chamber of Deputies, the relationship between the executive

and the legislature quickly changed. After those mid-term elections, the legislature stopped being the president's docile pet. However, what is not so clear is that the public's perception of this branch of government has varied at the same rate as the change itself. While people no longer think of the legislator as someone at the service of another branch of government, it is true that

* Political analyst.

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in the value judgments of at least part of society, legislators are still viewed with contempt. The thing is, reputations are not changed overnight, and, when it is a matter of state institutions, the process required to make them credible is usually a long one. Mexico's legislative branch went through too many decades in a very undignified position, and a few sessions of Congress have not been enough to give Mexican congresspersons and senators the legitimacy they would need to operate correctly in a democratic regimen.

The central object of the following analysis is the performance of the Fifty-eighth Legislature.¹ To understand the role it played during its three-year mandate, we have to situate it in a broader and more slowly maturing process: the long journey the Mexican Congress is beginning with the goal of becoming a credible institution, appreciated by Mexican society. The Fifty-eighth Congress has undoubtedly been one of the most questioned by the public. Columnists, journalists, reporters and commentators from every side have spent many hours questioning its performance and pointing out its mistakes. However, making a serious commitment to objectivity, it is undeniable that this legislature has been one of those that worked the most in contemporary Mexico. To draw an acceptable balance sheet, we have to look at some numbers. During its short life, the Fifty-eighth Congress deliberated on 1,279 bills, passing 218, several of which were of great importance

for continuing on the road of the democratic consolidation of the Mexican state. It is also fair to say that during this legislature's mandate, some of the laws the country most urgently required remained mired in the swamp of useless partisan and bastardized electoral disputes. Concretely, the labor, fiscal, energy and telecommunications reforms were not felicitously concluded, thus continuing to feed the popular belief that legislators in Mexico earn high salaries, talk a lot and are useful for practically nothing. In contrast with this view of things, in this article, I want to express that, at the end of the day, the Fifty-eighth Congress contributed laws that are going to transcend our time because they gave the Mexican legal system very well drawn lines of legal modernity. And while it is true that other vitally important bills for the political community were not passed, our evaluation of the current legislature cannot be essentially negative.

The 1,279 bills that were presented to the floor of the Chamber of Deputies touched on an enormous diversity of topics: rural development, science and technology, education, the reform of the state, the fight against discrimination, health, telecommunications, women, public administration, indigenous rights and many, many more that show how this institution omitted very few issues of interest to Mexican society. Over the last three years, an average of one bill a day was presented on the floor of the Legislative Palace of San Lázaro: that is, 426 bills a year, or about

142 bills per session. On an average, 2.5 bills were presented per deputy and about 160 bills per congressional caucus. If we can say one thing about the outgoing legislators, it is that, as a group, they were particularly productive.

This overabundance of proposals crystallized in 218 bills passed, about 24 at each congressional session. If we consider the enormous effort required in writing a bill, evaluating its social, economic and political impact, and then getting the number of votes needed to get it approved, and we add that, in addition to the legislators themselves, a very large number of public officials make observations so the executive does not veto it, it is undeniable that the current legislature invested an enormous amount of energy in its work.

Putting to one side the number of bills approved to look at the quality and depth of the legislative endeavor, we can say that several of the bills approved by the Fifty-eighth Congress may be considered re-foundational for the future of the Mexican state. The first, chronologically, was the law on rural development that —people still remember— was voted unanimously by the Congress and then vetoed by the executive. The effect this veto produced in the relations between the two branches of government was dramatic. And, nevertheless, once the president presented his observations, the bill went back to committee and was later passed by the full chamber. Then came the Law of Indigenous Rights and Culture, which, once passed, put an end to the long conflict between 1994 and 2000 in the state of Chiapas. This was a bill without a single author. Neither the Zapatista National Liberation Army (EZLN), nor the administration, nor any of the con-

gressional caucuses could take credit alone for either the constitutional reforms or the law itself. And, despite the fact that some of these parties complained about the final result, what is certain is that the law achieved sufficient legitimacy to take the discussion about ethnic discrimination in our country out of the stalemate it had been in since the armed uprising.

A little later came the Law of Transparency and Access to Information, also voted unanimously by both chambers of Congress, which forces the state to make all its information public and clearly stipulates the time limits for this to be done.² This law is perhaps one of the most important ever passed in our country. It is an evident symptom of the democratic evolution Mexico is continuing to experience. It opens the doors for society to be informed of all public-governmental matters precisely when events are taking place or, in very specific cases, so the government cannot perpetually withhold information that is of general interest. In this same dynamic of the civilizing process is the Law of Professional Service, just as important as the previous law. Thanks to this bill, the public administration can no longer be booty for parties, cliques and sectarian complicity. When this law clearly regulated the career of the public servant and at the same time protected him/her from pressure from interest groups and political parties, it separated what must be separated in any country that considers itself democratic: electoral competition from the administration of public goods. Another bill that unfortunately was ignored by the media and that, nevertheless, transformed the notion of civil rights that Mexico had until recently used is the

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reform of the third paragraph of Article One of the Constitution, which guarantees the individual the right to not be discriminated against in our country. Complementing this, the Fifty-eighth Congress approved the Law to Prevent and Eliminate Discrimination, which forcefully regulates this individual right, compelling citizens' rights to evolve, just as happened in recent years in all democratic countries, to protect people vulnerable because of their identities from discrimination.

This sample of bills passed allows us to say that the Fifty-eighth legislature responded, both qualitatively and quantitatively, at least partially to the commitment it acquired with the balloting on July 2, 2000. Now, this analysis would be incomplete if we left out four issues that the outgoing legislature could not deal with completely: the fiscal, energy, labor and telecommunications reforms. In the political context of these bills, the possibility of the legislature finalizing with complete success was lost. However, the analysis of the legislative processes that each of these bills went through leads to the idea that the legislature is not the only entity responsible for their erratic course. For example, in the case of the fiscal reform, we can say that the different bills presented by the executive to Congress were mortally wounded from the start. This is for two reasons: first, the Finance Ministry pompously baptized as a fiscal reform a proposal that was really just a bill seeking to slightly increase tax revenues. In ef-

fect, the aim of the executive's bill was to increase state revenues by only two percent of the gross domestic product, which, clearly was going to give a breather to public finances, but only that. It was not a proposal that truly structurally transformed tax collection in our country, and this sapped the executive's political strength at the moment of congressional negotiations. In the second place, this bill proposed applying the VAT to medicine and food as a solution, a regressive, and therefore unpopular, measure. In other words, it was the federal executive that raised the political costs for the legislature approving such a tarnished bill.

The labor reform also bogged down due to the executive. Two different bills have circulated: one developed by the National Workers' Unity and the Party of the Democratic Revolution, and the other written by the Ministry of Labor in 2002. Clearly a consensus between the two is impossible. The former emphasizes the need to guarantee the freedom to organize unions, that is, that labor relations be ruled by democratic practices. By contrast, in the latter bill, the interests of the large workers' confederations that for too many years have enjoyed the impunity to continue to direct union life through authoritarianism and patronage are protected. In this concrete case, the government should have chosen between a labor reform that bet on the future and another that continued to maintain the status quo of the last 70-odd years. The federal government's

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bill chose the second option, making it materially impossible for the Congress to develop the labor reform this country needs.

With regard to the energy reform, it should be said that here Congress was unable to form a sufficiently broad majority to appropriately resolve the legislative process begun by the executive's bill. It is clear for anyone who wants to put to one side prejudice and dogmatism that both national and international investors consider this bill almost symbolically marked with the sign that structural reforms to the Mexican economy are not prospering. At this point it is no longer important to know if opening up the energy sector to foreign investment is really indispensable for guaranteeing the supply of gas and electricity. What is certain is that not having approved the electricity-sector reform has been sufficient proof that Mexico's recently inaugurated democracy is unable to resolve the great problems of the national economy. Now, for all that this fact is glaringly obvious, several of the country's most influential legislators decided to make the non-privatization of the electricity sector their great political-electoral crusade. With that, they polarized the discussion to the point that it became impossible to find coordinates of agreement among the different congressional caucuses or even inside them. Perhaps no other failed piece of legislation tarnished the image of the Congress more than the electricity bill.

Finally, it would be unjust to place the delay in passing the telecommunications reform on the same level as the others. It is a law that needs to take into account too many technical and economic considerations to run the risk of passing it in a hurry. This project will have to wait until the next legislature to mature.

If this analysis is objective, it is clear that much of what public opinion says about the Fifty-eighth Congress has been unfair. From its first months, an adverse, dense and critical environment was created around the current Congress. In addition to the bad reputation with which the Congress entered the era of Mexican democracy, this was due to the increasing tension between the prestigious figure of the president and the scorned Mexican Congress. At that moment and during the first two years of its mandate, public opinion resolved this dichotomy in favor of the chief executive. Although at his inauguration, Vicente Fox coined the phrase, "The president proposes and the Congress decides," the government of change very quickly began to blame the legislature for everything the administration failed to solve. It would be no exaggeration to say that instead of making use of the enormous legitimacy with which Vicente Fox went into office to fortify the entire Mexican state, the tension between these two branches of government injured the dignity of one to the benefit of the other. The phrase oft-repeated by the president and now a campaign slogan was that

the Congress had put the brakes on change. Anyone who has heard the chief executive or his closest collaborators directly knows that this phrase includes the legislators from the National Action Party, who on several occasions have been seen as detractors of the president's power. Pointing the finger at Congress to blame it for all the lost battles is irresponsible because even if the new legislature were made up only of PAN deputies, Congress could never again be the docile little animal it was in the past. But above all, it is irresponsible because the Congress that will session as of next September will be just as plural as the outgoing one.

This shows that, at the end of the day, the electorate did not believe the hype against Congress. The ratification of a plural composition demonstrates that, even though slowly, the citizenry is putting more and more stock in what goes on in the legislature. That is, after long decades of presidential omnipotence, citizens prefer to put a harness on the president than to be in a situation in which he can go forward unbridled. In the last elections, the message from the electorate was loud and clear: it is appropriate that someone hold the reins of change. And, this shows that the construction of legislative legitimacy has moved up another step. In that sense, it will finally be obvious that the Fifty-eighth Congress contributed what it should have so that this could happen. **MM**

NOTES

¹ The Fifty-eighth Congress sat for the first three years of President Vicente Fox's administration. [Editor's Note.]

² The reader will find an article about the importance of this law in this issue of *Voices of Mexico*. [Editors Note.]