

9-29-2004

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## Recommended Citation

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## Mexico City Mayor Questions Independence of Judicial Branch

by LADB Staff

Category/Department: Mexico

Published: 2004-09-29

The controversy regarding the possible ouster of Mexico City Mayor Andres Manuel Lopez Obrador has raised some questions about whether Mexico has truly implemented political reforms during the past decade. One of these questions, raised by Lopez Obrador, is whether the changes in the Mexican government have truly led to an independent judiciary.

Lopez Obrador a member of the opposition center-left Partido de la Revolucion Democratica (PRD) has accused Mariano Azuela Guitron, chief justice of the supreme court (Suprema Corte de Justicia de la Nacion, SCJN), of plotting with President Vicente Fox's administration to orchestrate his ouster. Azuela met with Fox in April, shortly before the Procuraduria General de la Republica (PGR) filed charges against Lopez Obrador for violating the Mexican Constitution by ignoring several court orders in a land-dispute case in Mexico City.

The alleged constitutional violation stems from a case in 2001, when a city administrative judge found the mayor guilty of ignoring a court order blocking construction of an access road to a new hospital across a plot of land in the wealthy Santa Fe neighborhood of the capital. A panel of judges on a federal circuit court later supported the ruling in a 2-1 vote after the city appealed (see SourceMex, 2004-05-06).

### *Mexico City mayor says courts conspire with Fox government*

Lopez Obrador said the timing of the Azuela-Fox meeting was suspicious because it preceded the decision by the PGR to seek charges against him. Also present at the Fox-Azuela meeting were Interior Secretary Santiago Creel, Attorney General Rafael Macedo de la Concha, and presidential legal adviser Maria Teresa Herrera. "We all know what this meeting was about," said Lopez Obrador, who then alluded to the period from the 1930s until about 2000, when the courts simply served to rubber-stamp the decisions of the executive. "The heads of the executive and judicial branches met to plot against me. It's perfectly clear."

The Mexico City mayor has also questioned the impartiality of the lower courts, which ruled against him in the cases involving the land dispute. Lopez Obrador's charge that Fox and Azuela plotted against him is the latest in a series of conspiracy accusations that the mayor has brought against the Fox administration. He earlier accused his critics of conspiracy when separate videotapes surfaced showing Mexico City treasurer Gustavo Ponce in Las Vegas, Nevada, spending lavishly and Mexico City legislative leader Rene Bejarano accepting bribes (see SourceMex, 2004-03-10, 2004-04-21 and 2004-05-12).

Several public-opinion polls show Lopez Obrador leading his potential rivals in voter preference, even though he has not officially declared his candidacy. While his core support has been in Mexico

City and surrounding areas in Mexico state, Lopez Obrador's popularity is growing in other parts of the country.

One poll by the Mexico City daily newspaper Reforma in August showed Lopez Obrador ahead by about five percentage points in the traditionally conservative city of Guadalajara. "Not even Fox was this strong at this point [of the campaign]," said Javier Hurtado, a political scientist at the Universidad de Guadalajara (UDG).

### *Lopez Obrador's fate in hands of Congress*

Lopez Obrador may not get a chance to represent his party in the 2006 election if he is found guilty of violating the Constitution. The initial decision on whether Lopez Obrador violated the Constitution is in the hands of the Congress, which has yet to set a date to vote on whether the mayor should be stripped of his immunity.

Lopez Obrador has questioned whether he would get an impartial hearing and has suggested that key members of Congress from Fox's center-right Partido Accion Nacional (PAN), the former governing Partido Revolucionario Institucional (PRI), and the Partido Verde Ecologista Mexicano (PVEM) are also involved in the plot against him. The mayor blames the Fox government and the PAN for hatching the plot, but he also has accused the PRI of going along with the conspiracy because of its aspirations to regain the presidency in 2006.

The PRI, however, denies that its decision to back the ouster of Lopez Obrador has anything to do with the 2006 election. "We do not need to remove Lopez Obrador to win the election in 2006," PRI president Roberto Madrazo Pintado told reporters. The Chamber of Deputies already has handed Lopez Obrador several setbacks in his efforts to have the complaint against him thrown out. With support primarily from the PRI and the PAN, the committee in charge of considering the merits of the case (Seccion Instructora) discarded 22 points presented by the mayor to invalidate the complaint.

The committee also ruled against Lopez Obrador's request that Fox, Macedo, Creel, and former presidential chief of staff Alfonso Durazo be summoned to testify. The mayor considers the four officials key to proving that a plot exists against him. Many political analysts believe that the PRI ultimately will vote against removing Lopez Obrador's immunity because of his high popularity.

In a recent public-opinion poll by Grupo de Economistas Asociados (GEA), one of every two respondents said they would consider the 2006 election illegitimate if Lopez Obrador were barred from participating. GEA analyst Guillermo Valdes raised the possibility that a verdict banning Lopez Obrador from the election could easily incite public violence.

A PRI faction in the lower house and small parties such as the Partido Convergencia por la Democracia (PCD) and the Partido del Trabajo (PT) have said they would join the PRD in opposing Lopez Obrador's ouster whenever a vote comes before the full Chamber of Deputies. Analysts said Lopez Obrador may well survive the ouster attempt, but he will still face a difficult time ahead if he

decides to run for the presidency. "He will be a magnet for political attack from now until after the election even if he wins," said Dan Lund of Mund Americas polling agency.

### *Fox, Chief Justice Azuela deny conspiracy charge*

The Fox-Azuela meeting takes on greater importance because Lopez Obrador could presumably take the case to the SCJN if the Congress were to decide that his actions merited removal from office. Azuela and a Fox-government spokesperson acknowledged that the meetings in April took place, but they denied that there was any discussion of bringing down Lopez Obrador. "We flatly deny any notion of a conspiracy, any notion of a political action against [Lopez Obrador]," presidential spokesman Ruben Aguilar told reporters.

Aguilar said the April meeting was part of the new "democratic reality" where branches of government consult with each other as equals. "Any democratic regime wants dialogue among the branches," he said. Azuela said his discussions with Fox did not involve Lopez Obrador. "In that meeting, we touched on issues related to situations derived from sentences issued previously by district judges and confirmed by circuit courts," the chief justice said. Retired SCJN justice Juventino Castro criticized Lopez Obrador for launching a campaign to discredit Azuela. "There is no legal code that prohibits such meetings between the judicial and the executive branches," said Castro.

Senators from all parties defended Fox's right to meet with Azuela, although PRD members called on the two sides to reveal the full content of their conversations. "What could be an issue is whether there was a political agreement on a matter that is the sole domain of the SCJN," said PRD Sen. Jesus Ortega. "Justice Azuela and President Fox have to come clean on the content of their conversations."

Some critics accused Lopez Obrador of hypocrisy because he has held several meetings with former chief justice Genaro Gongora Pimentel. In one instance in 2003, Lopez Obrador met with Pimentel at a time when the court was deciding the legality of a proposed transparency council for Mexico City, which the mayor opposed.

Still, some political analysts agreed with Lopez Obrador that Azuela had no business meeting in secret with Fox. "The head of the nation's highest court has no reason to meet in private with the president, much less to discuss issues that are strictly judicial," said columnist Jesus Silva Herzog in the Sept. 20 issue of the daily newspaper Reforma. "With his lack of prudence, Justice Azuela has severely damaged the prestige of the Supreme Court."

### *Mayor's potential candidacy sparks debate over "populism"*

Lopez Obrador's candidacy has raised some concerns among the business community, which fears a return to the massive government involvement in the economy that prevailed in the 1970s and early 1980s. Mexico's shift toward a more market-oriented economy began during the administration of former President Miguel de la Madrid (1982-1988). This policy was strengthened during the administrations of former Presidents Carlos Salinas de Gortari (1988-1994) and Ernesto Zedillo (1994-2000) as well as under President Fox. Many PRI and PRD critics, including Lopez Obrador, contend the free-market policies have benefited only a small percentage of the Mexican population while increasing poverty.

The Mexico City mayor has taken steps to help the poor, such as providing subsidies to the elderly in the capital, creating a program to distribute school supplies to low-income children in the public schools, and handing out free food in the Zocalo in the center of the city. Lopez Obrador has also shown a willingness to devote money to public-works programs, such as the construction of a controversial second level on the city's highways. The Mexico City mayor has left no doubt that he wants his policies to be implemented at the national level. At a rally in Mexico City in late August, he presented a 20-point social and economic plan that outlined his proposals for greater government involvement in the economy (see SourceMex, 2004-09-08).

Lopez Obrador's success in appealing to a wide range of the population in Mexico City and other parts of the country have earned him the reputation as a populist, at least among the business community. At times referring directly to Lopez Obrador and at other times speaking in general terms, several business leaders have warned about the rise of populism in Mexico and elsewhere in Latin America.

Mexican entrepreneur Carlos Slim spoke about a "nostalgia for populism" during a speech at an economic forum in Barcelona, Spain. "It is no longer important for the state to maintain control of economies," said Slim. "Private interests both national and international must participate more, because there's no question that a business person is more efficient than a politician."

Responding to Slim's speech, Lopez Obrador said the concerns raised by the Mexican businessman "do not apply to me." Slim, who has had a cordial relationship with Lopez Obrador, has also criticized Fox's economic policies, particularly the focus on controlling the country's deficit (see SourceMex, 2003-07-02).

Other business leaders like Jose Barraza of the Consejo Coordinador Empresarial (CCE) and Alberto Nunez Esteva of the Confederacion Patronal de la Republica Mexicana (COPARMEX) have not been shy about directly criticizing Lopez Obrador. "Of course we're worried," said Tomas Lopez Miranda, regional president of the Camara Nacional de la Industria de Transformacion (CANACINTRA) in Jalisco state. "In Lopez Obrador we haven't seen a single objective action in line with supporting the industrial sector."

Referring to the government policies during the administrations of former Presidents Luis Echeverria Alvarez (1970-1976) and Jose Lopez Portillo (1976-1982), Barraza warned that populism "has always ended in tragedy."

But analysts counter that government control of the economy was not the main problem during the Echeverria and Lopez Portillo years, but the corruption that accompanied such control. Columnist Fred Rosen of the Mexico City English-language daily newspaper The Herald said the populist model came to be associated with the exchange of favors for votes and political power.

"Whatever its merits, the argument goes, the model was corrupted by the governments of Echeverria and Lopez Portillo in the 1970s and early 1980s," said Rosen. "But where populism has been fused with an active support for democratic institutions, the results have been different, and

the 'populist' honoring of a social contract has often played a crucial role in democratic, economic, and political development."

President Fox has weighed in on the discussion, also denouncing the trend toward populism. Speaking in a video-recorded speech to participants at a business-ethics conference, Fox said that Latin America must focus its efforts on developing a socially responsible market economy to resist what he called "populist proposals that divert us from the true route to development."

Some of the proposals presented by Fox, however, advocate greater government intervention. "We must begin to channel still more public and private resources toward the fight against poverty and marginalization," the president said. "Governments have the undeniable responsibility to attend to the needs of those who have the least." (Sources: Reuters, 09/20/04; Spanish news service EFE, 09/11/04, 09/18/04, 09/26/04, 09/27/04; El Financiero, 09/21/04, 09/22/04, 09/27/04, 09/28/04; Agencia de noticias Proceso, 09/28/04; La Jornada, 08/23/04, 09/21-23/04, 09/27-29/04; Unomasuno, 09/20/04, 09/22/04, 09/23/04, 09/28/04, 09/29/04; The Herald-Mexico City, 09/21/04, 09/22/04, 09/27-29/04; La Cronica de Hoy, 09/21-23/04, 09/27-29/04; El Universal, 09/22/04, 09/27/04, 09/29/04)

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