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LADB Staff

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Congress Votes to Strip Mexico City Mayor of Immunity from Prosecution

by LADB Staff

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The Mexican Congress has added fuel to an electoral tinderbox with a decision that could lead to removing Mexico City Mayor Andres Manuel Lopez Obrador from office and from the 2006 presidential race. On April 6, the Chamber of Deputies voted 350-127, with two abstentions, to strip Lopez Obrador of political immunity from prosecution.

Lopez Obrador is accused of violating the Mexican Constitution by ignoring a court order in 2001 to halt construction of a road to a hospital through property that the Mexico City government had expropriated. In May 2004, the Procuraduria General de la Republica (PGR) asked Congress to allow prosecution of Lopez Obrador by removing his immunity (see SourceMex, 2004-05-26). The PGR said it was acting at the request of the courts.

The Congress took almost a year to deliberate on the request. On April 1, a special four-member committee (Seccion Instructora) finally recommended in a 3-1 vote to send the case to the full Congress for a vote. Those voting in favor of the recommendation were the two members of the former governing Partido Revolucionario Institucional (PRI) and the representative from President Vicente Fox's Partido Accion Nacional (PAN). The "nay" vote was cast by the representative of Lopez Obrador's center-left Partido de la Revolucion Democratica (PRD).

The April 6 vote in the Congress was also cast along party lines. The PRI, which holds a large plurality in the lower house, voted overwhelmingly to remove Lopez Obrador's immunity. Only 12 of the 224 PRI deputies in the lower house voted against the resolution. One dissident was Deputy Roberto Campa Ciprian, a critic of party president Roberto Madrazo.

The PAN and PRD cast unanimous votes, with the conservative party supporting removal of immunity and the center-left party opposing it. One of the abstentions was former PAN legislator Tatiana Clouthier, who left the party in March in a dispute regarding the election of the new party president (see SourceMex, 2005-03-30). The other legislator who abstained was PRI Deputy Maria del Carmen Izaguirre.

Among the minor parties, the Partido del Trabajo (PT) and Partido Convergencia por la Democracia (PCD) generally followed the PRD line, while members of the Partido Verde Ecologista Mexicano (PVEM) were divided. PGR to seek Lopez Obrador's arrest While the congressional vote leaves Lopez Obrador open to prosecution, authorities had yet to take legal action against him as of the second week of April.

Lopez Obrador, anticipating an arrest, took a leave of absence from his post and appointed his government secretary Alejandro Encinas as interim mayor. The PGR was expected to request the mayor's arrest sometime during the third week of April. He would then be imprisoned pending

a trial. If he were found guilty of the charges, he would likely be banned from participating in the 2006 election. Lopez Obrador pledged to face justice as soon as the PGR asked the courts for an arrest order. "The moment a judge receives that request, I am going to turn myself in at the jail," the mayor told reporters at his house.

If Lopez Obrador is not able to return to his post, or decides to resign, it could set up a nasty turf battle between the PRD-dominated Mexico City legislative assembly (Asamblea Legislativa del Distrito Federal, ALDF) and the Mexican Congress.

The ALDF, in defiance of Congress, passed a resolution rejecting the ouster of Lopez Obrador and then brought the matter before the high court (Suprema Corte de Justicia de la Nacion, SCJN). The court agreed to appoint Justice Olga Cordero to review the ALDF complaint to determine if there had been any violation of the Constitution on the part of Congress. If Cordero determines that there might have been a violation of the Constitution, the full court would hear the case.

The Congress responded by bringing its own complaint against the ALDF, accusing the Mexico City legislative assembly of "usurping" powers reserved for the federal legislature. The Mexican Constitution gives the federal Congress full jurisdiction over key matters in the Federal District, which comprises Mexico City. Justice Jose Ramon Cossio Diaz was scheduled to review this complaint to see whether it could be brought to the full court.

Lopez Obrador officially enters presidential race

The Mexico City mayor, who had been reluctant to formally acknowledge his presidential ambitions, officially announced his decision at a huge rally at the Zocalo, the square in the heart of Mexico City. Describing the congressional vote as a "farce" and a "dirty political maneuver," he told a crowd of more than 100,000 that he would run a presidential campaign even he were behind prison bars.

If allowed to run, Lopez Obrador appears likely to win by a landslide. Almost every public-opinion poll taken in the past 18 months has shown Lopez Obrador ahead of his potential rivals in voter preference. The most recent poll, by Instituto de Mercadotecnia y Opinion (IMO), showed Lopez Obrador with 44.4% support. In contrast, a poll released by Reforma newspaper in August 2004 showed the mayor with only 31% support (see SourceMex, 2004-09-08).

The IMO poll showed Lopez Obrador's likely rivals PRI Sen. Enrique Jackson, PRI president Madrazo, and Interior Secretary Santiago Creel of the PAN each with about 15% support. Some pollsters see the potential for Lopez Obrador's popularity to increase if he is forced to spend time behind bars. "They say that if they throw him in prison he is going to be the national hero of the 21st century. I totally agree with that," said Vicente Licona of the Indemerc Harris polling organization. Similar sentiments came from IMO president Cesar Morones, who noted, "[Opponents] aren't only doing his job for him, they are making him a national hero." The IMO poll confirmed strong public sentiment against removing Lopez Obrador from the presidential race.

Almost 59% of respondents in the poll said they would oppose removing Lopez Obrador's immunity if they were allowed to vote on the matter, while another 11% said they would abstain. This means that only 30% of respondents supported the congressional action. The Mexico City daily newspaper

The Herald said many citizens who opposed Lopez Obrador's policies also strongly opposed the congressional vote to remove his immunity. "He's an irresponsible, populist spendthrift who's running the city into debt to get himself elected president," a Mexico City accountant told The Herald. "But the way to get rid of him is through the ballot box, not by some sleazy move in Congress."

Move against Lopez Obrador seen as threat to democracy

Analysts agreed with the public perception that Lopez Obrador's removal from the presidential race would represent a huge retreat from the democratic advances attained when President Fox was elected in 2000. Fox's election ended seven decades of PRI rule. "This is a little bomb for a young democracy that's growing and developing," said political scientist Jose Antonio Aguilar of the Centro de Investigacion y Docencia Economica (CIDE). "It could send a very cynical message about the rule of law, especially if people view the government as using the law for partisan ends."

Lopez Obrador and his supporters have accused Fox of conspiring behind the scenes with the PRI to eliminate him from the race. Eduardo Diaz Gonzalez, a columnist for the daily Mexico City political newspaper La Crisis, accused Fox of joining forces with ex-President Carlos Salinas de Gortari to keep Lopez Obrador out of power. Salinas is widely suspected of having stolen the 1988 election from PRD candidate Cuauhtemoc Cardenas. Diaz said removing Lopez Obrador from the race could unleash a public reaction similar in magnitude to the Mexican fight for independence from Spain in 1810 and the Mexican Revolution in 1910, which led to the ouster of dictator Porfirio Diaz.

In his column, Gonzalez referred to Fox and Salinas as neo-Porfiristas (modern followers of Porfirio Diaz). Other analysts agreed that politics might have more to do with Lopez Obrador's removal than legal considerations. "The proceedings this week against Lopez Obrador are not about the rule of law. They're about kicking a popular leftist front-runner out of the presidential race," said Denise Dresser, a professor of political science at the Instituto Tecnologico Autonomo de Mexico (ITAM).

Dresser said the Mexico City mayor gained popularity through a combination of patronage and savvy political maneuvering, including the expansion of social programs and capital projects in the capital. "Lopez Obrador is the most popular politician in the country," said Dresser. "That makes him dangerous to an array of vested interests and explains why he has so many powerful enemies obsessed with bringing him down, including President Vicente Fox."

Attack on mayor could influence congressional vote

The congressional move against Lopez Obrador could also cause strong resentments against the PRI and the PAN. The PRI, which has held large pluralities in the Congress, could see its dominance of the federal legislature unravel in 2006 if voters decide to punish the former ruling party. The IMO poll suggested this possibility. When the question of preference was based on parties, not individuals, 36.3% supported the PRD, 26% the PAN, and 25.4% the PRI. "[The PRD] has never lead opinion polls," said Morones, who described the results as an unprecedented social and political phenomenon.

The first significant test of the anti-PRI sentiment could come in the July 3 gubernatorial election in Mexico state, which has been solidly in the hands of the PRI. The party is hoping that the

popularity of outgoing Gov. Arturo Montiel could spill over to its candidate Enrique Pena Nieto. The problem for the PRD is that its candidate, businesswoman Yeidckol Polevnsky, may lack the name recognition and the long-time ties to the party to pull out a victory.

Some PRD members have also expressed strong resentment that party leaders decided to select an outsider as its candidate (see SourceMex, 2005-02-16). Still, there are those who think the Lopez Obrador factor could unite all PRD factions behind Polevnsky, who was running third, with 25%, in public-opinion polls in February. Another factor that works in the PRD's favor is the proximity of many communities in the state to Mexico City, where the PRD has been extremely strong during the past decade.

The PRI's strength could also be tested in gubernatorial elections in Nayarit and Coahuila states this year. The party has traditionally run strong in both states, but could face increased opposition if voter rebellion against the party becomes a long-term trend. Nayarit will hold its election on July 3, the same day as Mexico state. The Coahuila election is scheduled for Sept. 25.

A recent special election in Colima on April 9 created some nervous moments for the PRI leadership because the party's candidate Silverio Cabazos Cevallos won the election by a narrower-than-anticipated margin against Leoncio Moran Sanchez of the PAN. The election was held to replace Gov. Gustavo Vazquez Montes, who died in an airplane crash in February (see SourceMex, 2005-03-02).

In the special election, Cabazos' margin of victory was only 3.7 percentage points. In contrast, Vazquez Montes had been elected by a comfortable margin, both in the original race and in a special election (see SourceMex, 2003-07-02 2003-11-05). The special election was scheduled after the results of the first race were thrown out because of election irregularities. \

Business sector worries about Lopez Obrador's economic plan

Lopez Obrador's economic philosophy has raised some concerns within the business community, particularly his plans to return to a state-run economy.

In a 20-point economic and social-development plan unveiled in late 2004, Lopez Obrador indicated that policies he has employed in Mexico City could be brought to the national level (see SourceMex, 2004-09-05). The Mexico City mayor gained strong favor with the electorate through programs of direct assistance to the poor, including subsidies for the elderly and distribution of school supplies to low-income children.

The Mexico City mayor has also suggested that his economic agenda for 2006-2012 would include a plan to "restructure" Mexico's foreign debt and a proposal to renegotiate the North American Free Trade Agreement (NAFTA) to ensure that more Mexicans benefit from the accord. Leaders of the Consejo Coordinador Empresarial (CCE) and the Confederacion Patronal de la Republica Mexicana (COPARMEX) have criticized Lopez Obrador's economic proposals and raised concerns that the industrial sector would be neglected (see SourceMex, 2004-09-29).

Business leaders also sided with the congressional decision to strip Lopez Obrador of his immunity, saying the mayor clearly violated the law. "I do not want my children and my grandchildren to inherit a populist Mexico, where the rule of law is ignored," said Raul Padilla, president of the Confederacion de Camaras Nacionales de Comercio (CONCANACO).

The business community's animosity toward Lopez Obrador is not universal, however. The Mexico City mayor has enjoyed cordial relations with millionaire Carlos Slim Helu, with whom he has collaborated on a project to modernize historic structures in the capital (see SourceMex, 2003-07-02).

Lopez Obrador's critics have raised concerns that his policies would discourage foreign investment, but some foreign business groups have dismissed this concern. "[US businesses] do not care which party is running the country, whether conservative or liberal," said Larry Rubin, president of the American Chamber of Commerce of Mexico (AmCham). "They are interested in being able to continue to invest and generate jobs."

And while the private sector is keeping an eye on Lopez Obrador's long-term economic plans, a greater concern for business organizations is the prospect of political instability. The huge displays of popular support manifested for Lopez Obrador in the days leading to the April 6 congressional hearing contributed to the sharpest drop this year in the main index (Indice de Precios y Cotizaciones, IPC) at the Bolsa Mexicana de Valores (BMV).

Many investors were worried that violent demonstrations in favor of Lopez Obrador could create instability in Mexico. The IPC recovered strongly the next day because the massive rally for Lopez Obrador was mostly peaceful and because the sharp drop in stock prices created many good buying opportunities. "As long as the laws are respected...and as long as institutions are allowed to function, there is no reason for worry," Finance Secretary Francisco Gil Diaz said in a radio interview. Eduardo Sojo, Fox's chief economic adviser, said the investment community does not need to worry about volatility as long as economic fundamentals remain strong, including low interest rates and low inflation. "We are going to have some volatility, as is always the case in these kind of situations," said Sojo.

This sentiment was echoed by Moody's rating service, which said the process against Lopez Obrador by itself would have no bearing on its recommendations for investments in Mexico. Moody's spokespersons said, however, that the economic policies of the new administration would have a bearing on what rating is given to Mexican bonds. "We will be looking at such factors as an administration's management of debt and whether increased expenditures are going to cause a fiscal deficit," said Benito Solis, director of Moody's in Mexico. (Sources: Bloomberg news service, 04/01/05, 04/07/05; The Dallas Morning News, 04/01/05, 04/08/05; The New York Times, The Arizona Republic, 04/02/05, 04/08/05; Reuters, 04/05/05, 04/07/05, 04/08/05; The Financial Times-London, 04/06/05, 04/08/05; The Washington Post 04/07/05, 04/08/05; Los Angeles Times, Copley news service, 04/08/05; Associated Press, 03/29/05, 04/01/05, 04/07/05, 04/10/05; Notimex, 03/29/05, 04/02-04/07, 04/11/05; Spanish news service EFE, 04/01/05, 04/06/05, 04/07/05, 04/10/05, 04/11/05; Agencia de noticias Proceso, 04/05-07, 04/11/05; El Financiero, 03/30/01, 04/01/05, 04/04/05, 04/05/05, 04/07/05, 04/08/05, 04/12/05; The Herald-Mexico City, 003/30/05, 03/31/05, 04/01/05, 04/04-08/05, 04/11/05, 04/12/05; La Jornada, 03/30/05, 03/31/05, 04/01/05, 04/02/05, 04/04/05, 04/05/05, 04/07/05,

04/11-13/05; El Universal, 03/30/05, 03/31/05, 04/01-08/05, 04/11-13/05; La Cronica de Hoy, 03/30/05,
03/31/05, 04/01/05, 04/03-05/05, 04/07/05, 04/08/05, 04/11-13/05; La Crisis, 03/31/05, 04/01, 04/04-08/05,
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