

A new dictator in Mexico?
by Gerardo Reyes

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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”


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by Gerardo Reyes.

How can we describe a dictator? A dictator is a person who exercises his power without any limit¹, it is a man in the power that tries to collect the three branches of government in his own person. The opposite of a dictatorship or a totalitarian regime is a democratic system where the sovereignty is vested in the people and the people elect their leaders through a free and confidential voting system. Mexican Democracy has been developing through decades of blood, sweat and tears. Nevertheless, Mexican Democracy is now in danger because of current Mexican President, Andrés Manuel Lopez Obrador (AMLO).

“In my opinion, many Mexicans are frightened because there is a feeling that AMLO is seeking to extend his six-year term of government (sexenio) in Mexico².”

In my opinion, many Mexicans are frightened because there is a feeling that AMLO is seeking to extend his six-year term of government (sexenio) in Mexico². This presumption began when AMLO encouraged a local amendment, 351, to Baja California’s Constitution. The amendment sought to extend Baja California’s Governor, Mr. Jaime Bonilla’s term from two to five years. Bonilla, a candidate of the party MORENA, formed by AMLO, was granted the extension after a legislative decree was issued³.

Despite the fact that AMLO’s right hand, the former Ms. Justice of the Mexican Supreme Court and current Minister of the Interior, Olga Sánchez Cordero, stated that amendment 351 is unconstitutional⁴, López Obrador’s position unwavered as he reiterated that he would not dispute the extension⁵.

Unsurprisingly, political parties PAN, MC, PRD, PRI and the National Human Right Commission (CNDH by its acronym in Spanish) decided to file an “Action of Unconstitutionality”⁶ to contest Bonilla’s term extension. The main arguments of the parties and the CNDH were:

- I.- The amendment did not fulfill the legal terms because it was approved the same day it was proposed.
- II.- Violation of the Principle of Retroactivity.
- III.- Lack of legal basis and justification (foundation and motivation)
- IV.- Violation of article 105 of the Mexican Constitution where it is regulated that any electoral provision that will apply to the voted period has to be done ninety days before the elections.
- V.- Voting rights.

During the May 11, 2020 session, Supreme Court Justice José Fernando Franco González Salas explained how the contested amendment violates voting rights, how the amendment could not be properly analyzed because the legal terms were not fulfilled and how harmful it could be to adopt an amendment that violates

1.- <https://dle.rae.es/?w=dictador&origen=REDLE>. Last consult May 27, 2021.

2.- Article 83 of the Mexican Constitution.

3.- Legislative decree 351 of Baja California Congress.

4.- <https://politica.expansion.mx/mexico/2019/10/12/la-scnj-decidira-periodo-de-bonilla-asegura-amlo-en-bc> Last consult May 27, 2021.

5.- <https://www.elsoldetijuana.com.mx/local/ambigua-la-postura-de-amlo-sobre-ley-bonilla-4332401.html>. Last consult May 27, 2021.

6.- Acción de Inconstitucionalidad in Spanish founded in Article 105, Section II of the Mexican Constitution.

the rule of law⁷. Fortunately, the project was adopted unanimously by the eleven judges of the Mexican Supreme Court⁸.

Notwithstanding the adoption by the Supreme Court, and luckily for AMLO, a law initiative was issued by the legislative branch to extend the mandate of the President of the Mexican Supreme Court. It is important to note that it has been a tendency of the judicial power to solve the President's troubles in his favour, such as the reduction of salaries of the judiciary employees, where the separation of powers was broken⁹, the regrettable judicial resolutions regarding AMLO's airport and the lack of defense of Zaldívar when Lopez directly attacked a District Judge for granting a suspension against the Electric Amendment¹⁰.

Among other significant changes at the Judicial System that are not subject of this article, the new legal provision in its Transitory Article¹¹ Thirteenth regulates that the President of the Supreme Court will increase the period in his chair from four to almost six years. The mentioned Transitory *Article Thirteenth* allows the current President of the Supreme Court to extend his mandate which is in direct violation of Article 97 of the Mexican Constitution. Article 93 explicitly states that the eleven Justices shall elect the President of the Supreme Court every four years.

Mr. Justice Arturo Zaldívar was voted to hold the Presidency of the Mexican Supreme Court since January 02, 2019, according to the Mexican Constitution he should complete his chairmanship before the first labor day of 2023. However, the abrogation of the Organic Law of the Judiciary¹² and the new legal provision named Organic Law of the Judiciary and Judicial Career¹³, where the mandate extension is established, were published in the Federal Official Gazette in June 07, 2021¹⁴.

The aforementioned amendments including the Transitory *Article Thirteenth* extending Zaldívar's term were previously approved by the Senate, the House of Representatives and by AMLO. Same amendments that are subject to be challenged through the same Remedy filed against the period extension of Baja California Governor. According to Article 105, section II of the Mexican Constitution "The Action of Unconstitutionality" could be filed before the Mexican Supreme Court during the next 30 days of the publication of the unconstitutional amendment by:

- 33% of the House of Representatives.
- 33% of the Senate.
- The Mexican President.
- 33% of Local Congresses.
- The Political Parties.
- The National Human Right Commission (CNDH).

7.- *Rule of law according with the Secretary-General of the United Nations is "a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards."* <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/> Last consult May 28, 2021.

8.- *Resolution issued by the Mexican Supreme Court at the Action of Unconstitutionally 112/2019, 113/2019, 114/2019, 115/2019, 119/2019 and 120/2019.*

9.- <https://reflexionesjuridicas.com/2018/11/04/un-precedente-sobre-la-disminucion-de-salarios-a-jueces/> Last consult May 28, 2021.

10.- <https://www.animalpolitico.com/2021/03/juez-cuestionado-amlo-suspensiones-reforma-electrica/> Last consult May 28, 2021.

11.- *A transitory article also known as provisional article is a legal provision that regulates other legal provisions recently amended, such as temporary regulations, steps to follow to obtain a proper fulfillment of the amendments, among others.*

12.- *Ley Orgánica del Poder Judicial de la Federación.*

13.- *Ley Orgánica del Poder Judicial de la Federación y de la Carrera Judicial.*

14.- https://www.dof.gob.mx/nota_detalle.php?codigo=5620467&fecha=07/06/2021 Last consult June 07, 2021.

The evident argument to plead is the contradiction between the *Transitory Article Thirteenth* and Article 97 of the Mexican Constitution. The first article orders that the current President of the Supreme Court end his mandate next November 30, 2024, while the second article establishes that the President of the Supreme Court will end his mandate every four years, meaning that Zaldívar must end his mandate before the first labor day of 2023.

The day after the publication of the judicial amendment and the *Transitory Article Thirteenth*, the President of the Supreme Court revealed on his social media that in order to avoid the mistrust and “doubts of the judicial independence and the separation of powers”¹⁵ that exists in Mexico, he will file an “Extraordinary Query”¹⁶ to solve the contradiction between *Transitory Article Thirteenth* and Article 97 of the Mexican Constitution. This means that the controversy could be solved either in “The Action of Unconstitutionality” or the “Extraordinary Query”, but the first legal proceeding solved will set the precedent for the forthcoming one.

Despite the fact that the President of the Supreme Court will intervene at “The Action of Unconstitutionality” or the “Extraordinary Query” that disputes his own mandate extension, the legal professionals in Mexico expect that the eleven Justices will respect the constitutional supremacy and revoke the unconstitutionality of the *Transitory Article Thirteenth*.

Andrés Manuel López Obrador has become “Mexico’s False Messiah”¹⁹

Nowadays, the trial-and-error process that López Obrador is doing in order to review the best strategy to extend his own mandate is still a huge concern. Notwithstanding, the President of Mexico has stated more than three times that he’s not going to reelect himself despite the fact that there are people “asking him for reelection”¹⁷. Each individual is entitled to believe AMLO or not, but what is undeniable is that Mexico currently has a person in charge who lies between 80 to 85 times per day according independent sources¹⁸. A person who had promised to eradicate corruption in Mexico and yet has not done nothing to his corrupt relatives, a person who intervenes in the elections, a person who became all the things that he condemned before he was the President of Mexico. Andrés Manuel López Obrador has become “Mexico’s False Messiah”¹⁹.

15.- <https://twitter.com/ArturoZaldivarL/status/1402249061919514635?s=03>

16.- “Extraordinary Query” is a legal proceeding that solves the controversies of Articles 94, 97, 100 and 101 of the Mexican Constitution.

17.- <https://redfinancieramx.mx/la-gente-de-dos-bocas-me-pidio-reelegirme-pero-soy-maderista-amlo/> Last consult May 28, 2021.

<https://politica.expansion.mx/presidencia/2019/03/19/lamananera-amlo-se-dice-maderista-y-firma-su-compromiso-de-no-reeleccion> Last consult May 28, 2021.

<https://www.eluniversal.com.mx/nacion/amlo-no-veo-reeleccion-soy-maderista> Last consult May 28, 2021.

18.- <https://www.proceso.com.mx/nacional/2021/4/15/aseguran-que-amlo-miente-en-promedio-80-veces-en-sus-mananeras-262064.html> Last consult May 28, 2021. <https://latinus.us/2021/04/15/85-mentiras-diarias-durante-dos-anos-conferencias-duplican-dichas-trump-administracion/> Last consult May 28, 2021.

19.- <https://www.economist.com/leaders/2021/05/27/voters-should-curb-mexicos-power-hungry-president> Last consult May 28, 2021.

AMLO, false messiah and a danger to democracy: The Economist.

The British magazine The Economist dedicated its cover to President Andrés Manuel López Obrador, whom it described as a "false messiah" and warned that he is a danger to Mexican democracy. "Mr López Obrador divides Mexicans into two groups: "the people", by which he means those who support him; and the elite, whom he denounces, often by name, as crooks and traitors who are to blame for all Mexico's problems." The text highlights the importance for Mexicans to vote on June 6, 2021, given that the President -according to its analysis- does not follow the rules of the electoral process. The magazine also assures that López Obrador suffers from what Venezuelan journalist Moises Naím calls "ideological necrophilia: a love of ideas that have been tried and tested and shown not to work." www.forbes.com.mx/amlo-falso-mesias-peligro-democracia-the-economist/ 26/05/2021.

Lower investment and elections worry Banxico.

The low levels of public investment that still prevail because the federal government has done nothing to clear uncertainty, and the environment of the electoral process, are some of the risks mentioned by the members of the governing board of the Bank of Mexico (Banxico). One of the members of the central bank's collegiate body warned of the danger derived from the upcoming electoral process due to the return of an environment of risk aversion. The majority mentioned, among other downside risks, those associated with the evolution of the pandemic and possible delays in the vaccination program. One added the possibility of higher remittance inflows. He added that higher external demand in combination with the T-MEC could stimulate investment. www.eluniversal.com.mx/cartera/menor-inversion-y-elecciones-preocupan-banxico 27/05/2021..

Analysts raise to 5% their forecast for inflation in 2021; they expect a GDP of 5.15%.

Private Sector specialists consulted by Banco de México (Banxico) estimate that inflation will register a variation of 5.02% at the end of the year, an expectation that incorporates an increase from the 4.58% forecast the previous month. According to the survey of expectations at the end of May, this forecast becomes the highest fluctuation expected for the general variation of prices, predicted by the experts consulted since January of last year. For the coming year, they foresee that the fluctuation of the National Consumer Price Index (INPC) will again be in the target range of 3.58%, a rate that also incorporates a fourth consecutive upward month. www.eleconomista.com.mx/economia/Analistas-suben-a-5-su-pronostico-para-la-inflacion-en-2021-esperan-un-PIB-de-5.15-20210601-0045.html 31/05/2021.

In this month extract was prepared by A. Fragoso, A. De la Fuente, P. Arandia, R. Nerio, R. Mancilla, M. Costa, J. García.

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GERARDO REYES

Attorney at Law: Admitted to practice law in 2014. Mr. Reyes, of Mexican nationality obtained his law degree at “Instituto Tecnológico y de Estudios Superiores de Occidente” (ITESO) in Guadalajara, Jalisco. He obtained a Master Degree in Human Rights and Guarantees at “Instituto Tecnológico Autónomo de México” (ITAM) in Mexico City. Mr. Reyes has complementary studies in the Academy on Human Rights and Humanitarian Law of American University in Washington D.C. He also completed a “Protection of Human Rights Diploma” at “Collegie Universitaire Henry Dunant” (CUDH) in Geneva, Switzerland and an “International Advocacy of Human Rights Diploma” taught by “Centro Latinoamericano de Derechos Humanos” (CLADH) and “Universidad de Zaragoza”.

LANGUAGES: Spanish and English.

PRACTICE AREAS: Commercial Litigation, Administrative Litigation and Constitutional Litigation.

e-mail: greyes@asyv.com


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The leading aviation law firm in Mexico.

Prol. Reforma No. 1190 25th Floor,
Santa Fe México D.F. 05349
t. (52.55) 52.92.78.14
f. (52.55) 52.92.78.06
www.asyv.com / www.asyv.aero

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