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



Against free speech.
by Fermín Aramburu

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Against Free Speech.

by *Fermín Aramburu.*

The Political Constitution of the United Mexican States (The Constitution) is the supreme law that rules the economic, social and political life of Mexico. It is divided into two parts: dogmatic and organic. The dogmatic part contains the Bill of Rights, in other words, the fundamental rights of all Mexican nationals (equality, freedom, security and education). Whereas the organic part contains the structure of the state and public authority, as well as the institutions that compose the state and their functions.

The sixth article of the Constitution states that: "The manifestation of ideas will not be subject to any judicial or administrative inquisition, but in the event that it attacks the morals, private life or rights of third parties or disrupts public order; the right of reply will be exercised in the terms provided by law..."

Consequently, Article seven of the Constitution establishes: "The freedom to disseminate opinions, information and ideas, through any means, is inviolable. This right may not be restricted by indirect means, such as the abuse of official or private controls, newspaper, radio frequencies or equipment and devices used in the dissemination of information or by any other information or communication technologies aimed at preventing the transmission and circulation of ideas and opinions. No law or authority may provide for prior censorship, nor limit freedom of dissemination, which has no more limits than those provided for in the first paragraph of Article 6 of the Constitution. Under no circumstances may the property used for the dissemination of information, opinions and ideas be used as an instrument of crime."

"A government cannot publish nor enforce any law, if it does not take human rights and civil liberties into consideration."

Finally, the ninth Article of the Constitution states that: "The right to associate or peacefully assembly for any lawful purpose may not be challenged; but only citizens of the Republic will be able to do so and take part in the political affairs of the country. No armed meeting has the right to deliberate. An assembly or meeting intended to make a request or to demonstrate against an action to an authority, will not be illegal if no insults are found against authority, and no use of violence or threats to intimidate are used to find a certain result.

A few months ago, in the State of Tabasco, Mexico, there was a reform to the Local Criminal Code of Tabasco (Code) that could violate the right to free manifestation and free speech of citizens. The analysis of why it may be considered unconstitutional will be specified up next.

The articles that were amended from the Code are the following:

Article 299 of the Code declares: "A person who tries to prevent the construction of a public work, ordered or legally authorized by the competent authority, will be sentenced to sixty to one hundred and eighty days of probation. When the offence is committed by several persons prearranged, the penalty will be from one to two years in prison. If violence is used, the penalty will be from two to three years in prison, without prejudice of other penalties applicable to other crime committed."

Article 306 of the Code establishes: "For the purposes of this chapter the roads, highways and transport of local jurisdiction, are those considered by the laws of the State of Tabasco and those that do not belong to the federal jurisdiction."

Article 307 of the Code asserts: "Prison of two to ten years and fine of sixty to two hundred times the daily value of the Unit of Measurement and Update to the person who interrupts or hinders the local public road services destroying or damaging: I. Local roads II. Local public transport or cargo transport; or III. Any other local roads, avenues or highways. If the transport referred to in part II of this article are occupied by one or more persons, the penalties shall be increased by a third."

Article 308 of the Code states: “Prison will be imposed for one to eight years and a fine of eighty to two hundred times the daily value of the Measurement and Update Unit to the person who obstructs, interrupts or hinders the local public road service: I. Obstructing some local roads; or II. Kidnapping or withholding any local transport services of passengers or cargo transport, or any other local roads.

Article 308 Bis of the Code implies: “A person who extortions, coerces, attempts to impose or imposes quotas, and prevents the free or partial transit of persons, vehicles, machinery, specialized equipment or similar for the execution of works public or private, in the roads and streets of local jurisdiction referred to in Article 306, will be sentenced to imprisonment of six to thirteen years and a fine of one thousand to two thousand times the daily value of the Unit of Measurement and Updating, without prejudice of the penalties applicable for other felonies resulting from the same offense. The penalty will be increased by one more half, when in the commission of the offense the active subject is accompanied by minors or violence is used.”

The aim of these reforms is to avoid any possible blockade, hinder free transit as well as any action that thwarts the execution of public and private works, such as infrastructure projects of any kind, classifying such actions as criminal offenses in the entity.

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A government cannot publish nor enforce any law, if it does not take human rights and civil liberties into consideration. The right of peaceful right of assembly and protest is fundamental (as recognized by the Constitution) for a functioning democracy and as such, they are classified as the basic principles of any free country.

The amendment to the Code clearly and vehemently contradicts Articles 6, 7 and 9 of the Constitution, by way of limiting the right therein enshrined of freedom of speech, association and pacific public manifestations, which could be enacted even against acts carried out by the government which would affect a specific community.

The amendment of the articles of the Code results in a violation to the Constitution, as a consequence of the prohibitions which restrict the fundamental rights of citizens to protest and express themselves publicly and peacefully against a government decision that may affect their legal sphere.

The reform opens up the possibility of a *de facto* prohibition of protests and demonstrations, as well as sanctioning to those who participate in them, and if further provided for penalties of up to twenty years if they go with minors. With this new Law, the human rights of individuals who wish to express themselves or demonstrate can be legally violated, it further criminalizes the constitutional right to free demonstration and prevents the possibility of protest on public roads, under penalty of being imprisoned.

These rights enshrined in the Constitution cannot fail to be respected by local laws such as the Code, hence if a local law when reformed does not respect the fundamental rights imposed by superior law, in this case the Constitution, then that amendment to the law must be deemed as unconstitutional.

Our legal system provides for mechanisms of protection to address this complex and challenging legal situation, in order to protect the rule of law and individual guarantees, which are found in the form of the remedy for the protection of constitutional rights (Amparo Trial) and the Action of Unconstitutionality. Time will tell...

Venezuela crisis: US bans top officials from entering country.

President Donald Trump has banned senior Venezuelan officials and their families from entering the US, the latest effort aimed at forcing President Nicolás Maduro to step down. Even though the effort of forcing a President to step down of its official charge could be admirable; enhancing this political strategy of blocking access to senior Venezuelan officials could be equated to a declaration of war. Making it a dangerous move for Mr. Trump to impose Venezuela. <https://www.bbc.com/news/world-latin-america-49837350> 26/09/2019.

Judge defers hearing on airport in Santa Lucia.

It is the second time that a Federal Judge, defers the hearing in which it will be resolved if the request of the Ministry of the National Defense can leave without effect the final suspension granted to the collective "No más Derroches" against the construction of the International Airport in Santa Lucia, state of Mexico. Juan Carlos Guzmán Rosas, head of the Fifth District Court in Administrative Matters, will define on September 30 a new date for the conclusion of the diligence. www.milenio.com/policia/santa-lucia-aplazan-audiencia-suspension-airport 27/09/2019.

Trump impeachment inquiry: Ukraine ex-minister rejects Biden claim.

The president of the United States of America has stated with no proof whatsoever, that Mr. J Biden has pressed for the sacking of a Ukrainian prosecutor for protection of a business whose son was employee of, this so called "pressed" was made through corruption. Mr. Trump faces impeachment proceedings for using his position as president to push the Ukrainian President, Vladimir Zelensky, to investigate Mr. Biden, who was at the time leading polls to be his Democratic opponent in the 2020 election. www.bbc.com/news/world-us-canada-49856788 27/09/2019.

Brexit uncertainty 'could lead to interest rate cut'.

The Bank of England may need to cut interest rates should Brexit uncertainty persist, one of its policymakers has said. Of course as we all know, Brexit leads to a uncertain future for all of Britain's economy, this falls out on a clear need of an interest rate cut in order to maintain a certain economic stability Even if the UK avoids a no-deal Brexit, rates may still need to be cut, Michael Saunders said. Interest rates have been on hold at 0.75% since August 2018, when they were raised from 0.5%. Last week, the Bank said Brexit uncertainty meant the UK economy was performing below its potential. www.bbc.com/news/business-49850829 27/09/2019.

Mexico and the Chinese province of Jiangxi seek to intensify trade and investment.

The Head of the International Negotiations Unit of the Ministry of Economy, César Remis, met with the Deputy Director General of the Department of Commerce of Jiangxi Province, Zhu Yuanfa and his delegates to explore trade and investment opportunities with Mexico. Both agreed that Mexico and China are strategic partners, for which it is necessary to continue increasing their trade and attracting investment from the country in sectors such as electronic commerce, electric mobility, aerospace industry and alternative energy, among others. www.excelsior.com.mx/nacional/mexico-se-opone-al-bloqueo-a-cuba-asegura-marcelo-ebnard/1338967 27/09/2019.

Mexico opposes the blockade against Cuba, says Marcelo Ebrard.

Mexico opposes the US blockade of Cuba, as well as the imposition of sanctions on other countries, said Foreign Secretary (SRE) Marcelo Ebrard. During his participation in the 74th General Assembly of the United Nations Organization (UN) in New York, Ebrard Casaubon affirmed that Mexican foreign policy is governed by the principles of the foreign policy of non-intervention, self-determination of the people, and the peaceful resolution of disputes. The secretary reiterated the actions undertaken by the Mexican government to address migration to the United States, mainly the creation of 60,000 jobs for El Salvador, Honduras and Guatemala. www.gob.mx/se/articulos/mexico-y-la-provincia-china-de-jiangxi-buscan-intensificar-comercio-e-inversion?idiom=es 29/09/2019.

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