



STATEMENT OF THE NDI PRE-ELECTION DELEGATION TO MEXICO'S JULY 2, 2006 PRESIDENTIAL ELECTIONS

Mexico City, April 9, 2006

This statement is offered by an international pre-election delegation to Mexico organized by the National Democratic Institute (NDI). From April 4 through 9, 2006, the delegation assessed the political environment in Mexico in advance of the July 2 presidential and legislative elections. Among its activities, the delegation conducted a series of intensive meetings with a broad spectrum of Mexican political party and civic leaders, electoral authorities and representatives of the international community. The delegation conducted its activities in accordance with Mexican law and the *Declaration of Principles for International Election Observation*, which embraces the principles of non-interference, impartiality and professionalism for international election observers. NDI recognizes that, ultimately it will be the people of Mexico who will determine the legitimacy of the elections and the resulting government.

SUMMARY OF OBSERVATIONS

It is likely that the upcoming presidential election will be the most competitive in Mexican history. This places additional strains on electoral authorities and has contributed to increased concerns regarding fairness in the administration of the election that could impair the credibility of the process. To ensure that the gains made in building public confidence and trust in Mexico's electoral process continue and are fully consolidated, the will needs to be mustered to take the necessary action to implement second-generation electoral reforms. Otherwise, Mexico faces the possibility of eroding citizen confidence in the state's democratic institutions.

Impressive advances have been made in the last fifteen years in Mexico to establish a more open, competitive and fair electoral process. These improvements include the creation of a professional and impartial election commission and electoral court, the development of legislation regulating campaign finance and the promotion of election observation.

Nonetheless, there remains a significant element of public distrust in Mexican politics. In particular in this fiercely competitive race, the delegation was impressed by the strong desire expressed by all the parties with which the delegation met for continued engagement by international observers who can play a critical role in contributing to the legitimacy of the electoral process.

ELECTORAL CONTEXT

NDI has had the privilege of witnessing Mexico's federal elections in 1994, 1997 and 2000. NDI delegations, Mexican citizens and political contestants alike have noted that these elections were democratic and well-administered. These elections represent a notable achievement in Mexico's transition toward an increasingly competitive democratic system after seven decades of de facto single-party rule.

Toward the end of 70-years of political dominance, the PRI was increasingly accused of manipulating electoral results in its favor. Widespread allegations of fraud committed by the ruling party in the 1988 presidential contest served as a catalyst for reforms begun in 1991 and accelerated in 1994 that ensured a credible electoral contest that helped usher-in a more competitive and open political system. In particular, the establishment of a genuinely independent election authority, the Federal Electoral Institute (IFE), and the efforts and resources committed to developing confidence in the impartiality and effectiveness of the IFE proved to be an indispensable investment in advancing the democratic process.

After additional electoral reforms, in 1997 Mexico held its first elections under a fully autonomous IFE. Opposition and civic groups applauded the change and expressed confidence in IFE's objectivity and technical ability to manage the elections. Opposition parties won key victories including the post of mayor of Mexico City (won by Cuauhtémoc Cárdenas, the 1988 and 1994 PRD presidential candidate), and – for the first time – a majority of seats in the Chamber of Deputies.

The 2000 elections marked a watershed in contemporary Mexican political history. The impressive advances that had been made in previous years to establish a more open, competitive and fair electoral process were tested in a fiercely contested campaign. The victory of PAN presidential candidate Vicente Fox signified the first peaceful presidential transition of one party to another since the 19th century. The promise of a transition from a system of one-party rule generated high levels of citizen participation, resulting in 60 percent turnout on election day. Despite its historic loss of the presidency, the PRI successfully maintained its structure and representation at the state and federal legislative levels of government.

The 2003 mid-term and subsequent state elections saw the PRD nearly double its presence in the Congress and the PRI win back several legislative seats and retain control of key states. The PAN, unable to deliver on its electoral promises, lost ground in the Federal Congress although the party maintained its position as the second largest political force at the congressional and state levels.

Presidential and congressional elections are scheduled to take place on July 2, 2006. State elections will also be held during 2006 in Campeche, Colima, the Federal District, Guanajuato, Jalisco, Morelos, Nuevo León, Queretaro, San Luis Potosí, Sonora, Chiapas and Tabasco.

The 2006 presidential contest is predicted to be the most competitive in Mexican history with recent polls showing the three major political forces separated by fewer than 10 percentage points. Despite success in institutionalizing safeguards designed to guarantee freedom and transparency for voters on election day, new challenges have emerged that may hamper the legitimacy of the 2006 elections.

Concerns have arisen about the equity in the conditions of competition prior to and during the campaign period. These concerns include parties' and candidates' access to the mass media, adherence to campaign finance limits, the use of government social programs to influence the vote, and deficiencies in the regulatory framework governing the pre-electoral period.

Mindful of the progress that has been made in Mexico's electoral process and of the strong desire of Mexicans for genuine democratic elections, the delegation offers below its observations as well as recommendations.

OBSERVATIONS

Electoral Process

Federal Electoral Institute

The delegation was impressed by the uniform confidence that political parties and civil society groups expressed in the ability of IFE to organize efficient and transparent federal elections. The Institute is widely regarded as having conducted an impartial and professional redistricting process in 2004. The 300 electoral districts were drawn based on the principle of equality of each person's vote rather than for deliberate political gain. IFE also involved political party representatives at every stage, creating an inclusive process that encouraged transparency and faith in the effort. In addition to IFE's diligent approach to redistricting, IFE has developed detailed strategies and programs to guide its preparations for election day, including the selection and training of officials at approximately 130,000 polling stations nationwide. All of the various departments with which the delegation met are working hard to ensure that the voting process is fair and well-administered.

Nevertheless, the appointment of the IFE's current General Council (2003) has raised questions about the Institute's overall impartiality by comparison with that of its predecessor because it was structured without the active participation of the PRD. The first general council was made up of individuals perceived as having unimpeachable integrity and in contrast with the current Council, were selected by consensus of all three political parties. There is general consensus that this has not harmed IFE's ability to conduct a well-administered voting process. However, when called upon to make sensitive political decisions about questions of equity between parties, the IFE has been perceived by critics as somewhat tentative in its role as arbiter. In the opinion of some observers, this can be attributed to a divided council whose internal voters are often decided by the narrowest of margins (five to four). Another factor contributing to this perception is that the July 2 federal elections will be their first as a General Council. It should be underscored that the same critics concede that in this highly competitive presidential contest the IFE faces unusual challenges and acknowledge the overall credibility of the management of the election is not in question.

Federal Electoral Tribunal

Over the past decade, political parties have increasingly utilized legal channels to seek redress for their electoral complaints. This is a positive step for the rule of law. Under the current Superior

Chamber (appointed in 1996), the Federal Electoral Tribunal has developed a reputation as a credible and impartial arbiter of last resort. In the last five years, the Tribunal has ruled on a number of cases that will be used as benchmarks by future Chambers. It also has interpreted the law in innovative ways, leading to praise by some sectors who feel that the Tribunal has helped guarantee a more transparent process, and concern by others who feel that it has exceeded its statutory jurisdiction. An additional complication stems from the fact that the current term of the full Chamber will expire in October of this year (except one Magistrate who was appointed in 2004) potentially leaving an inexperienced Chamber with the task of resolving outstanding disputes from on-going election processes.

The Electoral Registry (Padrón Electoral)

The electoral registry is one of the most sophisticated in the world and contains numerous safeguards to prevent fraud on election day such as detailed identification information including photographs of the 71 million citizens who have submitted applications to register to vote. Some technical challenges remain, however, including the timely removal of the names of deceased voters from the registry. Current communication mechanisms between IFE and the local authorities who maintain public records on deaths do not facilitate the efficient exchange of information, making it difficult for IFE to maintain an up-to-date list. However, such problems do not raise concerns about the fundamental impartiality of the vote. Party leaders and civil society representatives generally expressed high levels of confidence in the accuracy of the electoral registry.

Voting Abroad

In late June 2005, the Federal Congress approved a significant electoral reform giving Mexican citizens living abroad the right to vote in presidential elections. The implementation of this reform was left to the IFE, which faced time and budget constraints in organizing this process. IFE launched a campaign both inside and outside of Mexico to inform citizens abroad about how they could apply for absentee ballots and public expectations were high that ten percent of registered citizens living abroad would apply. Despite these efforts, approximately 50,000 citizens elected to send in applications to vote, roughly 1.5 percent of the eligible voters. Political parties and the public recognize the efforts of IFE and hope that this experience will serve as a baseline for improvements to ensure that all Mexican citizens living abroad have the opportunity to exercise their franchise. In regulating the issue of voting abroad, the IFE applied the strictest interpretation of the law. Political parties were frustrated by limitations placed on their ability to reach out to and disseminate information to potential voters living abroad.

Issuance of Voting Results and Confidence in the Vote Count

The highly contested nature of the 2006 presidential race provides the electoral authorities with a particularly serious challenge after the polls close on July 2 and the vote count begins. Any monitor of the election will be able to observe the electoral count as it takes place by accessing the Internet, but final results (though not official ones) are not likely until 1 or 2 in the morning or even much later in the event of a close tie. This could produce considerable anxiety in the public, and political actors fear that election night could lead to demonstrations or violence under such circumstances. Partly to address this contingency the IFE has assembled a staff team to quickly tabulate the results of a random sample of 7,500 polling places, thereby providing an accurate snapshot of the electoral outcome within an extremely small margin of error. Other such “quick counts” are contemplated by

parties and civil society organizations as well, and are also critical to providing confidence in the process. Citizen Presence (*Presencia Ciudadana*) is one group planning to conduct such a program and the United Nations Development Programme (UNDP) is validating their methodology.

Campaign Finance Regulations

As noted in NDI's statements from the 2000 elections, regulation of campaign finance has been hampered by an election law that provides insufficient mechanisms for enforcing the rules. According to the code, IFE will conduct three audits for the 2006 elections; two during the campaign and the other on election day. Given Mexico's history of excessive levels of spending for presidential campaigns, the timing of the final audit reduces the potential impact it could have on leveling the playing field. Almost all with whom the delegation met noted that sanctions and penalties have proven to be ineffective at preventing political parties from exceeding the set spending limits. Additionally, there is public speculation that unreported funding of political campaigns is coming from illegitimate sources such as drug trafficking.

Civic Education

The delegation was pleased to learn that the IFE developed a five-year strategy to guide their civic education efforts. Each electoral district council is required to develop at least one project aimed at encouraging voter participation in the upcoming elections.

Use of Government Social Programs for Electoral Advantage

For elections to be meaningful, the electorate must believe that their vote will be secret, and there will be effective safeguards against post-election retribution for their choice at the ballot box. Several domestic monitoring organizations reported that citizens believe that state and government officials will condition individuals' benefits from existing social programs based on their vote.

Media

The delegation was encouraged that despite the IFE's limited ability to regulate parties and candidates' access to the media, the Institute has begun to implement media monitoring projects. These initiatives aim to systematically collect information about the number of spots purchased by each party and the coverage of individual candidates in the media.

Broader Electoral Context

Voter Apathy

There is a paradox in Mexico whereby although these are expected to be the most competitive elections in the country's history, there is a strong trend toward voter apathy. There has been a steady decline in voter participation since the 2000 elections and recent estimates indicate that a high percentage of registered voters will likely not vote in the upcoming elections.

Quality of Campaigns

Increasingly, Mexican political campaigns have become media-based and influenced by modern marketing techniques that focus almost exclusively on images and slogans. The presidential campaigns were acknowledged by civil society organizations and political analysts to lack concrete public policies and party platforms that could assist voters to make informed choices.

Debates give candidates the opportunity to articulate their positions on matters of national interest. A positive development in Mexico's democratic development is the growing public appreciation for presidential debates as a means by which to learn about candidates' political platforms. Still, the practice has not become a traditional part of the campaign period. Candidates, rather than view debates as a public good, have conditioned their participation based on a calculation of how the debate will affect them in final election results.

Media Access

For an election to be truly democratic, the political contestants must have a fair opportunity to reach the voters and win their support. The lack of competition in the mass media has given rise to allegations of arbitrary or preferential pricing of air-time for parties and candidates. Furthermore, given the very large expenditures of parties and the government in mass media, there have been allegations that these companies have actively lobbied against electoral reform that would promote more equitable media access.

International Observation

The delegation was pleased to learn of an initiative sponsored by the UNDP to bring together international observation groups from the region and representatives from domestic monitoring organizations to discuss how local efforts can be better coordinate among each other and with the IFE.

RECOMMENDATIONS

With these factors in mind and in the spirit of international cooperation, the delegation respectfully offers the following recommendations, which it believes could help promote confidence and participation in the upcoming elections.

- When dealing with issues beyond the technical administration of the elections, IFE should take extra care to build and project consensus among the Councilors. Speaking with a unified voice will help IFE garner more credibility and mitigate perceptions of inconsistency. This will be especially critical on election night.
- To combat voter apathy, vote-buying and coercion of voters, IFE's civic education efforts should be redoubled by increasing coordination with civic groups conducting similar activities.
- For the duration of the campaign, the political parties and candidates should refrain from using inflammatory rhetoric and engaging in personal attacks. In addition, parties and candidates should make efforts to disseminate information about their platforms and concrete policy preferences.
- IFE should develop a coordinating mechanism to work with the parties and civil society

groups, including Citizen Presence, to coordinate the public announcement of preliminary results of the elections generated by a sampling of polling places to engender confidence in the electoral process on election night.

- Domestic monitoring organizations should make it a priority to attend the June 10 meeting on encouraging effective coordination of observation efforts among local groups and with the IFE.

In the longer term, we recommend consideration be given to reforms such as:

- IFE media monitoring and electoral observation activities overlap with on-going efforts by domestic civic organizations. IFE should attempt to find synergies with existing initiatives to avoid discouraging civic groups from implementing this type of program in the future.
- The international community should continue to provide technical and financial assistance to those domestic organizations engaged in voter education and election observation activities.
- The Federal Electoral Tribunal should consider reforms to professionalize their staff and avoid turnover at the end of the Magistrates' terms. The Tribunal should also consider staggering the entrance and departure of Magistrates' to ensure a smooth transition between Chambers.
- Consideration should be given to providing parties and candidates equitable access to mass media. As noted in NDI's statement on the 2000 presidential election, political and societal actors should take into consideration reforms such as placing the media under independent authority to ensure that broadcast concessions are awarded in a fair and nonpartisan manner.
- Campaign finance regulations should be strengthened to provide IFE with more effective measures to prevent violations and to bring illicit spending under control.

THE DELEGATION AND ITS WORK

The purposes of this delegation are to demonstrate the support of the international community for a transparent and genuine electoral process and to offer an accurate and impartial assessment of the political environment ahead of the upcoming elections. NDI will organize an additional pre-election delegation in late May that will examine more closely issues surrounding campaign finance regulations and equitable access to media.

The delegation was led by Felix Ulloa, NDI/Haiti Country Director and former Magistrate of the Superior Electoral Tribunal of El Salvador, and included Arturo Valenzuela, former Special Assistant to President Bill Clinton and Senior Director for Inter-American Affairs at the National Security Council, Director of the Center for Latin American Studies at Georgetown University and member of the NDI Board of Directors, Patricia Bullrich, President of the Argentine political party *Union por Todos* (Union for All) and former Argentine Minister of Labor, and Stella Maris Cacace,

Technical Secretary of the Human Rights Coordinator of Paraguay and member of the Board of the Paraguayan civic group *Decidamos* (Let's Choose). The delegation was joined by Julian Quibell, NDI/Mexico Resident Director; Keila González, NDI/Mexico Program Officer; and Linda Patterson, NDI Program Officer.

While in Mexico City, the delegation met with representatives from: the Electoral Tribunal of the Judiciary Power of the Federation (*Tribunal Electoral del Poder Judicial de la Federación*); the Federal Electoral Institute (*IFE*); the campaign of Felipe Calderón from the National Action Party (*Partido Acción Nacional, PAN*); the campaign of Andres Manuel López Obrador and the Coalition for the Good of All (*Coalición por el Bien de Todos*); the Revolutionary Institutional Party (*Partido de la Revolución Institucional, PRI*); the campaign of Roberto Campa and his party, the New Alliance (*Nueva Alianza*); the campaign of Patricia Mercado from the Social Alliance Party (*Partido Alianza Social*); Citizens United for Election Observation (*Ciudadanos Unidos para la Observación Electoral, CUOE*); the polling firms Parametría, Mitofsky and Ipsos Bisma; and the international community. The delegation would like to express its deep appreciation to all of those who took the time to share their views.