

Explaining the Credibility Gap in Mexico's 2006 Presidential Election, Despite Strong (Albeit Perfectable) Electoral Institutions

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By Todd A. Eisenstadt and Alejandro Poiré¹

Abstract: While none of the vote-annulling claims made by Mexico presidential election loser Andrés Manuel López Obrador were backed by reliable evidence, the disgruntled candidate and social movement leader did, at least temporarily, raise questions about the election's credibility. This article claims that while part of the explanation lies in López Obrador's ability to frame the election within Mexico's now-defunct tradition of fraudulent elections, we also argue that obstacles to full electoral transparency in Mexico do remain, and of a sufficient magnitude to justify further electoral reforms. Issues in the aftermath of the election, especially those related to the levelness of the electoral and pre-electoral "playing field" warrant further consideration. Not addressing lacunas in campaign laws may lead to future attempts to invalidate elections on similar grounds.

Keywords: Party finance, Mexico, electoral court, electoral commission, presidential race, Andrés Manuel López Obrador, post-electoral conflict, electoral reform

Months after Mexico's independent electoral commission finalized the district-level vote count of the July 2, 2006 presidential elections, and weeks after the autonomous electoral court had certified National Action Party (PAN) candidate Felipe Calderón as president, runner-up Andrés Manuel López Obrador continued to cry foul. Days before the court's final September 5 ruling, López Obrador (known widely as "AMLO"), representing the Party of the Democratic

¹ Todd A. Eisenstadt teaches political science at American University. A 2005-06 visiting researcher at the University of California, San Diego's Center for US-Mexican Studies, he is author of *Courting Democracy in Mexico* (Cambridge University Press, 2004). Eisenstadt currently directs a Oaxaca, Mexico-based program for the United States Agency for International Development (USAID) assessing the intersection of indigenous norms and practices and state "positive" law. Alejandro Poiré is Antonio Madero-Fundación México Visiting Scholar at Harvard University, and Visiting Professor of Political Science at Harvard's Kennedy School of Government. His research studies the impact of political regulation on political competition, in particular in the context of democratization. The authors thank Elizabeth Bauch, José Antonio Crespo, Armand Peschard-Sverdrup, and Robert Pastor for comments on earlier versions of this work, and Viridiana Ríos Contreras for research assistance. Eisenstadt acknowledges the institutional sponsorship of American University and the University of California San Diego's Center for US-Mexican Studies, and Poiré acknowledges institutional support of the David Rockefeller Center for Latin American Studies at Harvard University. All conclusions drawn in this paper are those of the authors, who are alone responsible for any errors.

Revolution (PRD) and the Coalition for the Good of All, decided to disband the mobilizations blocking some of Mexico City's main transportation arteries, but to continue protesting indefinitely, and to name a "shadow cabinet," to press Calderón. López Obrador lost the election by a hair (a mere 233,831 votes, out of over 41.5 million votes cast - after electoral court rulings), but he did lose, and in a "free and fair" contest² organized by one of the world's more respected electoral institutions.

While none of the vote-annulling claims made by López Obrador were sufficiently credible as to alter the electoral outcome,³ the disgruntled PRD candidate and social movement leader did call the electoral institutions' credibility into question among a considerable portion of the population. We claim that while part of the explanation lies in López Obrador's ability to frame the election as a continuation of Mexico's tradition of fraudulent elections (but which ended a decade ago), we also argue that obstacles to complete electoral transparency in Mexico do remain, and of a sufficient magnitude to justify further electoral reforms. The losing candidate failed in his main effort, to delegitimize President Felipe Calderón by casting him as another candidate "imposed" by Mexico's elite after crooked elections. Indeed, Mexico's electoral institutions, exalted as some of the strongest and most independent in the world, withstood López Obrador's test. However, some of the PRD's broader complains, about inequities in Mexico's party finance and media access pre-electoral "playing field," warrant further consideration, even if these complaints were in no way legally grounded. Not seeking to address remaining lacunas in campaign laws may lead to future attempts

² Most domestic observer groups viewed the election as "free and fair," as did delegations of international observers from the United Nations Development Program and the European Union. Critics of the process based at the credible Institute for Judicial Research at Mexico's National Autonomous University based their critiques on the normative claim that recounting all ballots would dispel doubts about the outcome, rather than on concrete legal arguments that violations had occurred to invalidate any stage of the highly codified process (see Ackerman and Sandoval 2006 for example). Estrada and Poiré (2006) find no evidence supporting any one of AMLO's arguments of fraud or vote rigging.

³ The electoral court, in recounting some nine percent of all ballot boxes after the PRD legally petitioned for recounts of some 30 percent and publicly sought a "total recount," subtracted 80,601 votes from Calderón's total and 75,355 from López Obrador's total, annulling a total of 234,574 votes and rendering a final tally of 41,557,430 votes.

to invalidate elections on similar grounds. In the next section, we assess López Obrador's claims, and his initial success in framing his defeat within a longstanding historical narrative of electoral fraud. Then, in the body of the paper, we identify possible problems with Mexico's current electoral framework, identified before the election and after it, and suggest how these may be rectified.

AMLO's Appeal to the Logic of *Concertación* (Post-Electoral Bargaining)

During Mexico's protracted transition to democracy, scores of post-electoral conflicts were settled via informally negotiated *concertaciones*, or "gentleman's agreements." Invoked in nearly a dozen national high profile cases—and scores of lesser ones--during the 1990s, these informal bargaining tables became the principal arena of negotiation between the PRI and the PAN. The PAN – and in a few cases, the PRD - usually lost in the PRI-state's famously corrupt elections, but got something back--an interim mayoralty or at the very least a proportional representation city council seat—in exchange for continued participation. The elections were deemed questionable enough to assume that voters' preferences were better represented by smoke-filled-room elite-bargains, as mayors- and governors-elect resigned, under pressure from the PRI, to make way for negotiated "interim" executives from the deals struck.

These implicit agreements existed between the PRI and the PAN between the late 1980s and early 1990s, but left out the PRD. While the PRD and other left-wing parties were involved in hundreds of post-electoral conflicts during Mexico's democratic transition,⁴ the PRI, whose strategy was to cooperate with the conservative PAN and mainly repress the left, mostly refused to engage PRD national leadership (although AMLO's movements were a partial exception). In any case, the national PRD lacked the discipline to deliver the compliance of its local activists. Hence, it was the PAN, which prioritized regional governance positions in its centripetal strategy to achieve national

⁴ Between 1989 and 2000, the PRD staged 750 post-electoral conflicts, while the PAN staged some 200 (and the PRI and smaller opposition parties staged a few hundred more). See Eisenstadt 2004, 141.

governance in the longer term, that benefited from *concertación*.⁵ PAN leaders readily undermined formal institutions through the late 1990s, but with the zealous belief that by accepting “partial restitution” of electoral injustices, they could pave the way later for truly autonomous and transparent electoral institutions (Eisenstadt 2004, 177-179). Some PANistas acknowledged the contradiction between advocating so fiercely for authorities to respect the vote and then turning around and negotiating electoral outcomes at *concertación* bargaining tables. Indeed, they ended the practice immediately upon winning the executive branch in 2000.

Among his first important presidential acts, President Vicente Fox insisted in 2000 that the era of *concertación* was over; that elections (and resulting spoils) would be decided by vote tallies only, without regard to the losing parties’ mobilization capacities or legislative blackmail potential. PRI negotiators seeking to “trade” the Jalisco governorship they narrowly lost to the PAN for “good behavior” they expressed by certifying Fox’s presidency without complaint acknowledged after the 2001 federal electoral court ruling against them that they had mistakenly labored under the *quid-pro-quo* assumptions of *concertación* (Eisenstadt 2004, 252). Fox similarly rebuked efforts by the PRI-majority Yucatán legislature in 2001 to bully the federal Interior Secretariat to impose a “rubber stamp” electoral commission to represent PRI “dinosaur” Governor Victor Cervera Pacheco’s hand-picked aspirant, although a federal electoral court ruling restrained the governor and his party. Strong enough to gain national public office without the assistance of informal bargaining tables, and in the presence of electoral commissions and a federal electoral court with final jurisdiction over all local electoral matters with the credibility to act as genuine third party enforcers, the PAN and Fox disbanded the informal institution of *concertación*, that is, until AMLO tried to resurrect it in 2006.

⁵ See Lujambio, Alonso. 2001. Democratization through Federalism? The National Action Party Strategy, 1939-2000. In *Party politics and the struggle for democracy in Mexico: national and state-level analyses of the Partido Acción Nacional*, edited by K. J. Middlebrook. La Jolla, CA: Center for US-Mexican Studies.

In contesting the 2006 presidency, AMLO ignored Fox's dismantling of the *concertación* bargaining tables in 2000 and 2001, and instead recalled the historical injustices of 1988, and – in a conceptual stretch – the 1910 Mexican Revolution itself. Possessing a razor-thin margin of defeat, a prerequisite for a *concertación*-stimulating post-electoral conflict, López Obrador harkened back to this practice, and to the rhetoric accompanying it. However, he erroneously generalized from the regime's historical moment of the 1980s and 1990s that such deals could be negotiated at levels as high as the presidency by opposition parties beyond the PAN, and with a ruling party that was not the authoritarian PRI. *Concertaciones* were rarely extended to the PRD, but López Obrador had been an exception after fraudulent 1991 Tabasco municipal races and the 1994 Tabasco governor's race. AMLO's post-1994 *concertación* was cancelled, however, when Tabasco PRI state legislators disobeyed President Ernesto Zedillo's dictates and refused to sacrifice PRI victor Roberto Madrazo's governorship for the cabinet secretariat Zedillo offered (see Eisenstadt 1999, 285-287).

In harkening back to Mexico's epic electoral frauds, AMLO framed the 2006 controversy in historic proportions. By lumping the 2006 contest with pre-1997 refusals by the then-authoritarian Mexican government to recognize the left's electoral victories, and especially the documented massive 1988 fraud against Cuauhtémoc Cárdenas, López Obrador appealed to the rampant citizen suspicion of that earlier era. By AMLO's logic, the fraud was so prevalent that his team need not even bother demonstrating it, and anyone failing to grasp this was probably an accomplice. Invoking that era's "conspiracy theory" (justified then, but ungrounded in the post-1996 era of free and competitive elections and autonomous electoral institutions), AMLO threatened a renewal of the 'cycle of fraudulent elections leading to rebellion that characterized Mexico's pre-revolutionary history' if his victory went unrecognized.

Although he continued his movement well beyond his September 15 decision to abandon the blockades in downtown Mexico City, López Obrador failed in his bid for a total recount, a new

election, and any other negotiated solution. Mexico's electoral institutions really had earned the international accolades bestowed upon them, and public opinion had shifted quickly from AMLO and in favor of the electoral court and electoral institute after the race (Parametría, 2006). The domestic media was divided as usual, and after expressing initial sympathy for recounts and appeals, international media bellwethers like the the United States' *Washington Post* and Spain's *El País* opposed AMLO's continued post-electoral campaign. Perhaps most important to the shaping of domestic public opinion, former PRD president and 1988 electoral fraud victim Cuauhtémoc Cárdenas, and notable left-wing intellectual Carlos Fuentes, chastised AMLO's rhetoric, strategies, and urged the PRD to recognize Calderón's free and fair triumph.

As the electoral institute and court deliberated with even-handed rigor, AMLO's declarations began to appear more strident, by comparison, and the gap broadened between AMLO's discourse and media and public opinion valuations. Loser consent was granted by many of López Obrador's former supporters, dismayed at their candidate's defiance, if not by López Obrador himself. Affinities between the candidate's successes using political mobilization as a tool, and Mexico's not-so-distant tradition of *concertación* gave López Obrador's movement a useful frame in 2006. Having weathered his post-electoral contention this time, it would seem unlikely, assuming that Mexico continues to consolidate strong and independent electoral institutions, that future post-electoral mobilizations based on historic claims rather than on empirical evidence will achieve such resonance. The considerable success of Mexico's electoral institutions in channeling – and ultimately defusing – López Obrador's challenges has helped unite two related concepts - "legal" and "legitimate." As a result of the electoral institutions' endurance of stringent post-electoral tests in 2006, these terms in 2012 should be mutually-reinforcing rather than dichotomous. However, lingering doubts do remain regarding the ability of Mexico's current federal electoral laws to guarantee fair contests,⁶ even if

⁶ In a *Reforma* poll from August 18-20, 25% of the citizenry asserted that they thought AMLO had won the election.

these were not determinant in the outcome of the 2006 race. In the remainder of this article, we diagnose these.

In the electoral arena, more specifically, Mexico has largely failed to consolidate gains from the democratic opening of 2000 for four reasons: 1) Fox's administration failed to pass "reform the of state" measures, disenchanting political actors and society and, by extension, diminishing citizens' views of parties and elections; 2) after "winning" alternation for the first time in their decades of social struggle, Mexico's civil society organizations (CSOs) and the electorate have, since 2000, been unable to articulate a new agenda for promoting further changes; 3) party finance scandals have also deflated expectations of an increasingly cynical electorate; and 4) electoral institutions have not achieved the increased authority and autonomy that political actors agree is needed, as legal reforms did not pass in Congress, and while the Federal Electoral Institute remains a strong electoral management body (EMB), its reconfiguration in 2003 was highly controversial.

We here further evaluate each of these statements, contending that the 2006 pre-electoral environment was indeed susceptible to López Obrador's criticisms.⁷ Most actors did pay insufficient attention to the critical importance of helping the media and civil society steward the 2006 process to a non-controversial positive outcome. Executive-legislative gridlock throughout the Fox administration, a weary and disappointed electorate and civil society, and a once-again-questioned set of electoral institutions raised doubts about whether a close electoral outcome might provoke post-electoral mobilizations jeopardizing Mexico's governability, at least in the short term. Perhaps more importantly, Mexicans revealed in pre-electoral surveys that despite the broad wave of disenchantment with government, many cared passionately about setting

⁷ Indeed, the prospects for such a post-electoral conflict were one of the principal conclusions of Eisenstadt and Poiré (2005).

Mexico's fragile democracy on a clearer path, and were particularly concerned about exorbitant and non-transparent political spending.

The remainder of this article will be divided into four sections. First, we surmise reasons for the failure of the Mexican government to consolidate its gains after 2000 in policymaking, civil society and electorate participation, and in electoral institution credibility. While the Fox administration experienced some notable successes,⁸ we emphasize the Presidency's failures because this highly-publicized failure became the basis of public perception of his record, which during the electoral process, seemed to sour the electorate's expectations for the President's successor, and for the possibilities of change via elections more generally. Second, we discuss the Gordian knot of inter-related issues which comprised the biggest threat to the legitimacy of the 2006 federal elections: the paradox of having a party system that combines, on the one hand, very high public funding for campaigns, profuse and systematically enforced regulation controlling both its public and private finances, and on the other, the relative certainty by many players that campaign finance remains relatively obscure, and that due to the high concentration of spending on electronic media advertisements, issues of fairness and lack of transparency remain significant problems.⁹ We describe these problems and also how they were addressed by the IFE's existing regulatory framework. Third, we consider some of the creative approaches by CSOs and the media for exposing the regulatory structure's legal shortcomings and persuading candidates and campaigns to limit campaign spending and disclose donations voluntarily.

⁸ Beyond failures in the legislative arena, in issues of administration and management, Fox's team did compile a respectable record. For example, Fox succeeded in building upon his predecessor's post 1995 macro-economic stabilization—his government is the first in thirty years to spare Mexico of a major economic crisis, improved the efficiency of *Oportunidades* social program benefits (food, education, and primary health care to Mexico's poorest), and greatly increased lower middle-class access to home mortgages through INFONAVIT. Some substantive legislative changes were also accomplished (transparency, popular health, civil service reform, etc.), but those were less visible and involved lower political stakes than stalled efforts at improving rule of law, social security, energy, labor, and tax reform.

⁹ The PRD complaint alleged a range of "playing field" levelness problems beyond the scope of the electoral court's jurisdiction, but also mentioned a series of irregularities in: the communication and sum of the PREP, the number of AMLO votes nullified, the vote tallies, the comportment of poll workers and party observers, among others (Estrada and Poiré, 2).

Finally, we conclude by arguing that the possibility that López Obrador's post-electoral mobilization has undermined Mexico's electoral credibility to the point that, whatever the *ad hoc* efforts by Mexican media and CSO watchdogs to draw attention to candidate expenses and disclosure, an additional round of electoral reform, proposed several times but not enacted for a decade, is overdue.

The Lost Opportunities of 2000 and the Run-up to 2006

Mexico was lauded internationally in 2000 for its smooth and peaceful transition to its first non-PRI president since well before World War II. The country's EMBs were roundly lauded, with IFE Council General "gurus" sent on international missions, such as to design Iraq's interim electoral system, and the magistrates of the Electoral Tribunal of the Judicial Power of the Federation (TEPJF) became globe-trotting celebrities whose lessons and perspectives were widely sought and heeded. The cost of electoral transparency in Mexico was high; these two EMBs in election years in the 1990s absorbed more funds from Mexico's public budget than the judicial and legislative branches **combined**. Election management has cost relatively less in recent years (see Table I), and defenders of this investment point out that a majority of the funds are distributed to political parties as those parties' public campaign funds and used to ensure the security of Mexico's electoral registration card, a *de facto* national ID card, which in many countries is paid for from other public budget lines. Still, elections in Mexico are among the most expensive – and perhaps the most expensive - in the world.¹⁰ But Mexicans are justifiably

¹⁰ As per Table I, EMB spending relative to judicial and legislative branch budgets has diminished since 2000, although Mexico still spends inordinately on elections and a major portion of the cost is public funding of parties. A proper caveat is also that Mexico's IFE is in charge of the national voter registry, one of the most trustworthy in the world, and Mexico's only source of valid nationwide identification. However, these expenses do not include additional and high levels of spending at the local level on election-management agencies *and* party funding (Poiré 2005).

proud of their great success in converting one of the most fraudulent electoral systems in the world to one of the cleanest in less than decade, and wary of “cutting back” extensively before those gains are more fully institutionalized.

However, the Mexican government, Congress, political parties, and civil society authorities interviewed argued that these actors may have better protected this considerable investment. Fox and the three major parties failed to pass many significant reforms – including urgently needed electoral reforms - despite Fox’s vociferous promises to overhaul the political system, Mexico’s CSOs and the electorate failed to effectively frame a new agenda for change after achieving alternation in 2000, and Mexico’s electoral institutions, renowned worldwide in the late 1990s for their transparency and independence, have lost some of their reformist steam, due in part to legislators’ failures. We consider these issues in turn.

First, divided government led to gridlock and partisan infighting rather than to widespread changes in relations between the executive and legislative branches, dooming the ambitious reforms promised by President Fox. Fox failed to work closely with his own party’s caucus in Congress, and proved utterly unable to negotiate majorities with the ideologically centrist PRI, or the center-left PRD, which also must shoulder their shares of the blame. The electorate was not impressed, and demonstrated disappointment through one of the lowest turnouts in decades for the 2003-midterm congressional elections. The fate of Fox’s economic reforms, the centerpiece of his electoral platform, illustrate his intransigence and that of Congress, which was unaccustomed until 1997 to actually deciding issues, on policy merits, political expediency, or on any other criteria.

President Fox took office with a broad agenda of economic reform proposals, but settled for approval only of his reforms to strengthen regulation of the stock market, banking, insurance, mortgages and other financial services, i.e., only low-cost reforms that technocrats at the finance

secretariat (*Hacienda*) executed with key legislators from the PRI and the PAN. Congress failed to approve Fox's all-important effort to improve the efficiency of the state oil company *Petróleos Mexicanos* (PEMEX) and Mexico's inadequate electricity grid, perhaps by allowing private investment in at least some portions of the energy sector. Social reforms to decentralize the education system, improve the pension system, promote worker training, job creation, and labor standards, and reconstitute the pact between the federal government and the states, also stalled. And efforts to better distribute the tax burden and rationalize tax collection may be Fox's highest profile failure of all. Through the blow-by-blow of Mexico's first modern experience with gridlock and divided government, the electorate saw little return on their enthusiastic support for alternation in 2000. The president did successfully manage Mexico's macro economic stability and obtain moderate growth, and he added guarantees of transparency and accountability to administrative procedures at all levels of government, but these accomplishments were quiet and incremental. The president's failures, on the other hand, while partially attributable to Congress and the political parties' leadership, were dramatic and definitive, provoking a fairly widespread public disillusionment with the limits of electoral alternation.

Second, after "winning" alternation for the first time in their decades of social struggle, Mexico's social movements, CSOs, and the electorate, which had been caught unprepared for electoral alternation in 2000, have only recently begun to articulate a strategy for addressing post-alternation government accountability and responsiveness after several years of bearing witness to democracy's disappointments. Societal groups seemed finally to have superceded this lack of forward vision by the summer of 2005, although it remains unclear whether they will be able to effectively galvanize public support for the extended campaign of methodical "second

generation” electoral observation which analysts recognize is needed.¹¹ CSOs have also faced difficulties maintaining the hard-fought organizational unity they had acquired over more than a decade of social mobilization, and adjusting their agendas to the surprising results of 2000. “We didn’t have the political capacity to reach a consensus about the country’s democratic governability,” said Alianza Cívica director Silvia Alonso (interview). “This left holes for each group to fill however they could.”

Having labored to achieve the free and fair elections typified by “first generation” electoral observation, Alianza Cívica and its extensive network of CSOs were stymied for several years after 2000, at least with regard to continuing to advance methodologies for electoral observation, and the Fox administration weakened their leadership by including prominent CSO leaders into his government. Recent polls showing a dramatic increase in the number of respondents believing campaigns to be expensive and uninformative¹² also exemplify the demobilization of civil society and disenchantment by the electorate. The new pattern of excessive campaign spending, ineffective regulation of media expenditures and campaign finance, and the failure to sanction perpetrators of electoral crimes,¹³ became chronic in state-level elections over the last couple of years, placing demands on her group and others to conduct “second generation” electoral observation.¹⁴

¹¹ We distinguish “second generation” electoral observation, that dealing over months before elections with “playing field” issues (campaign finance, media coverage, and substantive platforms and positions), from “first generation” observation, such as that pioneered in Mexico during the 1980s and 1990s, which focused on exposing electoral fraud on Election Day.

¹² The polling firm Paramétrica found that while 66 percent of a nationwide sample believed in August 2002 that campaigns were expensive and informed citizens “little or not at all,” in June 2005 that group had increased to 77 percent of the sample (Carta Paramétrica, August 18, 2005).

¹³ Sanctions by IFE and the TEPJF are always administrative rather than criminal, and do not effectively dissuade campaign finance violations because electoral victories cannot be overturned on such grounds, according to law. To Alianza Cívica CSO director Silvia Alonso, the adage, “*vale más pedir perdón que pedir permiso* (it’s better to apologize than to ask permission),” exemplifies the incentives offered by the existing system.

¹⁴ Alternatively, precisely because of the success of earlier reforms, the need for additional observation was diminished, in part because of a more reliable IFE, and the existence of a federal prosecutor in charge of electoral felonies (FEPADE).

Third, Mexico's citizens were saturated by non-stop media coverage of sensational political scandals. The most colorful political corruption scandals may have been those alleged against Mexico City Mayor Andrés Manuel López Obrador's staff, and the "PEMEXGate" scandal in which some \$US 45 million was laundered into the PRI during the 2000 campaign from the public oil company's employee union.¹⁵ However, the election-related scandal most emblematic of current challenges was the 2000 Amigos de Fox "laundering" of some \$30 million in campaign contributions through a special interest PAC for then-candidate Fox. This case- and its investigation by IFE- revealed the limits of Mexico's election management bodies in punishing private sector accomplices to campaign spending excesses, and established precedents for "off the books" political action committee-like groups in Mexico. After some three years of judicial wrangling for exemptions to Mexico's "secret banking" laws, IFE investigators were denied access to PAN donor accounts by federal courts, but then granted permission by the Fox campaign donor in question, on the eve of an expected Supreme Court ruling, which might have opened private bank accounts to greater IFE scrutiny.¹⁶ The court precedent eventually came as an opinion—which confirmed that IFE could not be subject of banking secrecy laws, however; and although the PAN was found guilty of laundering excessive campaign contributions from illegal foreign donors and fined some US \$30 million, no election results could be legally challenged, and no culprit was criminally charged by the Election Crimes Prosecutor (FEPADE).

Fourth, the failure of electoral reform meant delays in further fortification of electoral institutions and resolution of their regulatory shortcomings. Indeed, despite the identification of several critical problems by all three major parties in the electoral regulatory framework, they all dutifully presented reform initiatives in Congress, but then let them languish, perpetuating the

¹⁵ Several high-level public officials were fined and banned from public service, and the PRI itself was fined about US \$100 million, but no one was criminally charged with federal electoral crimes, and as evidenced in Table II, the fine was not overwhelming as a percentage of PRI public funding.

¹⁶ A recent reform to the country's finance law has exempted IFE from banking secrecy.

regulatory regime's inability to prepare itself for the renewed challenges of 2006. The FEPADE has always been weak and overly dependent on the executive branch. Additionally, the Federal Electoral Institute (IFE) lost some of its credibility in the naming of its new post-2003 General Council without approval from López Obrador's PRD. The Electoral Tribunal of the Judicial Power of the Federation (TEPJF) was accused of rendering subjective, and possibly party-driven verdicts over the last several years, including in annulment of gubernatorial races such as in Tabasco 2001 and Colima 2004, over issues sure to be at the forefront in this federal election, such as "campaigning" by incumbent governors and other public officials while still in office. While the IFE and TEPJF were vindicated by their performance in 2006, López Obrador resorted again to the systematic and severe questioning of these authorities' rulings commonplace during the era of electoral fraud and *concertación*.

In negotiations of the aborted pre-2006 electoral reform, it was widely recognized that the FEPADE's powers were deficient.¹⁷ Indeed, María de los Angeles Fromow, the assistant attorney general for electoral crimes, acknowledged that being named directly by the president may be perceived as compromising her autonomy (interview). And the FEPADE lobbied unsuccessfully for reforms, seeking to broaden prosecutorial authority. All of these proposals failed to achieve congressional passage, and despite Fromow's involvement in cases such as the Amigos de Fox and PEMEXGate campaign finance scandals, these investigations resulted in civil "wrist-slapping" sanctions by the IFE and electoral court, but yielded no criminal prosecutions, which are FEPADE's purview.

The IFE, a bedrock of institutional credibility in 2003, did suffer some challenges to its credibility even before López Obrador's denunciations. The immediate turn to party politics by former "citizen" General Council members Santiago Creel (Councilor until 1997, and then

¹⁷ While resistance existed to proposals by all three of the major parties' legislators, the PRI's objections were to granting the FEPADE greater authority, which had been proposed in a whole range of areas (see Hidalgo).

federal congressman for the PAN and Fox's longest-reigning Secretary of Gobernación), José Ortiz Pinchetti (peer of Creel's both at IFE and later in the House, but for the PRD), Emilio Zebadúa (post-1997 Councilor subsequently elected as PRD congressional member) and Juan Molinar (post-1997 Councilor who became a PAN congressional member and "clutch" Calderón campaign spokesman and advisor) may have set precedents for appointment processes like that of 2003 less focused on the 'autonomy' of the new Council members.¹⁸ This revolving door pattern between the IFE and Congress led some observers to suggest that the institution may better protect itself from allegations of partisan bias by implementing stronger conflict-of-interest legislation.¹⁹ Indeed, the 2003 General Council which began its seven-year term in November 2003, charged with the 2006 and 2009 federal elections, was not selected with the same level of consensus as in the past; the PRI and PAN (and the Green Party, or PVEM) approved the selection of the General Council, but over public PRD objections.

Still, whatever partisanship may have lurked in the past or future lives of the current General Council members, for 2006, the collegial IFE did seem to strive for impartial decisions.²⁰ Indeed, as recent work by Rosas, Estévez and Magar (2005) argued, as long as the

¹⁸ While they may be overly idealized in hindsight for their deft crafting of compromises leading to the successful 2000 election, the 1997 IFE General Council members were accomplished academics and CSO leaders without overt partisan affiliations and their selection via a PRI-PAN-PRD consensus in the Chamber of Deputies reinforced the parties' investment of good faith in the body (on debate over partisanship issue in 1997 IFE, see Schedler). Former Council President José Woldenberg, who served with distinction from 1997 to 2003 and has since retired from public life, has been viewed as a symbolic reaffirmation of the independence of IFE from the political parties it regulates. It should be noted, however, that while he himself had a long history in the political left, when Woldenberg was selected General Council president in 1997, his wife was President Zedillo's Environment Secretary, which in turn raised questions, later dismissed, about whether he would be partial towards the PRI. Scholars studying the voting records of former and current IFE Councilors indicate that the voting patterns of IFE Councilors may be somewhat tinged with partisan influence, but are no more so after 2003 than they were after 1997 (Rosas, Estévez and Magar 2005).

¹⁹ Current legislation only requires that electoral Council Members and Magistrates not serve for the administration whose election they conducted or supervised for one year after they have left their EMB posts.

²⁰ There is a long list of grievances that the PRD has leveled against the current IFE General Council; many of them are over bread-and-butter issues that parties typically complain about, and challenge formally at the TEPJF. But there have been others, specifically related to the election, that have seem more politically relevant. Most of these have lacked solid backing, as the TEPJF recognized in the court's final presidential race ruling on September 5, 2006. Among these complaints, most prominent was IFE's handling of the preliminary results program (PREP) on election night (Sunday), the handling of district-level recounts on the Wednesday after the election, and the replacement of randomly chosen poll-station workers, both prior to election day, and on election day. The electoral

General Council members are willing to seriously engage opposing positions across the range of issues they address, it can render optimal collegial decisions without being a “mini-parliament” where all positions are represented proportionate to their levels of political support. The 2006 election and post-electoral poise showed the institution’s maturity in the face of great political pressures.

While most observers argue that IFE’s collective decision-making and professionalized bureaucracy and structure are conducive to administering free and fair elections, the PRD leadership and the López Obrador campaign repeatedly alleged otherwise from months before the election to months after it. Even before the election, the PRD leadership’s continued mentions of the IFE’s “sins of origin” were cited as possible indicators of plans to undermine the process if it lost by a narrow margin. PRD president Leonel Cota’s retention of the Mexican office of the Brazilian Institute of Public Opinion and Statistics (IBOPE) to systematically document all parties’ national television advertising spots was seen as an indication that the party was gathering evidence of a non-level playing field.²¹ In another controversy, AMLO’s Coalition complained in the spring that Calderón ads were impugning his character with outright lies, and although in a divided decision IFE originally chose a more contrite position, arguing that they did not want to start censoring campaign advertising, the electoral court forced IFE to have the objectionable PAN ads removed, which eventually reshaped IFE’s internal balance giving a majority to the interventionist position. As a result, the IFE wound up censoring a large number of spots both from the PRD and the PAN for “denigrating” its contenders.

court argued – often in legal terms – that whether these irregularities occurred, they were in no case “determinant” to the elections’ outcome. From a technical, rather than legal perspective, Poiré and Estrada (2006) systematically debunked each of these claims. Moreover, while domestic observer groups may have been a bit circumspect, The European Union and United Nations Development Program observers immediately declared the election free and fair.

²¹ The same firm was chosen by IFE for its own monitoring effort, and ultimately showed very similar levels of air-time by the top three parties.

The electoral court's legitimacy was also impugned, as the court's seven magistrates had been accused well before 2006 of exercising excessive discretion in annulling gubernatorial elections (Tabasco 2000, Colima 2004), congressional elections (especially the 2003 Zamora, Michoacán-based congressional district), and mayoral elections (notably Ciudad Juárez in 2001) by invoking, to greater or lesser extents, "generic" and "abstract" causes of annulment which critics claimed were at least partially subjective. Even before the 2006 imbroglio, critics argued the magistrates' discretion was even more worrisome given that they were concluding their terms and that the entire electoral court turned over weeks after the magistrates certified the 2006 elections.²² Tribunal Officials acknowledged that the outwardly more subjective nature of the "generic" and "abstract" causes of annulment had been utilized by critics to undermine TEPJF decisions; admitting that deciding when irregularities were sufficient as to taint electoral outcomes was a delicate exercise. As an example, assuming complainants submit well-founded cases, the magistrates must decide what frequency, duration, and intensity of a governor's interventions constitute a determinant interference in the election, among other factors accounting for their alleged effect on electoral behavior.

The difficulty of this exercise is reflected in the magistrates' split - rather than unanimous - decisions. In particular, the electoral court's final ruling over the 2006 presidential election, which asserts both that President Fox's interventions in the media "put at risk" the electoral process, *and* at the same time were not determinant of the outcome, illustrates the logical weaknesses (and legal uncertainty) of such "abstract" modes of argumentation. When is such an intervention *determinant* if it was not in an election when the vote was decided by less than two votes on average for each one of the 130,000 poll-stations—and where by all measures Fox's popularity benefited his party's candidate? More precisely, can an objective threshold for such

²² The sole exception is Alejandro Luna Ramos, the replacement named for the distinguished and recently deceased Superior Court Magistrate José Luis de la Peza. Luna Ramos was named for a ten-year term in April 2005.

criterion—“being determinant for the outcome” – be derived? It should be mentioned that the court’s evaluation does not directly address the well-researched and often inconclusive field of media effects in political behavior, let alone go over the specific conditions that according to their legal argument would be needed to consider an effect to be *determinant*, beyond indicating that such evidence could be, but was not, produced.

However, as with IFE, the electoral court’s 2006 performance – even with these caveats - largely confirmed its integrity. The court’s large and still-growing body of case law precedents restrained temptations even by any imaginary “wayward” magistrates. The Coalition for the Good of All’s “vote by vote” call for a full recount was belied by their submission of only some 30 percent of ballot boxes for legal reconsideration.²³ The electoral court did conduct an unprecedented recount of some 9 percent of the ballot boxes, by a coherent standard of “evident arithmetic errors,” annulling 235,000 votes.²⁴ The recounts revealed no widespread pattern of electoral fraud which was deliberate and “determinant” in the outcome (as in the 2000 Tabasco and 2003 Colima gubernatorial races, where sitting governors were found to have intervened dramatically in electoral processes), and thus did not invoke the “generic cause of annulment” as demanded by López Obrador.²⁵ The electoral court’s final certification argued that it was an administrative act (rather than a judicial inquiry), and thus not admitting new evidence, such as

²³ The Coalition for the Good of All challenged [30,185 of the 130,477 polling stations set up on election day](#). The magistrates recounted 11,721 polling stations, or over a third of those petitioned (electoral court rulings and author communication with Omar Espinoza Hoyos, the electoral court’s international relations coordinator).

²⁴ While it has been argued that a full recount would have solved the “problem of legitimacy” of the current election, we here strongly contend the opposite. Great investments have been made in Mexico’s electoral institutions to conceive of procedures that would be respected both by authorities as well as parties. In the absence of legal claims or solid evidence suggesting the need for a broader recount, accepting one would have returned Mexico’s political development to the *concertación* years, where elections were actually stolen and authorities were demonstrably biased. A different discussion is whether ‘automatic’ recount procedures should be implemented (before the fact), for overly close elections. Such measures may be helpful, but only if conducted under proper standards of certainty and transparency (equivalent to those that the current legislation guarantees for other elections). While it is reasonable to believe that recounts will find random mistakes, if conducted under poor standards, these could generate worse mistakes than the original count causing just the sort of governability crises advocates of such recounts say they deter.

²⁵ SUP-JRC-487/2000 was the PRD’s 2000 Tabasco gubernatorial complaint, yielding the “abstract cause of annulment” jurisprudence. It was upheld in the PAN’s complaint after the 2003 Colima governors’ race (SUP-JRC-221/2003). This is not the place to elaborate on the specifics of these rulings.

was admitted during the electoral court's prior two months of inquiries, public sessions, and verdicts regarding vote tallies. The electoral court's reasoning was bitterly challenged by López Obrador. As with IFE, measures might be considered, through conflict of interest legislation or some other mechanism, to safeguard the credibility of that institution.²⁶

In summary, then, four partial causes have been suggested for Mexicans' diminished beliefs in elections as a solution to the broader malaise of Mexican politics: gridlock and public policy failures; the perceived inability of social movements and CSOs to propose a new course for social activism and the electorate's refusal to participate; a culture of campaign finance scandals which has prompted suspicion and disillusionment; and the increased threats to the authority of electoral institutions by partisan stake-holders. This backdrop sharpens the context of the main problem, of the lack of campaign finance transparency, exorbitant spending levels, and the inadequacies of regulations to ensure adequate coverage by the electronic media. After specifying these problems in the next section, we then consider the wide-ranging strategies which emerged in among CSOs, academia, and the media, for pressuring candidates towards greater transparency and frugal spending, even in the absence of an adequate regulatory regime. We also argue that such efforts, while noble, are no substitute for an electoral law reform.

Remaining Challenges in Campaign and Party Finance

Claims about party overspending, such as those leveled in the PRD's complaint, must be addressed in context. Mexico's party finance system is one of the most equitable in the world –

²⁶ The fear – which is hypothetical only - is that magistrates' incentives to strictly defend the law may diminish as their terms come to an end, as they may be looking for their next positions, perhaps as specialists in how parties can overturn elections. Indeed, with the exception of the few magistrates "on loan" from the federal judiciary, who will re-enter other circuits in 2006, the rest of the electoral court's magistrates will have to commence careers elsewhere when their 10-year terms expire in October 2006 (Omar Espinosa Hoyos electronic correspondence with author). While the TEPJF's magistrates are known to possess great personal integrity, it may serve the institution better in the future to stagger magistrate terms. Similar reforms to the appointment of IFE Council members may also be appropriate.

on paper. Parties are granted public funding by IFE according to a transparent formula which grants each party 30 percent of the total amount of public funding in equal portions (regardless of a party's size or electoral history), and allocates the other 70 percent of public funds according to each party's most recent federal election vote share. A party's private donations can match, but not exceed, public funding. The problem resides in six areas beyond the scope of this regulatory framework:

- 1) The amounts of money that might have flowed through the system long before campaign regulation formally applied were unprecedented. While the *Universal* estimates of TV ad costs in Table III must be interpreted with caution (as no candidate is known to pay "retail" for television ads), they do indicate massive expenditures that may never been entered in the books, if they transacted before IFE regulation entered in vigor. Still nearly a year before the actual election, these profligate spending levels seemed to already be approaching total reported public and private expenditures by all parties in the 1994 presidential election (compare tables III and IV).
- 2) In the pre-campaign months, lack of disclosure is also a significant challenge, as PAC-like special interest groups are springing up in association with many of the pre-candidates, and their incomes and expenses could end up beyond the scope of IFE regulation – for the pre-primary, primary, and campaign seasons. Indeed, the Amigos de Fox model was being viewed as the scheme to replicate, despite the fines imposed against the PAN for the aforementioned reasons. While campaigning abroad by candidates is illegal under the new law allowing Mexicans abroad to mail in ballots, the proliferation of candidate-promoting PACs in the United States in future elections could be troubling, even if their effect in 2006 was minimal.²⁷
- 3) IFE regulation of campaign finance will only be publicized long after the election, meaning that campaigns may engage in dubious financial dealings without incurring "real time" penalties which might affect their vote shares prior to the election. While the primary season audit will be publicly disclosed during the campaign (by March 15, 2006), campaign season spending will only be publicly released in 2007, and there will be no IFE disclosure of pre-primary spending.²⁸

²⁷ Judging from the paltry number of Mexicans registered in the U.S., some 40,000, these fears in 2006 were unjustified. However, if in the future, 10 percent of the eligible Mexican voters abroad cast votes (internationally, absentee votes usually account for 3-5 percent of balloting), the estimated 4 million Mexicans with electoral registration cards abroad (98 percent of whom are in the U.S.), the resulting 400,000 votes could exceed one percent of the total number of votes cast. This assumes that some 40 million of the current 69 million card-carrying voters do cast ballots.

²⁸ On October 3rd 2005, IFE and Televisa signed an agreement through which the firm allowed IFE to directly review, during the course of the campaign, all information regarding party spending on all of Televisa's radio and TV outlets. This agreement, the first of its kind ever signed between IFE and any provider of services for political parties and may generate incentives for other media outlets to follow suit.

- 4) The pre-primary season is completely unregulated by IFE, implying that in parties without primaries (such as all the smaller parties for 2006), candidates may remain outside the formal regulatory framework until they declare their formal candidacies by January 15, 2006 (see Table V). The PAN and PRI disclosed primary schedules, although the PRI did so quite late.²⁹ Similarly, the PRD on August 1, 2005 declared López Obrador as its candidate of unity, entering the “primary season” IFE regulatory framework. The difference was that the PRD declared that it did not have an internal candidate selection procedure, and thus did not present “primary season” disclosure at all.
- 5) “Real time” disclosure of fundraising sources is not required and candidates who receive funds from illicit sources, or via *quid pro quo* deal-making, may not have to pay a cost in the court of public opinion.³⁰
- 6) Two media outlets sell a vast majority of Mexico’s national-level campaign “spots”.³¹ Allegations that certain candidates and parties receive unduly preferential treatment regarding this lifeblood of political campaigns are constant and present two problems. On the one hand, if differential rates and sale schemes are only the result of a normal market logic (i.e. discounts for schedule slots with fewer viewers, early buys, “bulk” purchasing, “cash” or at least short-term, as opposed to long-term, financing), then the ‘disadvantaged’ parties may merely be “crying wolf” to offset the other parties’ media buy advantages. On the other hand, if such differential rates are the result of alternative considerations, be they unfair or even illegal, then they should be considered as a major threat to the overall transparency of the election. At any rate, the controversial passage of telecommunications regulation in the midst of the 2006 campaign, with obvious discomfort by the PAN and PRD (Calderón conspicuously avoided referring to it during the campaign, even if his party supported it in the House and Senate, while AMLO tepidly asked for further public discussion, as the PRD in the House voted unanimously for it and against it in the Senate), illustrates that this issue has potentially broader ramifications beyond advertisements’ pricing.

Thus, even though the 2006 election was the most closely monitored election ever by IFE,³² these efforts were of limited effectiveness, since monitoring and auditing cannot by themselves solve the problem of enforcing campaign finance regulations (Lujambio, in press). CSOs and other pioneers of Mexico’s innovative “first generation” electoral observation had it easier back

²⁹ One of the closest advisors of PRI candidate Roberto Madrazo stated on August 1, 2005 (Aguilar Solís interview) that the campaign had not yet given much thought to how to organize the pre-candidate’s finances in a transparent manner.

³⁰ In the most prominent public scandal regarding favor-mongering, former Secretary of *Gobernación* Santiago Creel is alleged to have traded “off track” betting licenses in exchange for favorable TV ad rates. Whatever the veracity of the claims, the scandal may have cost Creel his party’s presidential nomination--but not his Senate seat, or his party’s leadership in the upper chamber.

³¹ *Proceso* reporter Jenaro Villamil Rodríguez (interview) argues that Televisa is by far the most important player, and that its market power transcends obvious manifestations.

³² Primary campaign spending was audited for the first time, and media spending was monitored for at least twice the time that it was monitored in 2000.

when they only had to identify acts of Election Day-fraud, rather than having to track playing field irregularities months ahead of time. However, they have risen to the pre-2006 challenge of seeking to pressure parties and candidates to disclose expenditures and donors, and to punish campaigns that fail to do so via adverse press.

These are important issues for consideration in future electoral reforms, but it bears restating that they cannot be shown to have been decisive in the electoral outcome, as these rules affected all parties. In particular, any assessment of Mexico's playing field levelness must come to terms with the hard fact that the high level of public funding provided to political parties, especially to the three larger ones, is sufficient to guarantee equal political opportunities in the campaign. As argued in Poiré 2006, each of the three major parties or coalitions in 2006 had enough public funds to cover at least 76% of all federal campaign spending limits, and it was the two opposition coalitions that had the most public money to spend: PAN had 76%, the Coalition for the Good of All had 86%, and the Coalition for Mexico had 110% available. This money was provided in addition to another 40 million USD spent for radio and TV advertising in a semi-proportional pattern like that of the cash funding itself. Hundreds of unpaid programs were produced by each of the parties and broadcast in radio and TV stations nationwide, plus two nationally-televised debates were open to all presidential contenders. Under this type of access to money and media, it would be very hard to argue that there was a decisive underlying unfairness of the electoral playing field—although inequities do exist and are in need of reform.

CSO and Media Efforts to Overcome Weak Regulatory Framework

Efforts by CSOs to level the “playing field” in the absence of the oft-praised (but never legislated) electoral reforms may be divided into two general categories. These are “carrot”

efforts to provoke voluntary commitments by candidates and campaigns to transparency and campaign frugality in the absence of a legal framework to substitute for this moral suasion; and “stick” attempts to shame candidates and campaigns via negative publicity into reducing their excesses by exposing suspicions about fund sources, illuminating campaign excesses, and regularly reporting on the monitoring of relations between electronic media and the campaigns. While well-intended in 2006, and serving to help Election Day run smoothly, these efforts were no match for López Obrador’s post-electoral mobilization, which disregarded sources of information, even independent ones, which did not concur with its views.

Beyond IFE’s own – mostly unheeded – calls for candidates to submit disclosures covering the pre-primary period,³³ Transparencia Mexicana (the international group’s Mexican affiliate) sought to adapt existing legal frameworks to the demand for campaign transparency by offering to “vouch” for the transparency of candidates who: 1) disclosed all campaign receipts; 2) subjected these receipts and the accounts they came from to external auditors; and 3) set up a fiduciary trust from which the ingress and egress of funds could be tightly monitored. At least three criticisms were raised of the Transparencia effort, although most interviewees agreed that it helped generate awareness of the need for greater campaign disclosures, and that as a regulatory framework, it was far better than nothing. First, Transparencia was only able to negotiate candidate compliance by promising not to disclose donor identities or amounts.³⁴ Second, unlike IFE, which was granted legal access to private bank accounts during its 2000-2004 pursuit of the Amigos de Fox paper trail, Transparencia was restricted to reviewing only documents furnished in participating campaigns’ voluntary disclosures. Third, by having to rely on voluntary compliance and by working only with candidates who approached them (rather than

³³ Only the three contenders from the PAN, independent candidate Jorge Castañeda, and PRI contender Everardo Moreno complied with IFE requests that they voluntarily submit pre-campaign account deposits and withdrawals.

³⁴ Campaign strategists such as Creel Coordinator Adrián Hernández (interview) said that no history of donor disclosure existed in Mexico and thus business owners and other donors did not want their donations revealed, especially since many of them were hedging bets and donating to all three major parties.

actively soliciting candidate participation), Transparencia was relegated to working with underdogs who were more desperate for the positive publicity such collaboration might garner.

Another effort, reliant on negative “stick” incentives for disclosure rather than on “carrot” positive publicity, has been a media campaign, organized by *El Universal*. Political Scientist José Antonio Crespo, a collaborator in the project, said it sought to force pre-candidates to publicly reveal expenditures, and simultaneously, to galvanize public opinion against frivolous spenders. The newspaper’s effort was premised on accepting that in the absence of disclosure, the only hard data available on campaign expenditures was the number of national television “spots” aired (which according to IFE figures represents some 50-60 percent of total campaign spending – see Table I). *El Universal* monitored all national television spots from April 15, 2005 until election day (July 2, 2006), estimating expenditures on TV ads by each campaign at retail costs given in the directories of Televisa (some 65 percent share of the national campaign “spot ad” market), and TV Azteca (a 25 percent market share).³⁵ For a fairly recent data “cut” using this methodology, see Table III.

The mechanism of estimating costs from the expenditure side of the campaign in the absence of data documenting income from donations would have been useful in and of itself, but becomes even more relevant when leveraged to an effort to force campaign disclosure and to an attempt to punish profligate spenders and reward campaign spendthrifts. In other words, total expenditures on media buys may be shown to be much lower than retail rate by candidates willing to document these buys, and this information could dramatically lower the estimated cost of their campaigns.

³⁵ Market share data is approximate and provided by *Proceso* reporter Jenaro Villamil Rodríguez (August 6, 2005 interview).

Other CSOs such as Mexico's venerable "first generation" electoral observers, Alianza Cívica, also planned campaign finance audits focusing on estimates of expenditures, in an extension of methodologies developed during observations of some of Mexico's more questionable recent gubernatorial elections, such as Veracruz 2004, Oaxaca 2004, and Mexico State 2005. Less constrained than Crespo's narrow focus on television advertising, Alianza sought to broadly trace money trails from their destinations back to their sources, and by virtue of its broader purview, will be able to seek out "parallel" sources of campaign finance (i.e. PAC-like special interest groups which collect contributions in the regulatory "shadows," as in Amigos de Fox), as well as merely considering official campaign sources.

Alianza Cívica in their observation report identified party finance and one other obstacle, "vote buying," as the greatest remaining obstacle to electoral transparency, which the group said had made great advances in 2006 overall (Alianza Cívica, 2). Their evidence, based on an exhaustive survey of 11,562 citizens in the two months preceding the election, did show some cases of "vote buying," although the percentage was low (6 percent of the total sample), and the problem could not have been determinant in the presidential race (here measured arithmetically), because, according to the NGO, the PAN was only identified by respondents to have been the beneficiary of 23 percent of the "vote buying," whereas the PRI stood to gain in 40 percent of the cases, and the PRD in 25 percent (with the rest of this behavior conducted on behalf of smaller parties, see Alianza Cívica, 25). Indeed, while acknowledging the continued existence of "holdover" local behaviors from the *concertación* era of PRI hegemony, electoral authorities and academic specialists have identified no national systematic pattern which would constitute organized electoral fraud.³⁶

³⁶ According to preliminary research by Alberto Díaz Cayeros, "...even if one were to accept the argument of Alianza Cívica, FUNDAR [a foundation directed by Alianza Cívica founder Sergio Aguayo which found a pattern of public spending towards electoral ends], and other critics of the current administration that if a vote is tilted in favor of the incumbent due to a social program (such as Oportunidades) the election is tainted, it turns out that there

Conclusions: On Bolstering Electoral Credibility Once and For All

AMLO's mobilization commanded extensive popular support, as even though his politicized calls for recounts and annulments were quickly dismissed, even by former supporters as self-serving harangues, the electorate did show itself to be disillusioned about democracy and even cynical about the potent mix of campaigns, media, and money. Indeed, three main points would seem to exemplify the possibilities for post-electoral volatility among the Mexican electorate and its political leaders. First, the allegations of irregularities from losing candidates with prominent histories of mobilization may continue, although new generations of politicians, who came to prominence after the *concertación* era, will resolve this problem with time. Second, as per the Coalition for the Good of All in 2006, future mobilizations might try again to provoke strong political arguments for the existence of 'massive' electoral fraud, or at least of the potential illegitimacy of the process as a whole.

Indeed, continuous partisan efforts to discredit IFE and other electoral institutions and to infer campaign finance violations from the estimated costs of media buys (without further inspection), would indicate that such strategies are always possible. Third, these allegations will have far-reaching salience among important segments of the Mexican electorate, disillusioned with the prospects for "clean and fair" elections by post-2000 Amigos de Fox, PEMEXGate, and Mexico City governance scandals even before the prolonged 2006 post-electoral social movement, not to mention the profligate overspending in Mexico State 2005, among sub-national electoral controversies.

is no evidence suggesting that social programs increased support for the PAN in this election.” <http://www.stanford.edu/~albertod/2006elections5.html>, last accessed on Oct 1, 2006. The same conclusion can be drawn from Poiré and Estrada, who show no electoral effect of either of these programs. Interestingly, they do show that recipients of AMLO's benefit programs in Mexico City were significantly more likely to protest the election outcome if their favorite candidate did not turn out the victor (as they most likely eventually did).

Despite our diagnosis in 2005 that “the chances of a destabilizing 2006 election in Mexico, rather than a democracy-affirming one, are low, but the possibility exists (Eisenstadt and Poiré 2006),” this worst case scenario transpired. Even before the 2006 race we argued that reforms were needed to address further disillusioning an already-cynical electorate, through the use of excessive sums of public money which could be put to much more efficient use elsewhere. After 2006, it is imperative to first restore the credibility of Mexico’s electoral institutions, and then address the “playing field levelness” improprieties. The traditional “first generation” approach to election-monitoring in Mexico utilized in the past by domestic CSOs and international donors was shown, as always, to be highly effective on discerning Election Day transparency, but inadequate for documenting potential campaign finance excesses and lack of disclosure which do become factors 12 or 18 months ahead of time. The high likelihood of widespread overspending and public resource abuses by all major political parties, during and especially prior to the electoral campaign was anticipated by López Obrador, who decried these conditions in his coalition’s legal complaint, gaining resonance with what was apparent to many citizens, until it started to grow increasingly evident that the PRD’s candidate was claiming to be the sole victim of what most recognized as field-wide problems. Indeed, the more outlandish López Obrador’s claims grew, the more his coalition shrank.

Given the grave controversy over the outcome of the election, which might have been at least partially averted had the “playing field” been more tightly regulated, thus removing even the most remote plausibility to those allegations from López Obrador’s arsenal, it is a real shame that Congress failed to pass an adequate electoral reform. A broad consensus existed about needed measures, but failure by the parties to overcome particularistic interests in favor of national electoral credibility left Mexico’s EMBs and civil society having to plead for voluntary cooperation regarding disclosure of donation sums and sources, which should have been legally

required, with stiff and automatic penalties for non-compliance. These groups performed admirably, but simply could not substitute for strict regulation and rigorous enforcement.

To their credit, Mexico's electoral institutions, still strong and autonomous at their core, did withstand the post-electoral attacks by López Obrador's supporters—and other less than strengthening strategies from 2003 onward. Recognizing the rhetorical nature of the protest leader's apparent misplaced reasoning that political pressures might influence the electoral court and force a *concertación*, most citizens distanced themselves from AMLO, who seemed never seemed to adjust course to a new strategy after failing to achieve a *concertación* over a full recount. The electoral commission did not sway, the electoral court did not buckle, and the will of the majority of voters was upheld. Improvements may be made to further strengthen the credibility of Mexico's electoral institutions, which once again, were battered in 2006. But having been tested under greater pressure than is brought against most EMBs, Mexico's institutions held. And that was no small feat.

Table I – Public Budgets for Mexico’s EMBs, Legislative, and Judicial Branches (in millions of pesos)

	2000	2001	2002	2003	2004	2005
IFE Parties	3,530.8	2,352.8	2,303.7	5,306.1	1,922.7	2,117.2
IFE Administration	4,922.9	2,941.3	3,491.7	5,790.9	3,545.6	4,280.9
TEPJF	1,352.4	595.7	663.0	1,004.2	912.5	1,175.6
FEPADE	2.5	3.9	5.4	8.1	5.8	5.5
Legislative Branch³⁷	3,790.4	4,398.7	4,896.9	5,576.0	5,439.0	6,355.9
Judicial Branch³⁸	6,723.4	13,207.8	14,700.6	16,727.9	18,487.5	19,862.1

Sources: “Decreto de Presupuesto de Egresos de la Federación para el Ejercicio Fiscal” in *Diario Oficial de la Federación*, December 31, 1999, December 30, 2000, January 1 2002, December 4, 2002, December 31, 2003, December 20, 2004, “Acuerdo del Consejo General del Instituto Federal Electoral que presenta el consejero presidente, por el que se aprueban modificaciones al presupuesto del instituto federal electoral para el ejercicio fiscal,” for 2000-2005.

Table II – IFE Estimates of Campaign and “Ordinary” 2006 Party Public Funds (in millions of pesos)

Party	Permanent, Ordinary (non-campaign) Activities	Campaign Expenses	Support for Production of Radio and TV Programs	Total Net
PAN	573.3	573.3	0.2	1,146.8
PRI	632.7	632.7	0.2	1,265.6
PRD	372.0	372.0	0.2	744.2
PT	139.3	139.3	0.2	278.8
PVEM	196.7	196.7	0.2	393.6
Convergencia	137.3	137.3	0.2	274.8
Nueva Alianza	41.0	41.0	0.2	82.2
Alternativa Social Demócrata y Campesina	41.0	41.0	0.2	82.2
TOTAL	2,133.4	2,133.4	1.6	4,268.4

Source; IFE 2006 budget approved August 18, 2005

Available at

http://www.ife.org.mx/InternetCDA/COMSOC/detalle_comunicado.jsp?idComunicado=348825438ffc5010VgnVCM1000002d01000aRCRD

³⁷ Includes the budget assigned to the Chamber of Deputies, the Senate, and the General Accounting Office-like Auditoría Superior de la Federación.

³⁸ Includes the budget assigned to the Supreme Court and the Federal Judicial Council.

Table III – *El Universal* Estimates of 2005 Pre-Primary Candidate TV Advertising Costs
(in millions of pesos)

ASPIRANT and PARTY (T signifies TUCOM in PRI)	# Spots TV	% TOTAL COST	% TV TIME	TOTAL COST*	NUMBER OF DAYS	AVG DAILY COST *
Arturo Montiel-PRI T	640	17.2	18.8	75.880	113	0.671
Enrique Jackson-PRI T	633	11.9	13.2	51.557	113	0.456
Enrique Martínez-PRI T	613	14.1	19.5	52.132	113	0.461
Tomás Yarrington-PRI T	482	14.6	14.8	55.697	113	0.492
Santiago Creel-PAN	339	22.7	13.8	130.783	60	2.179
Alberto Cárdenas-PAN	26	0.4	0.6	1.686		
Víctor González-Dr. Simi	183	1.0	5.8	5.430		
Bernardo dl Garza-PVEM	377	13.1	8.0	48.073	113	0.425
Felipe Calderón-PAN	52	1.4	1.4	6.057		
M.A.Nuñez Soto-PRI T	45	0.4	1.3	1.366		
TOTAL	100	100	100	441.731		
PROMEDIO				49.081		3.909

Source: August 8, 2005 “cut” (covering April 15, 2005-August 5, 2005) monitoring by *El Universal* newspaper.

Note: Based on monitoring of Federal District television outlets only. All expenditures are limited to estimates of television ad costs only, at listed retail rates. It is well known that these rates are never those paid by candidates, who almost always negotiate considerable discounts. Nonetheless, since better information is not available except from the television sources which are reticent to provide it, or from IFE months and years after the election, this is considered, at the very least, a fair means of assigning/estimating campaign “spot” advertising expenditures.

Table IV – IFE-Disclosed Public and Private Funds (1994-2003)
(in millions of pesos)

Election Year	Propaganda	%	Operations	%	Television, Radio, and Print	%	TOTAL
1994	\$ 146.3	35.3	\$ 163.7	39.5	\$ 104.8	25.3	\$ 414.8
1997	\$ 266.9	22.2	\$ 275.1	22.8	\$ 662.6	55.0	\$ 1,204.6
2000	\$ 493.5	22.2	\$ 529.7	23.8	\$ 1,203.4	54.1	\$ 2,226.5
2003	\$ 343.5	28.0	\$ 225.1	18.4	\$ 656.7	53.6	\$ 1,225.3

Source: IFE Parties and Prerogatives Division.

Note: This data, for 2000 and 1994, represents campaigns for president, senate, and the Chamber of Deputies, while for 1997 and 2003 it only represents expenditures for the Chamber of Deputies.

Table V – “Seasons” of Campaign Finance Regulation During the Run-up to 2006

Campaign Phase	Level of IFE Regulation	When IFE Publicly Discloses	When it applies to PAN	When it applies to PRD	When it applies to PRI
Pre-primary Season (ends when primary contenders are registered by their party)	No IFE regulation at all for contenders' 'personal' spending (but monitors TV spots and news content starting July 1st)	Never	July 12, 2005	August 1, 2005	Undetermined, probably by the end of September
Primary Season (ends when final party candidate selected, with outside deadline of January 15, 2005)	IFE requires campaign funding disclosure; no regulation of spending limits	For candidates chosen by Nov-15-05, Mar-15-06; if later, Jun-15-06.	October 23 if no run-off, November 6 2005 if run-off needed.	No primary competition; as late as January 15	November 6, 2005
Campaign Season (January 15, 2005-June 28, 2006 for President)	IFE requires campaign funding disclosure and regulates spending limits	April 2007	January 15, 2006	January 15, 2006	January 15, 2006
Pre-election "Quiet" Period (period between formal conclusion of campaigns and Election Day; June 29 to July 1st).	All campaign activities are prohibited (including promotion of public works by incumbents).	IFE investigates if a complaint is presented, but disclosure is not likely until well after the election.	IFE investigates if a complaint is presented, but disclosure is not likely until well after the election.	IFE investigates if a complaint is presented, but disclosure is not likely until well after the election.	IFE investigates if a complaint is presented, but disclosure is not likely until well after the election.

Source: Media accounts and IFE regulations.

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