

# Civil Society Against Free Trade in Mexico

## Part 2

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Protests against free trade in Guadalajara, Mexico, in 2004.

In the last issue of *Voices of Mexico*, I showed how throughout the 1990s democratic elections were constructed as the means to challenge the status quo supporting the economic discourse that was reshaping Mexico's social arrangements. Democracy was the discourse facilitating unity among the social movements and nongovernmental organizations (NGOs) affected by economic re-structuring. Expressed in terms devised by Ernesto Laclau

and Chantal Mouffe, democracy was the first discourse acting as the nodal point extending the chain of equivalence for hegemonic articulation against the hegemonic forces imposing neoliberal policies and globalization.

In this article, the last of a two-part series, I will argue that this situation has been changing. As electoral democracy has been progressively achieved through the 1997 mayoral elections in Mexico City and the 2000 presidential balloting, human rights is now replacing democratic discourse—at least the discourse of

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electoral democracy advanced until 2000— because the latter became obsolete after the country's first democratic elections.

I contend that over the last 20 years human rights discourse in Mexico has changed to include issues related to free trade, thereby extending the chain of equivalence to include many of the NGO networks and social movements involved in the struggle for fair trade in Mexico over a 10-year period (1991-2001).<sup>1</sup> It is therefore becoming increasingly hegemonic.

#### CONSOLIDATION OF HUMAN RIGHTS DISCOURSE

As shown in Part 1, from 1988 to the first half of the 1990s, human rights became a mere object of democratic discourse. This was due to the fact that, after originally including issues related to political repression, i.e. violations of the right to physical integrity and security, to life, to justice and to freedom of expression, association and opinion, through murder, torture, illegal and incommunicado detention, execution, etc., the discourse was extended to include impunity and non-political abuses, but also political rights such as the right to be elected to public office and to vote in democratic elections.

However, in spite of this subordination, human rights were given a definition that would eventually lead to their expansion to include issues related to social justice. Because human rights represented a concept directly imported from Central America, where the social justice discourse of liberation theology was very strong, in the leading human rights groups chaired

by Dominican priests it remained holistic. All writings of the time indicate the holistic character of the NGO understanding of human rights, which included civil, political, economic, social, individual and collective rights, and a strong awareness of the collective rights of indigenous peoples. Although they could not address these rights in their totality because of the lack of local expertise and the limitations of international human rights discourse itself in relation to this type of rights, they were always present in their rhetoric in order to explain the larger context of repression and lack of democracy—economic injustice leading to viola-

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tions of economic, social and cultural rights (ESCR). This is particularly true for organizations linked to the progressive Catholic Church.<sup>2</sup>

Pioneer human rights activists share the opinion that human rights discourse was consolidated in 1990, when the government was forced to do more than simply cope with the accusations of widespread violations made by international NGOs, accusations also made by national NGOs which were finally addressing the problems of selective repression in Mexico.<sup>3</sup> That year the government set up the National Human Rights Commission (CNDH), a sort of ombudsman appointed by

the executive branch that marked the development of NGO human rights discourse in two ways.

On the one hand, it linked human rights to the wider struggle against free trade and neo-liberalism. The CNDH was created in June 1990, a few weeks after human rights lawyer Norma Corona Sapién was killed in Sinaloa state and a few weeks before president Carlos Salinas traveled to Washington in order to initiate negotiations for the North American Free Trade Agreement (NAFTA). NGOs accused the government of setting up the CNDH to gain legitimacy in trade negotiations with its U.S. and Canadian counterparts, who were very sensitive about civil rights and representative democracy. Human rights NGOs were determined to prove that human rights were systematically violated by the future trade partner of the U.S. and Canada.

On the other hand, human rights NGOs reinforced their own identity by marking a qualitative difference between their discourse and the government's. This is because, arguing that politics should be alien to human rights observation and that there were already courts dealing with labor issues, the government decided that the CNDH would not accept complaints about violations of political and labor rights, some of the most systematically violated rights in the country. Consequently NGOs began to distance themselves from the government because they did consider, unlike the government, the promotion and defense of all human rights.

#### HUMAN RIGHTS AND FREE TRADE

Only two out of 40 human rights NGOs belonging to the "All Rights for All"

Organizations Network (RTDT) joined the coalition of organizations opposing free trade in Mexico, the Mexican Free Trade Action Network (RMALC), set up in 1991, but these NGOs failed to advance economic and social rights issues in the wider free trade agenda; they focused on civil and political rights. Some NGOs did try to establish a link between free trade and human rights violations like the repression of strikes organized by independent unions, or the exploitation of workers in sweatshops, by carrying out such activities as observing union elections and preparing socioeconomic analyses of employment, agriculture, the environment and the situation of indigenous people.<sup>4</sup> Nevertheless, getting other governments and organizations to put pressure on the Mexican government to liberalize politics, put an end to impunity, stop police and military abuse of social leaders and poor people and recognize indigenous peoples was the major human rights goal within the free trade agenda.<sup>5</sup> Consequently, the more general link between free trade and human rights violations became a simple matter of indicating that democratic countries should not engage in business with an undemocratic government that systematically violates human rights—in particular political rights—like the government in Mexico and, if they do, they have to force them to improve their human rights performance.

However, there was—as in fact there had always been—a broad reference to violations of economic-social-cultural rights (ESCR) by neoliberal policies in the general framework for abuses of civil and political rights. Mexican NGOs even supported the mainly U.S. and Canadian demands for the inclusion

of labor rights and environmental protection, which resulted in parallel labor and environment agreements totally lacking a human rights perspective.

Failure to address human rights abuses generated by the impact of the agreement was the result of four factors. One, there was still little human rights expertise in human rights groups since it was a relatively new discourse in the country and organizations dealing with it were not familiar with ESCR or collective rights issues. Furthermore, the dominant discipline in those groups was law; economics as a field of knowledge was absent. Two, the international human rights discourse itself had not

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yet developed enough tools to address many of the issues related to free trade: labor, the environment, agricultural sovereignty, development, international cooperation, state duty and the right to plan the economy, etc. Three, they did not know with any degree of certainty what the consequences of free trade on people would be—they still lacked the traditional raw material of the human rights methodology they had used thus far: cases. Finally, because of their shared priority, the empty signifier extending the chain of equivalence was democracy. Human rights discourse, although expanding, was still subordinated to democracy.

## HUMAN RIGHTS: A NEW CHAIN OF EQUIVALENCE AGAINST FREE TRADE?

In 1994 the Zapatista uprising, an event that highlighted and defended indigenous identity in opposition to NAFTA, forced organizations to finally discuss something that had been in their rhetoric for a long time: the fulfillment of ESCR and collective rights, especially of indigenous peoples, as a precondition for democracy.

Nevertheless, since human rights organizations had been familiar with and interested in indigenous peoples' cultural rights and their situation of structural discrimination since the late 1980s, working on indigenous people's human rights came almost naturally. In fact, human rights NGOs were a key factor in translating indigenous rights into human rights, by sharing their knowledge and through their handling of International Labor Organization (ILO) Covenant 169 on Indigenous Rights, which declared the collective rights of indigenous peoples to manage their own resources, to elect their own authorities, to be consulted, etc.<sup>6</sup> It was easier, then, to broaden out the discourse in the direction of the collective cultural rights of indigenous peoples than in the direction of ESCRs under NAFTA.

However, during the second half of the decade, two important events helped make free trade an object of human rights discourse. In the first place, the initial consequences of unregulated capital began to appear. On the one hand, financial crises occurred between 1994 and 1997 in Latin America—including Mexico itself—and Asia, revealing the vulnerability of individuals and human collectivities vis-à-vis unregulated trade and portfolio and

foreign direct investment. On the other hand, the RMALC analyzed the consequences of the unfair terms of NAFTA during its first three years: plummeting wages, bankruptcies of small and medium-sized companies in Mexico because corporations were not required to buy from Mexican producers and the crisis of Mexican agriculture due to the lack of government support and competition with agricultural corporations, among other factors.<sup>7</sup>

In the second place, international human rights discourse had started to develop a considerably large body of instruments and mechanisms for ESCR implementation, such as the Limburg Principles and the Maastrich Guidelines, as part of the state's duties; the general observations of the Committee for ESCR, especially reports for the rights to development, food, health and education, among many others.

These instruments, together with the first economic assessments of NAFTA, provided the elements for a free trade-human rights relationship outside the democracy chain of equivalence —data and cases were finally available. For instance, in 1996, the article *Apuntes sobre los derechos económicos, sociales y culturales y el TLC* (Notes on Economic, Social and Cultural Rights and NAFTA), written by the then-technical secretary of the “All Rights for All” Organizations Network (RTDT), Rocío Culebro Bahena, explicitly refers to the loss of legal entitlements in free trade, and, unlike previous articles which linked human rights to free trade in terms of the lack of democratic discussion in negotiations, this article attempted to employ an economic discourse: “Economic integration based on an economic model of structural adjustment emphasizes privatization,

mostly in favor of multinational corporations and dismantles state regulation. This, together with the negative effects of NAFTA, worsens the situation.”<sup>8</sup> The typical free trade agenda expands toward economics when Culebro adds references to ESCR instruments, the right to development and the problems caused by corporations.

Furthermore, free trade became the focus of the counter-report to the Mexican government's third report to the United Nations' ESCR Committee,<sup>9</sup> a joint report written by human rights NGOs and social organization networks dealing with such issues as housing, gender, labor, development and health.

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The former (represented by the most important groups, Miguel Agustín Pro Juárez, Fray Francisco de Vitoria, the Mexican League for Human Rights, the Mexican Commission, the RTDT) provided the human rights expertise and perspective. The latter (including such important networks as Convergence of Civic Organizations for Democracy) provided a set of discourses human rights NGOs had been unfamiliar with, like economics, gender, public policy, social and economic development.

With this combination of discourses, the report assessed the government's obligations concerning each of

the articles of the International Covenant on ESCR, and provided detailed analyses of three issues, as recommended by the Committee for ESCR itself: the federal budget for social policy, the situation in the state of Chiapas and the impact of NAFTA. The focus of the latter analysis was the agreement's impact on labor and wages; the impoverishment of rural areas and migration; health and the environment; food and food technology (genetically modified food).<sup>10</sup>

Developments in the field of ESCR and the availability of evidence of their violation, however, were not the only factors contributing to the increasing importance of human rights discourse in free trade over democracy. Another major factor was the first democratic elections held in the country (the Party of the Democratic Revolution [PRD] won local elections in Mexico City in 1997 without PRI attempts of electoral fraud). The relaxation of the democratic agenda, together with the availability of data, cases and methodology, allowed NGOs to widen their agendas and interests. More importantly, as clean elections were increasingly a fulfilled objective, democracy as a chain of equivalence no longer made sense. This was reaffirmed in 2000, when PAN candidate Vicente Fox became the first president from a party other than the PRI —the party which had held power since its inception in 1929.

After this, organizations began to develop methodologies, expertise and knowledge about ESCR, including violations of free trade. This was partly because organizations were not as interested in democracy as before, but also for two further reasons. First, the new right-wing government showed no signs of changing neoliberal poli-

cies (in fact it reinforced them, placing businessmen and women in such posts as the Ministry of Labor). Second, Vicente Fox began an aggressive international campaign to improve the Mexican state's human rights record. He started to sign United Nations human rights conventions, admitted the jurisdiction of Inter-American human rights bodies and liberated the so-called prisoners of conscience whose cases had been publicized by NGOs. In summary, while he carried on with the economic policies violating ESCR since the 1980s, he also implemented an international policy centered on adopting any human rights treaty or convention available and vocally supporting human rights causes throughout the world.

In this context, since 2000, the ongoing construction of the relationship between human rights and trade has been pushing toward an increasing use of human rights discourse for framing social diplomacy against free trade,<sup>11</sup> particularly in the context of the Free Trade Area of the Americas (FTAA), an initiative launched by then-U.S. president Bill Clinton in 1994 at the Americas Summit in Miami, Florida. Two major civil society human rights initiatives in the FTAA summit process point to an increasing use of a human rights framework for the construction of joint agendas in social diplomacy activities, that is, the use of human rights discourse—which after 20 years of developing toward free trade and ESCR has become hegemonic in this struggle—as an empty signifier extending the chain of equivalence against free trade.

First, the Hemispheric Social Alliance's Alternatives for the Americas is a hemispheric development project that proposes human rights as the basis for

a fair free trade policy covering work, the environment, migration and matters of gender, together with investment, services, FDI, finance, agriculture and dispute resolution mechanisms. The document, which places human rights at the beginning of an index covering labor, the environment, the role of the state, investment, finance, property rights, etc., states, "A common human rights agenda should form the overall framework for all hemispheric policies, and include mechanisms and institutions to ensure full implementation and enforcement. This agenda should promote the broadest definition of human rights, covering civil, political, econom-

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ic, social, cultural, and environmental rights, gender equity, and rights relating to indigenous peoples and communities."<sup>12</sup> This is the common platform of a continent-wide network gathering together unions, farmers' groups, NGOs and social organizations, including hemispheric human rights networks.

Second, the Second People's Summit took place in Quebec, Canada, in 2001. This was the sequel to the parallel NGO gathering during the governmental Second Summit of the Americas, which took place in Santiago de Chile, in 1998. (The first governmental forum was held in Miami, in 1994, and had no parallel NGO gathering.) NGOs from

throughout the region organized a gathering that included a human rights forum. Nevertheless, it was in 2001, during the Third State Summit in Quebec, Canada, when human rights became a wider framework in the work of the NGO parallel summit. They issued a civil society declaration demanding that governments make human rights the axis of free trade policy, and governments replied with a plan of action that included human rights and democracy.

"We want to put a priority on human and collective rights as defined in international treaties on free trade... We want full respect for human rights, which are universal, equal and indivisible... We want to build bridges among the people of the Americas, to be inspired by the pluralism of our histories and cultures, to become stronger by exercising representative and participatory democracy."<sup>13</sup>

This does not mean that democracy is completely disappearing from the NGO and social movement arena, just that its expansion (it is increasingly comprised of citizen participation in the regional and global arenas as well as on social justice issues) is now subordinated to human rights, which are more and more the nodal point for a hegemonic articulation of the different NGO networks vis-à-vis free trade. Human rights are thus performing a twofold role. First, by becoming an empty signifier suitable for a chain of equivalence between NGOs in two ways.

On the one hand, if an empty signifier is constructed by becoming that which represents the fullness of what is in fact absent, human rights achieves that because they are precisely entitlements that are absent in

free trade. On the other hand, it becomes a chain of equivalence because all NGOs and social organizations are concerned, one way or another, with creating the conditions for human dignity, which is a cornerstone value (although not essential) of human rights discourse.

Second, it is providing the nodal points for partially fixing meaning in a common agenda against free trade; human rights can be the nodal point which is the overarching factor in the content of social struggles. This means two things. First, that demands are expressed in terms of human rights

discourse in order to emphasize human dignity, citizen participation and state and private accountability in the construction of agendas. Second, an agenda for the defense of a particular right could include most demands because it can work as a nodal point fixing floating signifiers in trade discourse. ■■■

#### NOTES

<sup>1</sup> This research has been conducted with the extensive use of original documents and personal interviews with major human rights figures in Mexico.

<sup>2</sup> There are two types of human rights NGOs: academic-professional groups and left-wing Catholic organizations. The difference between the two groups in the late 1980s and early 1990s was marked by the wider discourse within which human rights discourse was either an instrument or a requirement for achieving long-term political and social aims. Academic-professional organizations used a discourse of the rule of law as a precondition for a truly democratic regime, whereas Catholic organizations used the discourse of liberation theology which aimed at achieving social justice for the poor. The former saw democracy as an end in itself while the latter believed that democracy was a means for achieving social justice. It seems that the first view was rather idealistic, coming from intellectuals working for social movements, while the other was based on the experience of priests working directly with workers and farmers. Activists from the academic-professional wing see this difference as merely philosophical, while religious groups believe that such a distinction had important ontological implications. The immersion in either liberation theology discourse or the rule of law discourse marked the long term aims of the two types of NGOs. On the one hand, Catholic groups believed that violations of civil and political rights were rooted in political, social and economic causes, and that the defense of human rights had eventually to lead to a democratic regime supporting social justice. On the other hand, the long term aim of secular organizations was an idea of democracy whereby the law is enforced in favor of individuals, so they could choose their leaders and thus a different economic future. Sources: Mariclaire Acosta (2004), interview (Mexico City); Sergio Aguayo Quezada (2004), interview (Mexico City); Miguel Concha Malo

(2004), interview (Mexico City); J. Maldonado (2004), interview (Mexico City).

<sup>3</sup> Although the first NGOs were created in 1984 (the Fray Francisco de Vitoria Human Rights Center and the Mexican Academy of Human Rights), human rights did not provide a framework for addressing Mexican issues. They addressed repression in Central America or refugee issues in Mexico, in the case of the Vitoria Center, or theoretical and conceptual issues, i.e. the ombudsman, in the case of the academy. Interviewees argue that they had to spend their first years of work trying to make human rights a legitimate discourse (it was seen as a foreign, pro-Yankee framework, and most people did not know what, exactly, their human rights were, including government officials and social leaders), and to get social backing (it was too dangerous to talk about repression or other anomalies under the PRI government). It was only after 1988, when the first report on the Mexican case was published, that the first national NGOs addressing violations perpetrated by Mexican authorities were set up (the Miguel Agustín Pro Juárez Human Rights Center, in 1988, which was set up by Jesuits; and the Mexican Commission for the Defense and Promotion of Human Rights, in 1989, which was set up by people who left the academy because they wanted "to address cases rather than causes", in the words of former academy chairman Sergio Aguayo). In 1989, the Civil Organizations Network "All Rights for All" was set up in order to coordinate the work of the increasing number of human rights NGOs in the country.

<sup>4</sup> Fuentes, M. "El caso 'Ford' ¿Modelo de relación laboral en el futuro?" *Justicia y Paz* (Special issue on Labor Rights and Free Trade) no. 23, year 6 (1991), pp. 3-8.

<sup>5</sup> Red Mexicana de Acción Frente al Libre Comercio, Founding document of the Mexican Action Network on Free Trade (Mexico City: RMALC, 1991), p. 8.

<sup>6</sup> E. Cortez Morales (2004), interview (Mexico City).

<sup>7</sup> Red Mexicana de Acción Frente al Libre Comercio, *Espejismo y realidad: el TLCAN tres años después. Análisis y propuesta desde la sociedad civil* (Mexico City: Red Mexicana de Acción Frente al Libre Comercio, 1997), p. 203.

<sup>8</sup> Culebro Bahena, Rocío, "Apuntes sobre los derechos económicos, sociales y culturales y el TLC," M. Chamberline, *La integralidad de los derechos humanos II* (Mexico City: Universidad Iberoamericana, 1996), p. 36.

<sup>9</sup> The ESCR Committee allows NGOs to submit their reports when governments present theirs, so committee members can balance the usually optimistic government reports.

<sup>10</sup> Espacio DESC, *La situación de los derechos económicos, sociales y culturales en México. Informe alternativo de organizaciones civiles, sociales y redes mexicanas al tercer Informe Periódico del Gobierno Mexicano ante el Comité de las Naciones Unidas sobre Derechos Económicos, Sociales y Culturales* (Mexico City: Espacio DESC, 1999), p.123.

<sup>11</sup> I am using the term "social diplomacy" in the sense proposed in D. S. E. Gallardo Calva, *Acción colectiva y diplomacia: Movimiento ambientalista frente al Tratado de Libre Comercio de América del Norte* (Mexico City: Centro de Estudios Sociológicos-El Colegio de México, 1999).


<sup>12</sup> Hemispheric Social Alliance, *Alternatives for the Americas* (Quebec: Hemispheric Social Alliance, 2001), p. 85.

<sup>13</sup> Alianza Social Continental, *Declaración de la II Cumbre de los Pueblos de las Américas* (Quebec, 2001).

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