

Examining the Role of Political Entrepreneurship in the
Decision to Change Mexico's Foreign Policy on Human Rights

by

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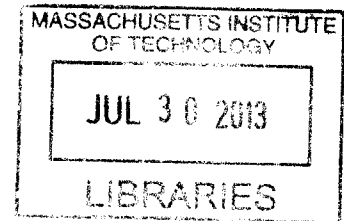
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ABSTRACT

Under what circumstances can political entrepreneurs shape policy change? By relying upon the multiple streams framework, this research studies some of the factors that underpin decision-making in the public sector. Through a discussion of the process whereby Mexico became both the first developing country to permanently invite all international observers to monitor domestic human rights violations and the first country not undergoing a civil war to establish an Office of the United Nations Human Rights Commission, the case debates the extent of maneuvering room and the strategies of political entrepreneurs. The study suggests political entrepreneurs can shape policy change without steadfast support from neither elected officials nor a favorable domestic political environment.

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Introduction

Under what circumstances can political entrepreneurs shape policy change? By relying upon the multiple streams framework, this research studies some of the factors that underpin decision-making in the public sector. Through a discussion of the process whereby Mexico became both the first developing country to permanently invite all international observers to monitor domestic human rights violations and the first country not undergoing a civil war to establish an Office of the United Nations Human Rights Commission, the case debates the extent of maneuvering room and the strategies of political entrepreneurs. The study suggests political entrepreneurs can shape policy change without steadfast support from neither elected officials nor a favorable domestic political environment.

John Kingdon, in *Agendas, Alternatives, and Public Policies* (1995), argues there are three streams, namely problems, policies, and politics, that come together at critical instances called “windows of opportunity.” He remarks that there are four independent elements that need to simultaneously converge for policy change to happen. Firstly, there must be a politically propitious context that facilitates change, such as a turnover in government, a shift in partisan distribution, or a swing in public opinion. Secondly, a social condition has to be framed as a problem either because it contradicts principles, implies an improper allocation of resources or is triggering cumulative dislocations. Thirdly, a policy strategy needs to be deemed feasible to address this crisis, distressing indicator or troubling feedback. Fourthly, a set of political entrepreneurs must conclude that a normative and political reward is to be derived from addressing the problem, shaping a policy strategy, and making the decision to enact change.

Kingdon's multiple streams framework resonates both with scholars and practitioners in public policy. Although widely appealing, because of its simplicity and ability to encompass an array of factors, the framework has seldom been revisited either by the author or students of the framework (Sabatier 2007). Because of this scholarly neglect, an opportunity exists to discuss in detail some of its aspects, in particular the extent of maneuvering room and the strategies of political entrepreneurs. In my view, when the three streams converge there is tension between two arguments. That is, do political entrepreneurs need to rely both on steadfast support from the elected officials who appointed them and on a favorable domestic political environment to shape policy change (Reid 1980; Pralle 1993; Boswell 2012), or can political entrepreneurs shape policy change without either of the two? (Zahariadis 2008; De la Porte 2011).

At the heart of this debate lies a better understanding of policy windows and the dynamics of coupling (Cohen, March, and Olsen 1972; Cobb, Ross, and Ross 1976; Krasner 2009). If policy outcomes are neither exclusively rational nor solely a function of institutional design (Bukowski 2007; Schlager 2007; Zahariadis 2007), but depend too on how problems, policies, and politics are framed by political entrepreneurs, then the extent of maneuvering room and their strategies prove critical (Beckert 1999; Samuels 2003; Dunlop, Maggetti, Radaelli, and Russel 2012). If policy choices, though context-specific, hinge on how ambiguity and spillovers are interpreted by political entrepreneurs (Schneider and Teske 1992; Font and Subirats 2010; Ackrill and Kay 2011), then how political entrepreneurs aggregate issues, establish networks, and manage conflicts shapes policy outcomes (Baumgartner and Jones 1991; Mintrom and Vergari 1996; Howlett, Ramesh, and Perl 2009; Eberlein and Radaelli 2010).

The term “political entrepreneur” encompasses a visible cluster of political actors, elected officials and their appointees, as well as a hidden cluster of participants within and outside the government, such as civil servants and policy specialists (Kingdon 1995). In this paper, I focus on one subset of political entrepreneurs, that of high-level political appointees with decision-making authority. The reason behind this decision has to do with the characteristics of the case, in whose unfolding such actors play a crucial role – actually, they have been described as the “critical driver for policy change in an exceptional case without precedents in the history of human rights” (Vivanco, *Interview*, June 20, 2012).

The case centers on the rejection of the non-intervention and sovereignty principles that underpinned Mexican foreign policy on human rights for eight decades (1917-2000). This study discusses the period 2000-2003, during which Mexico became the first developing country to permanently invite all international monitors to report on human rights violations as well as the first country not undergoing a civil war to establish an Office of the United Nations Human Rights Commission. During this period, Mexico’s government signed over 15 international human rights treaties, voted for the first time in favor of a UN resolution condemning human rights violations, and transformed its working relationship with activist networks. These efforts were later recognized with the selection of Mexico as the first country to hold the presidency of the United Nations Human Rights Council in 2006.

In this study, I examine the policy output, government records, and opinion pieces of the principal actors: President Vicente Fox and Minister of Foreign Affairs Jorge Castañeda. I also draw upon reports from non-governmental organizations and multilateral agencies, as well as on interviews with key government officials, diplomats,

and activists, such as former Minister for Human Rights Mariclaire Acosta, former US Ambassador to Mexico Jeffrey Davidow, and Human Rights Watch America's Division Director José Miguel Vivanco.

The paper is structured as follows. In the first section, I discuss the reasons why Mexico's human rights foreign policy was framed around the principles of sovereignty and non-intervention, and I highlight the major episodes that underscored such a stance. In the second section, I illustrate how the election of an opposition candidate to Mexico's presidency triggered a set of circumstances that opened a window of opportunity for policy change. In the third section, I describe the strategies of political entrepreneurs to shape such change, rendering the federal government more receptive to human rights advocacy. In the fourth section, I discuss the extent of maneuvering room for political entrepreneurs to address pushback from within and outside the administration. I conclude with a discussion of the potential implications of the case for our understanding of policy change.

I. Eighty Years of Sovereignty and Non-Intervention

In 1917, in the aftermath of the Mexican Revolution, a new Constitution was ratified establishing Mexico's president would be responsible for determining the country's foreign policy so as to abide by the principles of sovereignty and non-intervention (Rabasa 2004). This meant that Mexico's diplomatic strategy, wrapped in the flag of nationalism, was to strengthen international law in order to limit the extent to which both public and private interests from industrial powers, particularly the United States, could shape or interfere with national affairs (Meyer 1966; Ojeda 1976; Chacón 2001; Meyer 2006; Covarrubias 2008; Fernández de Castro and Domínguez 2009). Mexican presidents reasoned that engaging with human rights instruments would undermine the

country's domestic authorities. As a result, the government lobbied multilateral regional and global organizations to ensure that emerging international norms, covenants, protocols, and courts were not granted jurisdiction over domestic issues, anywhere in the world, regarding potential abuses of power (Cosío-Villegas 1975; Ojeda 1986; Philip 1992; Weldon 1997; Torres 2000; Velázquez 2007; Chacón 2008).

Accordingly, Mexico's position regarding the Organization of American States' Declaration of the Rights and Duties of Man (1948), and the United Nations' Universal Declaration of Human Rights (1948), was to advocate that such instruments remain expressions of intent with no legal mechanism of enforcement at the domestic level (Sepúlveda 1966; Shapira 1978; Sotomayor 2008; Saltamacchia and Covarrubias 2011). The country's diplomatic strategy was consistent for decades, as Mexico either did not ratify, or at any rate ratified with amendments intended to curtail any domestic linkage, all major human rights instruments. These include the UN's International Labor Organization Discrimination, Employment, and Occupation Convention (1958); the UN's International Covenant on Civil and Political Rights (1966); the UN's Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (1968); the OAS's Inter-American Court of Human Rights (1969); the UN's Protocol on Civil and Political Rights (1976); the OAS's Inter-American Convention to Prevent and Punish Torture (1985); the OAS's San Salvador Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (1988); the OAS's Protocol to the American Convention on Human Rights to Abolish the Death Penalty (1990); the OAS's Belém do Pará Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (1994); the

OAS's Inter-American Convention on Forced Disappearance of Persons (1994); and the Rome Statute of the International Criminal Court (1998).

Mexico's Ministry of Foreign Affairs stuck unyieldingly to the sovereignty and non-intervention principles. To a certain extent, the diplomatic strategy was coherent, given Mexico's relatively low power in the international arena. The strategy effectively shielded the country from international engagements where its political input would be minimal. This also favored an interpretation of the country's history that portrayed the ruling Partido Revolucionario Institucional (PRI) as a protector from foreign meddling. In practice, this strategy increased the maneuvering room for some domestic authorities by allowing them to engage in selective abuse of power and minimizing the degree to which international authorities could scrutinize such violence and domestic actors could organize to complain about it (Loeza 1989; Núñez and Alcalá 1989; Gámez 2001; Aguayo and Treviño 2007; Aguayo 2008; Saltalmacchia 2009).

To some extent, this situation changed during the 1980's, when a transnational human rights network led by Amnesty International (AI), Human Rights Watch (HRW), the Center for Justice and International Law (CEJIL), and the International Federation for Human Rights (FIDH) began to regularly visit the country, published condemning reports, and exchanged expertise with domestic activists (Anaya 2009; Acosta 2010; Saltalmacchia and Covarrubias 2011). During the same period, rulings by the Inter-American Commission on Human Rights (IACHR) recognized electoral fraud during municipal, state, and federal elections as human rights violations against partisans of the opposition party, the Partido Acción Nacional (PAN). These developments notwithstanding, government authorities dismissed both the reports and rulings, arguing that these had no linkage nor bearing on national law (Benítez 1996; Santa-Cruz 2005).

Human rights policy started to carry weight on the government's agenda when the Interior Ministry created a National Commission on Human Rights in 1992, in an effort to update Mexico's international standing as it replaced the formerly closed economy with several free-trade agreements (Córdoba 1994; Flores 1998; Schiavon and Ortiz Mena L. N. 2001; Ortiz Mena L.N. 2004). President Carlos Salinas (1988-1994) "wanted to increase Mexico's credibility on human rights as it negotiated NAFTA and accession to the OECD" (Rozental, *Interview*, April 6, 2012). Then, unexpectedly, in 1994, an armed uprising emerged in the state of Chiapas, with over 10,000 people displaced and hundreds killed in a context of opaque paramilitary activity. Specific cases, such as Acteal, where municipal authorities shot down 45 indigenous people, mostly women and children, grabbed global headlines (Bugarin 1998; Medina 1999; Rea 2009). This impelled both the Inter-American Commission on Human Rights (IACHR) and the United Nations Commission on Human Rights (UNCHR) to hold hearings regarding Mexico's situation (Guerrero 1997b; Negrín 1998; Medina 1998a; Covarrubias 1999; Valverde 2001; Meyer 2003; Anaya 2009; Acosta 2010).

In order to alleviate international and domestic concerns and to address calls for independent human rights monitoring, President Ernesto Zedillo (1994-2000) invited the OAS IACHR Commissioner (1996), the UN Special Rapporteur on Torture (1997), the UN Secretary General (1998), and the UN Special Rapporteur on Extrajudicial, Summary, Arbitrary Executions (1999) to visit the country. However, at no moment were Mexico's principles of sovereignty and non-intervention in question. The Minister of Foreign Affairs, Rosario Green, stated that the international invitations were meant to make sure "domestic authorities could address with evidence otherwise biased and unfounded international critique" (*Reforma*, Redacción 1999). Furthermore, the

government established visa restrictions for human rights observers, “with requirements never seen before in any other country in Latin America” (Guerrero 1998b), as authorities demanded that international human rights monitors provide in their visa applications a detailed description of every single location each observer would be visiting on a daily basis, effectively forbidding movement to any place not listed. On account of this, the ability of human rights monitors to investigate leads became moot. Government officials also established a thirty-day waiting period before honoring a visa request, thereby effectively curtailing the ability of human rights observers to travel to Mexico in response to an emergency (Delgado 1997; Guerrero 1998c; González 1998).

In this environment, the United Nations High Commissioner on Human Rights, Mary Robinson, came to Mexico in November 1999 in order to sign a Memorandum of Intent on Technical Cooperation with Zedillo’s administration. Robinson toured the country and met with Zedillo, the Supreme Court Justices, Congressmen and Senators, the Minister of Interior, and the Military (Hernández 1999b). In her lengthy report to the Zedillo government, Robinson concluded that human rights violations were widespread and serious. Although she couched her remarks by saying acting upon these recommendations was up to Zedillo’s administration, Robinson expressed “disappointment on federal authorities presenting scenarios that did not match the reality and extent of shortcomings on human rights” (Hernández 1999c). These remarks, however, proved to be unacceptable to everyone: the Foreign Office rejected them on the basis of “violating the country’s sovereignty” (Hernández 1999d); opinion leaders criticized Robinson for “failing to grasp the complexity of the issues” (Reyes Heróles 1999); the president of the National Commission on Human Rights summarized Robinson’s suggestions as “hastened and misplaced” (Hernández 1999a).

II. The Window of Opportunity for Policy Change

By May 2000, opposition candidate Vicente Fox's bid for the presidency was gaining steam. Fox was competing in the first fair presidential election in the country's history. Not the prototypical conservative PAN member, Fox's strategy was to build a broad anti-PRI coalition by tapping on widespread discontent. Fox had come to the PAN late in life, after a career in business, and lived in uneasy harmony with the party's power structure. As a consequence, he circumvented the PAN on several ideological, logistical, and financial issues by creating his own organization, "Friends of Fox," and engaged with non-partisan leaders across the political, economic, and social spectrum (Carrillo 1998; Domínguez and Lawson 2004; Loaeza 2006).

Such was also the case for his campaign's foreign policy team. At the forefront was Jorge Castañeda, the son of a PRI Minister of Foreign Affairs (1979-1982), trained in Princeton and Paris, who, having formerly been a Communist Party member, was not in tune with the PAN's conservative base. Diverse accounts identify him and his closest associates as instrumental in rendering Fox quite critical of Mexican foreign policy. This critical tone was unusual in presidential campaigns, given the nationalistic tenor of the principles of sovereignty and non-intervention that resonated with vast portions of the electorate. But Fox, "much influenced by Castañeda, promised that human rights would take a central position in his administration, willing to take a chance on this agenda" (Davidow 2007, 161).

On the campaign trail and in interviews with the press, Fox defined Mexico's foreign policy principles as catering to the interests of the "political elite of an autocratic regime, enhancing corruption, insecurity, impunity, drug trafficking, organized crime, and the violation of human rights" (Mayolo 2000a). Fox adamantly asserted that

Mexico had to “let go the non-intervention stance in order to denounce human rights violations happening in Cuba and genocide occurring in Bosnia” (Oppenheimer 2000). Moreover, Fox insisted Mexico “had to get rid, once and for all, of the PRI complex: the obsession that everything endangers Mexico’s sovereignty” (Oppenheimer 2000).

In keeping with his campaign strategy, Fox was the only presidential candidate to meet with Citizen Power, a network that represented the policy proposals of over 150 different associations (Reforma Redacción 2000). Fox briefly met Mariclaire Acosta, a human rights activist who had coordinated the efforts of over 300 groups assisting Mary Robinson’s UNCHR assessment. Acosta was the first representative of Amnesty International in Mexico (1977-1984), president of the Mexican Academy on Human Rights (1984-1990), and founder with Jorge Castañeda, among other people, of the Civic Mexican Commission for the Defense and Promotion of Human Rights (1990-2000). She had been a member of the Partido de la Revolución Democrática (PRD), a leftist party, but had broken relations with the party during the 1990’s as Castañeda had too. With the national elections looming in less than a month, Acosta was contacted by a former colleague, Gabriel Székely, who invited her to participate in a coalition of opinion leaders affiliated with the left (Mayolo 2000b). Castañeda led the coalition with Székely. She agreed to participate in a media campaign to call on left-leaning and independent voters not to vote for Cuauhtémoc Cárdenas, the PRD presidential candidate, running a distant third, and to strategically vote for Fox who at the time had a 40% share in the polls, and was tied with Francisco Labastida, the PRI candidate (Acosta, *Interview*, April 20, 2012).

On July 2, 2000, the elections were held and Fox’s 16 million to Labastida’s 13.5 million votes meant that for the first time in seven decades the PRI would not hold

the presidency (*The Economist* 2000a and 2000b). Fox's transition team had five months to prepare before assuming office in December. In August, the outgoing Senate held a hearing on human rights policy. Acosta, as she had come accustomed to, went to the hearing as a civic society representative, not expecting much change. However, during the hearing, she was approached by Rodolfo Elizondo Torres, chief advisor on Fox's transition team. Old acquaintances who had lost touch, Acosta and Elizondo had met at the Chiapas uprising in the mid 1990's, during the San Andrés Larráinzar peace negotiations in which Acosta had been the chief of staff for the Zapatista Army of National Liberation (EZLN) and Elizondo a congressman in the Commission of Concordia and Pacification (COCOPA). After the Senate hearing, Elizondo invited Acosta to be a consultant in Fox's transition team (Acosta, *Interview*, April 20, 2012).

Barely a couple of weeks after this development, Acosta received a phone call from New York. It was Mary Robinson, who had a request for her: to advocate for the UNCHR to establish an office in Mexico City, a proposal that had been rejected by Zedillo's administration. Robinson hoped Acosta could rely on her connections in order to convey the message to Fox. After consulting with Elizondo, Acosta talked to Castañeda, who "welcomed the proposal with open arms" and said he would discuss it with Fox (Acosta, *Interview*, April 20, 2012). By then it was strongly rumored Castañeda would become Minister of Foreign Affairs. Formerly, he had been part of an expert group by the Carnegie Endowment for International Peace and the Instituto Tecnológico Autónomo de México, which had published a white paper on immigration reform (Carnegie Endowment for International Peace-ITAM 2001). Castañeda saw his likely ministerial appointment as the opportunity to negotiate an agreement on this

matter and thought “strengthening human rights both at home and abroad would contribute in such an endeavor” (Acosta, *Interview*, April 20, 2012).

Castañeda was not a popular choice as Minister of Foreign Affairs. In broad strokes, the PAN distrusted his leftist past, the PRD did not forgive him for breaking ties, and the PRI chastised him for describing the Cuban regime as a dictatorship in a not so veiled reference to the PRI’s regime itself. Moreover, the word went around Mexican political circles that the US government was not pleased with Fox’s likely appointee. According to the US Ambassador to Mexico at the time, “the rumor, based on Castañeda’s leftist history and past opposition to NAFTA, was false. But I was silently concerned that Castañeda might turn into a vulnerability for Fox; Castañeda’s intellectual arrogance, quirky personality, deprecation of most politicians, and tense relations with the Mexican press were already well known” (Davidow 2007: 176).

On November 2000 Acosta was invited to a private dinner at Castañeda’s home, where she learned that a new position in the Ministry of Foreign Affairs would be created: the country’s first ever Special Ambassador for Human Rights and Democracy. Fox wanted her to accept such a position and Castañeda wanted her to know that Fox’s first foreign policy act, immediately after his inauguration day, would be to sign the agreement to establish a UNCHR office in Mexico. This would mark the first time in history the United Nations Commission on Human Rights would have an office in a country not undergoing a civil war. Acosta recalls her reaction as these events unfolded: “[...] the extent of serendipity throughout the entire process was mind-blowing. The window of opportunity, the timing, the will, the people, all suddenly and unexpectedly aligned with each other” (Acosta, *Interview*, April 20, 2012).

III. The Strategies to Establish a New Foreign Policy on Human Rights

In its first two months in office, Fox's administration argued that an overhaul of Mexico's human rights foreign policy was necessary to increase domestic accountability and to assist in furthering democratic change. On March 2001, at the 57th Plenary Session of the United Nations Commission for Human Rights in Geneva, Jorge Castañeda unveiled the specifics of Mexico's new diplomatic strategy. In a surprising speech, he rejected the principles of sovereignty and non-intervention by arguing that "human rights violations in any State are a legitimate concern for the entire international community," an endeavor "that concerns all governments and all peoples, and cannot be circumscribed to the will of particular domestic authorities" (Castañeda 2001a). In consequence, the Foreign Secretary extended a permanent invitation to all the representatives of international human rights organizations to visit Mexico, arguing that the federal government would "welcome non-domestic observers and trust in their contribution" (*Idem*). Barely a couple of months earlier these same international actors had been subjected to visa restrictions unheard of across Latin America. Now the federal government was scrapping such requirements and announcing it would sign and ratify a host of international treaties that had been shelved for decades.

The policy change was immediately noticed in the international community. "Copies of the speech were furiously faxed around Washington and other capitals. Its thrust was clear: the new Foreign Secretary was rejecting all the formulaic arguments that previous Mexican governments had utilized to justify abstention at the UNCHR" (Davidow 2007: 178-179). In the history of the UNCHR (1946-2006), only developed countries, such as Denmark and the Netherlands, had made a permanent invitation to all international human rights monitors to visit their country. Given Mexico's past

shortcomings and its status as a developing country, this was a watershed policy shift. “The moment Castañeda finished his speech, he received a standing ovation. Colleagues from across the globe stood in line for half an hour to congratulate him. In the coming months over 30 countries followed in Mexico’s UN footsteps” (Acosta, *Interview*, April 20, 2012).

Thus, during the next two years, to gauge the extent to which there had been shortcomings in human rights policy and to provide inputs in order to address them, Mexico was visited by an extensive number of international human rights monitors, including the UNHCHR (January 2001); the UN’s Special Rapporteur on the Independence of Judges and Lawyers (May 2001); the IAHCHR (July 2001); the Experts of the UN’s Committee Against Torture (September 2001); the OAS IACHR’s Rapporteurship on the Rights of Women (February 2002); the UN’s Special Rapporteur on Adequate Housing (March 2002); the UN’s Special Rapporteur on the Human Rights of Migrants (March 2002); the OAS IACHR’s Rapporteur on Migrant Workers (July 2002); the UN’s Special Rapporteur on the Human Rights of Internally Displaced Persons (August 2002); the Experts of the UN’s Working Group on Arbitrary Detention (November 2002); the UN’s Special Rapporteur on the Rights of Indigenous Peoples (July 2003); the UN’s Special Rapporteur for Freedom of Expression (August 2003); and the Experts of the UN’s Office on Drugs and Crime (October 2003).

During the same period, Mexico ratified the UN’s Protocol on Civil and Political Rights (1976), the OAS’s Inter-American Convention to Prevent and Punish Torture (1985), and the OAS’s Belém do Pará Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (1994) (Castañeda 2002a). The Foreign Office signed the UN’s Optional Protocol to the Convention on the Rights

of the Child on the Sale of Children, Child Prostitution and Child Pornography, the UN's Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, as well as the UN's Convention on the Non-Applicability of Statutory Limitations to Crimes against Humanity. The Ministry drafted, in a joint-effort with Costa Rica, the Inter-American Convention against Terrorism, the Optional Protocol to the UN's Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and the UN's International Convention for the Protection of all Persons from Enforced Disappearances (2002). It lobbied for the creation of a Special Rapporteur on Human Rights for Indigenous Groups at the UNCHR (2002) and the establishment of a Human Rights Asylum Law Office at UN's Counter Terrorism Committee's Executive Directorate (2003). In addition, the Foreign Office submitted initiatives regarding rights for migrant workers before the OAS, rights for persons with disabilities before the UN, and children's rights before the UNESCO (Castañeda 2001d).

The Foreign Office's actions were unprecedented. Spain's Prime Minister José María Aznar and France's President Jacques Chirac commended such activism by inviting Fox to assist to a session of the European Council, in Strasbourg, to compare strategies to protect human rights. The invitation was a rare privilege for Latin American presidents (Ruano 2008). Furthermore, Fox had working meetings (unlike all previous presidents, who had dismissed such requests during the 1990's) with a series of NGO directors such as Pierre Sané (Amnesty International), Ethel Kennedy (Sierra Club), Danielle Miterrand (France Libertés), Viviana Krsticevic (Center for Justice and International Law), Kenneth Roth and Eric Olson (Human Rights Watch) (Castañeda 2001e).

However, not all countries welcomed these developments. An unprecedented lack of trust arose among some governments in Central America, the Caribbean, and South America, all of them finding it increasingly difficult to adjust to Mexico's advocacy for human rights (Covarrubias 2003; Ruiz 2008). The Foreign Office clashed with its diplomatic counterparts in Argentina, Bolivia, Brazil, Chile, Ecuador, Nicaragua, Uruguay, and Venezuela (Guajardo 2008; Schiavon 2008; Velázquez 2008). Disputes in regional summits and threats to cut diplomatic ties ensued, as Mexico, a previously mute counterpart that refrained from public critique, became outspoken in multilateral fora about regional shortcomings in human rights policy.

The largest conflict happened with Cuba. By early 2001, Acosta was appointed by Castañeda "to explore options at the UN to exact pressure in order for Cuba's authorities to recognize its shortcomings on human rights" (Acosta, *Interview*, April 20, 2012). Mexico's government had never voted in favor of any UN resolution condemning human rights violations, strictly adhering to the sovereignty and non-intervention principles. The stance had been so consistent that Mexico's representative at the UNCHR in Geneva had been nicknamed by his international colleagues as "Ambassador No" (Sotomayor, *Interview*, April 6, 2012). But now the Foreign Office had issued the directive that the principles of sovereignty and non-intervention were to be understood according to the precept *tempus regit factum*. The legal notion suggests that any Constitutional principle must be interpreted in light of the international law of the period in which it is operating. The notions of sovereignty and non-intervention were determined to be no longer suited to address the multilateral challenges of the new century (Gómez Robledo 2001; Gómez Camacho 2001).

The Foreign Office at first abstained from supporting a UNCHR draft, written by Eastern European Ambassadors, which condemned human rights violations in Cuba and demanded the release of political detainees. However, in February 2002, a new UNCHR draft emerged, suggesting that human rights conditions in Cuba were deficient and that Mary Robinson should be invited to visit the island in order to issue a report. Then, in March, Castañeda visited the UNCHR and indicated that Mexico's government remained committed to condemn human rights violations anywhere, particularly when these occurred in societies to which Mexico "was deeply attached for historic and affective reasons" (Castañeda 2002d: 181). The Foreign Secretary acknowledged Mary Robinson's efforts to advance fundamental liberties, in particular her lead "in establishing a universal culture to protect and promote human rights" (Castañeda 2002a: 202). In consequence, on April 2002, Mexico voted in favor of a UNCHR resolution condemning human rights violations in Cuba.

The decision irked Cuban authorities. Immediately, a phone conversation between Castro and Fox was leaked to the Mexican media. In the tape, Fox urged Castro to shorten his appearance at the UN Conference on Financing for Development which had been held in Mexico's northern city of Monterrey, two months before the UNCHR vote. The tape recorded Fox telling Castro he should not be on the same premises as US President Bush and that Castro should come to Monterrey, eat, and return as quickly as he could back to Cuba. The transcript provided ammunition for the domestic opposition to paint Fox and Castañeda as amateurs catering to foreign interests. The fallout from the Cuba episode was strong. It grabbed newspaper headlines for months, underscoring an unreceptive domestic political climate in which many were willing to support Cuba instead of the administration's efforts: "[...] give Castañeda

credit for trying to come up with a more enlightened policy which recognized Cuba for what it is: a dictatorship. However, his missteps, as exemplified by the way he tried to deal with Castro's visit to the UN Conference, undercut him" (Davidow, *Interview*, April 9, 2012).

IV. The Extent of Maneuvering Room to Address Pushback

In a sense, these developments summarized a larger domestic political struggle, namely that of seeking to reform what was bluntly being described on government records as "the country's obsolete legal framework" (Acosta 2003: 29). Indeed, although Mexico's thirty-year electoral transition, had established a multi-party system with reasonably fair elections, many other crucial features of a functioning democracy had barely been set in place (Domínguez 1999; Merino 2003). Important elements of the justice apparatus that incentivized violence and impunity had been minimally transformed when Fox came into office (Lawson 2000; Silva-Herzog 2003; Peschard 2010). Frequent arbitrary detention and torture both by the police and the military coexisted with insecurity, drug trafficking, and organized crime (Shirk and Cornelius 2007; Benítez 2008; Cossío Díaz 2010). In such an environment, it was expected that power brokers of the previous regime would fight against justice reform; Cuba was the first line of defense. Castañeda understood this, arguing that Mexico's new actions in multilateral fora "were meant to consolidate democracy abroad as well as to consolidate it irreversibly in Mexico" (Castañeda 2002b). He therefore "rejected the need for domestic consensus as the prerequisite to design and execute foreign policy, which would translate, in practice, into a veto right for any political force in the country" (*Idem*).

In this context, the Fox administration acknowledged the jurisdiction of the Inter-American Court on Human Rights and submitted for review the work of its own Attorney General in over 120 cases that had been dismissed by national courts. Simultaneously, Acosta's Office carried out, in collaboration with Mary Robinson and the UNCHR, a diagnostic detailing "grave violations of human rights, some deliberate, other out of negligence, omission, or lack of due process, all representing paradigmatic cases of a recurring situation in the country" (Acosta 2003: 36). The white paper generated concrete policy proposals with input from transnational activist networks.

Justice reform, however, did not follow with the pace and clarity that characterized actions by the Foreign Office. The landmark example is provided by the Fox administration's decision to establish a prosecutor's office in order to investigate the past governments' use of violence, with access to classified files of the intelligence agencies (Fox and Haight 2010). The prosecutor's office issued a report implicating political appointees and military officers in cases of human rights violations between 1960 and 2000; over 600 cases of forced disappearance were uncovered. But lacking in technical, legal, and financial resources, the prosecutor's office filed charges for only 15 cases (Human Rights Watch 2006). The courts indicted the head of the security apparatus during the 1970's but dismissed prosecution of any political actor. No conviction occurred. Later on, the prosecutor's office was shut down, with the archives re-classified and banned from being consulted ever again, and the final report was barred from publication (Aguayo and Treviño 2007; Human Rights Watch 2008).

An insight to such contradictions regarding foreign policy and domestic justice reform in human rights is best illustrated as follows. When the PRI lost the presidency, two arguments competed for Fox's favor. One school of thought argued Mexico's

institutions could perform well under the new circumstances. There was “no need to pursue a clean separation from the past, neither to investigate, dwell upon it, nor to assemble a new institutional arrangement,” for the existing structures “could easily be adapted to a different set of conditions” (Castañeda 2011: 111-112). The other school of thought argued the country’s standing institutions were inadequate for democracy. The justification for a new, “unavoidably painful beginning was to unveil the darker sides of the past,” for a “different institutional setup was necessary and a split with the past was the only way to assure its birth and acceptance” (*Idem*).

This struggle went on during the first two years Fox’s administration, and as it has been described in this research, there were victories for both sides. Eventually, though, the tension was resolved by early 2003, in favor of the first school of thought. Fox began to argue, contrary to his campaign statements, that when he took office he found “a complex legacy of hits and misses,” a foreign policy of seventy years of “one-party regime that merited a nuanced judgment,” with “moments of passivity and brilliance,” prompting his administration to avoid “the temptation to make tabula rasa” of Mexico’s diplomatic tradition (Fox 2002b, 11-13). Soon thereafter both Castañeda and Acosta resigned. Diverse accounts and interviews suggest they were not ousted. They had knowingly operated under difficult circumstances all along. The end of the road had come. But the bulk of their policy goals had already been carried out.

This outcome is summarized by Acosta herself, who argues she thought her “window of opportunity would last, at most, a year.” She was “profoundly surprised it lasted three years,” since financial and political resources were scant all along. “If it were not for the amazing support of the international community, from the governments of Canada, the United Kingdom, the EU itself, I would have been unable to carry out

the tasks at hand. Most of my funds during the entire first year were provided by them.” This need not have been so had Fox been unequivocally committed all along. Moreover, the dynamics in Congress were too obtrusive, with people on the left “refusing to cooperate out of spite that Castañeda and I had previously left the PRD,” and “very much into the sovereignty, non-intervention, and nationalist doctrine.” In addition, “Fox was under enormous pressure from the PAN establishment to hand in Executive ministerial positions he had entrusted to civic society leaders,” with vast sections of the PAN seeing “with outright distrust any effort to question the use of force by government authorities.” Furthermore, the “PRI had no incentive or interest to help out.” In a nutshell, Castañeda and Acosta “knew time was ticking,” that they “had to go in and lock-in as much as they could” (Acosta, *Interview*, April 20, 2012).

Indeed, there is a consensus that the period between 2000 and 2003, “imperfect as it was, was a transformative period in that it set the stage for more change under President Calderón” (Davidow, *Interview*, April 9, 2012). The changes brought about in foreign policy induced the federal government to heed human rights advocacy. In 2003, the Interior Ministry created a Unit for the Promotion and Protection of Human Rights and a Deputy Ministry for Legal Issues and Human Rights. In 2004, an Inter-Ministerial Commission on Policy on Human Rights was established to oversee a national human rights reform program. These administrative structures endured when Felipe Calderón, the PAN candidate, was elected president in 2006. Furthermore, the interplay between the Executive, the Congress, and activists led to a Constitutional reform in 2011, establishing a new foreign policy principle that prescribes that the Mexican President ought to respect, protect, and promote human rights (DOF 2011).

Conclusion

A government that ratifies international human rights instruments allows non-domestic monitors, commissions, and courts to potentially observe and condemn behavior by domestic authorities. Realist explanations suggest this is the result of democracies coercing non-democracies to engage with international human rights instruments (Morgenthau 1960; Waltz 1979; Ruggie 1983; Donnelly 1986; Brysk 1994). As section two discusses, though, Mexico's federal government barely engaged with international human rights instruments for seven decades, effectively shielding domestic authorities from international monitoring, by means of a diplomatic strategy based on the principles of sovereignty and non-intervention. During such an extensive period of time Mexico's political, economic, and social makeup underwent substantial transformations and so did the international arena, but there never came a moment in which Mexico's government was coerced to modify its foreign policy on human rights.

Constructivist explanations suggest countries are persuaded, but not coerced, to engage with international human rights instruments (Russett 1993; Risse-Kappen 1994; Keck and Sikkink 1998; Hafner-Burton and Ron 2009). Transnational groups are expected to collaborate with each other in order to uncover, describe, highlight, and condemn repressive government behavior, thereby providing voice to vulnerable groups at international fora and summits (Donnelly 2002; Pion-Berlin 2004; Hafner-Burton 2010). The mounting backlash is supposed to shame and isolate domestic authorities, rendering denial a complicated resource, and eventually leading them to become more receptive to the costs involved in the violation of human rights. In this way, governments are induced to foster dialogue and make policy concessions in order to ease criticism (Keck and Sikkink 1998; Risse-Kappen, Ropp, and Sikkink 1999; Black

1999; Gränzer 1999; Jetschke 1999; Pion-Berlin 2004; Davis 2006). Such an assessment describes what happened in Mexico from the 1980's onward, with regards to the role played by activist networks in raising awareness, both before and after the Chiapas uprising. However, it is also true that foreign policy change and justice reform did not come about through persuasion and backlash because the denial of the extent of flaws in human rights protection was consistent and policy concessions by domestic authorities were minimal.

Therefore, it is reasonable to presume that only from 2000 onwards did Mexico's policy on human rights begin to substantially change, as a window of opportunity emerged, with the four independent elements identified by Kingdon simultaneously converging. Firstly, a propitious context for change was facilitated with turnover in the presidency for the first time in seven decades. Secondly, the prevailing condition on human rights was finally framed as a problem, as the principles of sovereignty and non-intervention were described by the incoming President as protecting the interests of an outgoing regime bent on covering up its past and present violence. Thirdly, the Executive and his advisors deemed a feasible strategy to address the country's shortcomings in human rights, that of extending a permanent invitation to human rights observers to visit the country as well as ratifying a host of treaties to draw upon international expertise. Fourthly, a couple of political entrepreneurs, the Foreign Secretary and the Minister for Human Rights, considered that rejecting the principles of sovereignty and non-intervention could yield normative and political rewards to counter the powerbrokers set against strengthening the country's democratic institutions. The latter element connects, in a certain sense, with liberal explanations centered on democratic peace, two-level games, and public-choice theories of delegation (Putnam

1988; Moe 1990; Snyder 1991; Evans, Putnam, and Jacobson 1993; Bailey, Goldstein, and Weingast 1997; Mansfield and Pevehouse 2006), which have been used to suggest international human rights engagements are sought by emerging democracies to lock in policy preferences against the abuse of power by current and future domestic competitors with a violent past (Moravcsik 2000).

Now, although the actions of these political entrepreneurs were clearly purposeful, the specifics of how certain policy inputs were determined merits mention. This is particularly relevant in the process that led to the landmark decision to establish a UNCHR Office in Mexico. An international actor, Mary Robinson, the UN High Commissioner on Human Rights, had come to Mexico in 1999 by invitation of the previous administration. Having toured the country and met different rights activists, on her departure she felt disappointed by the domestic authorities' lack of cooperation and disregard of her policy suggestions. However, in her travels she had met an activist, Acosta, who had spent over three decades leading various civic society efforts to denounce human rights violations across the country. Acosta worked on the periphery, without access to government resources. Close to and after the presidential elections, Acosta was invited to participate in a civic network, a media campaign, and a senate hearing, all on account of her credentials. These events were not organized by Fox or his campaign team. Once there, Acosta crossed paths with Fox, Castañeda, and Elizondo. Castañeda and Elizondo were Acosta's acquaintances from past political involvements. Elizondo, who had no foreign policy or human rights responsibility in Fox's staff, decided on his own that Acosta could be an asset to Fox's transition team and invited her to join in. Neither he nor Acosta could foresee, though, that Mary Robinson would call Acosta weeks later and ask her to lobby for the establishment of a

UNCHR Office. Once aware of the proposal, Castañeda made Robinson's request his own. He interpreted the move as reminiscent of some of Spain's policy decisions during the 1980's to anchor the Spanish democratic transition (Castañeda 2008). On the eve of Fox's inauguration, basking in praise for his campaign promise to overhaul the country's political culture, the UNCHR Office was green-lighted by the newly elected President as its first foreign policy act.

As section three and four discuss, the extent of maneuvering room for political entrepreneurs shifted back and forth over time. The tension over whether to reform or not the status quo is best exemplified by the fact that once the Foreign Office rejected the principles of sovereignty and non-intervention, and opened up the country to substantial international scrutiny by extending a permanent invitation to international observers, domestic justice reform to address past and current government violence did not follow. To some extent, a blueprint on how to manage the increasing inflow of policy inputs derived from rendering the government more receptive to human rights advocacy was not set by the President. This translated into some initiatives succeeding and some others not, according to how these efforts were managed, the pushback they met, and the linkages they had with other domestic issues.

Overall, this study indicates Mexico modified its position, from strictly adhering to the principles of sovereignty and non-intervention during the entire twentieth century, to a country that not only engaged with foreign scrutiny but assumed politically complex and costly stances in Latin America. José Miguel Vivanco, Director of Human Rights Watch's Americas Division, underscores this policy change "was not dictated by the conditions on the ground, was made on the spur of the moment, and was quite substantive" (Vivanco, *Interview*, June 20, 2012). It became an enduring State policy,

“because of the leadership at the Foreign Office” (*Idem*). Ever since that period, “Mexico has remained a major human rights advocate, across the board, both at the UN and at the OAS” (*Idem*).

This outcome was shaped by two political entrepreneurs “who took enormous risks to achieve change in foreign policy for which there is no former record in the human rights world” (Vivanco, *Interview*, June 20, 2012). To this day, countries with similar domestic human rights shortcomings such as Brazil, China, India, Russia, and South Africa, “continue to block all sorts of human rights policies in the international arena; Mexico does the exact opposite” (*Idem*). Clearly, “Fox’s best call was to step aside and allow the leaders of his foreign policy team to make their own decisions” (*Idem*).

There are, then, grounds for concluding that the case under scrutiny is one in which in order to sustain an effective position vis-à-vis the enactment of policy change, the political entrepreneurs did not rely either on steadfast support from elected officials nor on a favorable domestic political environment. By actively seeking and drawing upon support from the international human rights community, these entrepreneurs were able to start a process to provide the federal government with expertise and concrete policy recommendations on a wide array of subjects, including crime, torture, and enforced disappearance, along with women, children, and indigenous people’s rights. Although the President eventually decided not to pursue domestic justice reform at the pace and with the clarity seen in the overhaul of human rights foreign policy, the political entrepreneurs cumulative efforts’ paved the way for the adoption of a set of measures that increased the resources to achieve future reforms.

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