

Public decision-making in the democratic governability; the case of the National Action Party government in Nuevo León

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Abstract: during the government of the *Partido Acción Nacional (PAN)* in *Nuevo León* (1997-2003) there were some difficulties to set a space of democratic deliberation, specifically in regard to the policies of urban development. This caused the activation, in the public sphere, of organizations from the civil society, such as the *Asociación de Vecinos y Comerciantes de la av. Venustiano Carranza* and the *Alianza por San Pedro*. The cases, in spite of having a different trajectory, show the importance of conceding a deliberative space in public decisions so as to sustain democratic governance.

Key words: State, civil society, public deliberation, governance.

Resumen: Durante el gobierno del Partido Acción Nacional en Nuevo León (1997-2003), se presentaron dificultades para fijar un espacio de deliberación democrática específicamente en las políticas de desarrollo urbano. Esto ocasionó la activación en la esfera pública de organizaciones de la sociedad civil como la *Asociación de Vecinos y Comerciantes de la avenida Venustiano Carranza* y la *Alianza por San Pedro*. Los casos, aunque tuvieron una trayectoria distinta, muestran la importancia de conceder un ejercicio deliberativo en las decisiones públicas para la sustentabilidad de una gobernabilidad democrática.

Palabras clave: Estado, sociedad civil, deliberación pública, gobernabilidad.

Introduction

In the present work we aim to provide study elements to perform the analysis of the democratic governance from the democratic inclusion of the citizenry in the public decision-making process. We take up the experience of the government of the National Action Party (PAN), 1997-2003 in Nuevo Leon, Monterrey, Mexico, which was elected as government of the State after a long hegemony of the Institutional Revolutionary Party (PRI) in the political control of the state. Their government will face political challenges due to the lack of political spaces of democratic deliberation, especially with two relevant civil society's organizations: the Association of Neighbors and Traders of Venustiano Carranza's Avenue (*Asociación de Vecinos y Comerciantes de la Avenida Venustiano Carranza*) (AVCAVC) and the Alliance for San Pedro (*Alianza por San Pedro*)(ApSP)

In terms of methodology, we firstly introduce a brief theoretical discussion that allows us to set the importance of the access to information of the citizens in the public deliberation process, which is an important antecedent in the construction of the democratic governance. After this, we make a brief review of the process of inter-party replacement in Nuevo Leon, in which PAN, from its government platform, in order to differentiate from the past, compromise to govern based on principles of democratic inclusion of the citizenry. But, as we will see in the rest of the document, this is precisely the challenge that it will face, especially in terms of urban development. In the cases of the Alliance for San Pedro and the AVCAVC, the main indicator to consider will be the access to public information by these organizations, in regard to the public decisions on urban development.

The stake for the democratic construction of public decisions

Camou proposes the definition of governance as a state of dynamic equilibrium between social demands and the capacity of the government to handle them. The government efficacy and the social legitimacy would combine in a virtuous circle that guarantees the stability of the political systems (Camou, 1996: 14). This is an important definition for the political science lexicon; however, it does not include a normative assessment. In

order to describe governance as democratic it is necessary to justify it, for both concepts respond to different logics: while governance responds to a conservation of the institutional spaces of the political power, democracy considers principles of participative inclusion of the citizens in public affairs.

Not only does the institutionality of the democratic policy provide procedural warranties in terms of a government ruled by the state (the relationship between the powers of the authority's structure, rules of electoral play, constitutional warranties of the citizens, etcetera), but also for the formal participation of the citizens and the public decisions (mechanisms of public discussion, popular initiatives, citizen advisory councils, etcetera). That is, democracy, understood in its absolute meaning, keeps its demand to exert the democratic citizenship in all its senses to take part in the public decisions of the State and not only through the formal-representative mechanism. The issue is to find a formula that achieves to mediate in the tension of both concepts. Academics from the neoconservative school emphasize that the democratic expansion of the participation creates an overload in the government, eroding its efficacy to process the demands and eroding its legitimacy, which complicates the fundamental task of the government: law enforcement. The main contribution to this discussion was given by the Trilateral Commission Report that was published by Crozier, Huntington and Watanuki in 1975 for three countries: Japan, France and U.S.¹

The neocorporative approach is opposed to this trend. In this approach, governance must be observed as intermediation of interests and political representations, which are dealt through *corporations* within the rules of the political game. These rules should reduce the broad margin of discussion and conflict that democratic channels bring with it. The inability of the political system to process the democracy does not derive from the demands, but from the lack or inadequacy of institutions, rules and political agreements should process the interests under an environment that is open to dialogue and participation of the different social actors. In any case, the systemic ingovernability is neither produced by an excess in the "environmental"

¹ A reflection twenty years after the publishing of the Trilateral Commission Report can be found in Acosta Silva (1994: 41-56).

demands, nor by the lack of resources that make the State inoperative, but by the quality and efficiency of a set of institutional arrangements that articulate the interests and demands of the politically relevant groups in the decisional structures of the State (Schmitte, 1992: 17; Arbós and Giner, 2002: 49-50). We extract the possibility of a favorable equation for the political governance from this last approach. Thus, this can be understood as the state in which the efficacy and legitimacy of the actions of a government are framed in the development of an *institutionality of democratic policy* to support the political and social stability. We have considered this *institutionality of democratic policy* in the legitimacy that public decisions acquire when citizens are involved, through a deliberative process. This paradigm demands an incessantly renewed democratic legitimacy: public decision can only be justified when it deserves the free and rational argumentation of citizens that are capable of accessing information that validates the governmental position on both, judiciary and technical terms. This allows creating a public deliberative space. If the democratic deliberation is rejected, the result is that governors decide “the means” to achieve the “goals”, whereas citizens are confined to their *homo economicus* categorization, dedicated to their private interests. In this sense, technocracy and depoliticization complement each other, and lead to the lack of democratic participation in the decision processes, which are confided only to “the experts” (Serrano, 1998: 103; Muguerza, 1988: 114-115).

The nub of the deliberative democracy, as Elster has well pointed out, implies the collective decision-making with the participation of all members, or their representatives, who will be impinged by the decisions made. In this collective work, there must be arguments in favor of and for the participants that are compromised with the rationality and impartiality values (Elster, 2001: 21)². Deliberation is the first phase of the governmental

²There's an interesting discussion on this from Avritzer: it is the transit within the democratic theory of a decisionist concept of deliberation through an argumentative concept of deliberation. The democratic theory became hegemonic in the first half of the XX century and has decisionist and antiargumentative elements. a) cultural differences cannot be solved through argumentation; b) the defense of a non-participative administration and preservation of the complexity; c) the electoral process is a channel to add the individual preferences. Avritzer

decision; it is followed by the decision-making and the executory. In the deliberation, the possible alternatives that a particular situation offers are considered. In democratic societies, in an open space, deliberation takes place in decentralized spaces such as the parliament, universities, public spaces, where there is a kind of interaction with the citizens. But it also implies a closed space: this is the analysis of the possible alternatives for the public dependences, advisory and consulting organs. In the decision, the compromise to some possible alternatives is determined. The execution is the starting point to adopt a decision by the administrative apparatus of the State (Curzio, 2001: 165-167). In order to be effective, the deliberative politics include a double dimension: it must be able to solve techno-economic problems that the achievement of their objectives state (instrumental rationality) as well as the communication problems that the citizens refer (communicative rationality) (Aguilar, 1997: 26).

Deliberative practice supports the supposition that under conditions of sufficient supply of information concerning the problems which are dealt with and their analytical treatment adjusted to the reality of those problems, rational “fair” results can be obtained (Habermas, 2005: 372). From this premise we determine that deliberative democracy is impossible under the unilateral hegemony of information. This is, one can not expect an intersubjective comprehension among the political and social actors if they are not leveled in the sharing of the information.

The basic premise that we point out in the case study is that some of the political challenges in the administration of the PAN government in Nuevo Leon (1997-2003) were presented in terms of the lobbying that some politically relevant citizen groups made to impinge the process of the political decision through the access to information, making it difficult to find democratic legitimacy in the process. Although the cases do not show

mentions two authors who are opposed to this hegemony in the middle of the 60s; John Rawls and Jürgen Habermas, who transit towards an argumentative concept of the deliberation (Avritzer, 2001: 53-54, 58). In order to collate the theorists of the deliberative democracy, the fact that antagonism denies any possibility of a rational consensus is adduced: public sphere, without exclusions and fully ridden with the rational argumentation, is an impossibility. The pluralist democracy is an ideal that refutes itself, for at the moment of its attainment, it coincides with its disintegration. To check this argument see Laclau and Mouffe (2004: 18).

a global diagnostic in the relationship State-society, they show a great difficulty for the PAN government to create an inclusive and communicative paradigm with the society. Therefore, according to the suggested methodology (Morlino, 1985: 220), the cases of the AVCAVC and the ApSP are presented according to: a) the intensity with which the demand is made (letters of request of information, public demonstrations); b) the importance of the politically relevant social groups that promote challenge (civil organizations that demand communication and information from the government); c) the substance of the demand that can be more or less easy to satisfy in regard to the problems that are attached to it (public democratic deliberation in the public decision-making process).

PAN's inter-party replacement

During the decades which PRI governed the state of Nuevo Leon there was a governance paradigm in which the political stability was based on the efficacy of a no-competitive system of parties. The existence of a division of the society based on the corporative-client system that the hegemonic party operated. There was, also, a political centralization of the governor's figure prejudicial for the other constitutional powers: the legislative and judicial. This schema would be historically challenged, especially by the PAN supporters in the entity, which had been the opposition party that had a higher solid presence among the inhabitants of Nuevo Leon.

After a political liberation strategy in the electoral front that started years ago, PAN was able to defeat PRI in the balloting for the government of the state, it also managed to have a legislative majority in the Congress of the state.

A platform of political competitiveness had been created, and it was the product of intense electoral reforms. The PAN government of Fernando Canales Clariond, PAN's candidate, managed to start a structural governance from the very beginning (Camou, 2000: 184). No rigging challenges that could delegitimize the political representation of the new government were made by the adversary parties in the 1997 election. Defeating PRI in the balloting was an irrefutable legitimacy in symbolic terms. In terms of ideology, the new PAN government had expressed a preference for the democratic-liberal method in the construction of the society and a principle of equality before the law.

We can briefly mention that liberal democracy is understood as a model in which the protection of individual guarantees of the citizens prevails over the actions of other individuals and also over the action of the State. The idea that the protection of liberty requires a kind of political equality among people derives from that: the formal equality to protect their interests of the arbitrary acts of the State and those of the other subjects. Thus, the party during its opposition phase had the chance to develop a defense of the liberal principles: an unlimited respect to the political-electoral guarantees of the citizens to construct a democratizing path in the struggle for power. Despite this emphasis, the party acknowledges that there are other unresolved issues for the democratic transformation. In the government platform of Fernando Canales Clariond, a compromise is established to eradicate the past of PRI, which was identified with the authoritarian domain, and, in contrast, aim to generate “new spaces of democratic construction”³. It emphasizes the incorporation of civil society into the “orientation” of the government: “The adequate ways that favor the serious, organized and democratic participation of civil society will be established from the beginning, in order to direct the government actions that will take us to a real change (...)”⁴. Thus, he puts civil society in the center of his platform, as the centerpiece of the “ruling by obeying” principle, to achieve the common good. According to the PAN principles, human beings have the right and obligation to take part in society, but this function cannot be achieved successfully if “citizens lack truthful information about their environment and they lack elements to take part with certainty”⁵. Accordingly, one of the priority measures that were made public by his government was to keep “a constant communication with the public opinion” in regard to the assessment of the development plans, programs and projects. In order to fulfill the ¡*Vota Verdad!* (¡Vote Truth!) principle that was used during the PAN campaign⁶. Also, —if it was necessary—

³ *¿Qué es el PAN?* (What is PAN?), Partido Acción Nacional, Ed. EPPESSA, p. 5.

⁴ Canales Clariond, Fernando (1997), “Nuevo León. Siglo XXI”, in *Plan Mínimo de Gobierno* (Minimal Government Plan), 1997-2003, Partido Acción Nacional, p. 13.

⁵ Government Platform 1997-2003, Partido Acción Nacional, p. 37

⁶ Canales Clariond, Fernando (1997), “Nuevo León. Siglo XXI”, in *Plan Mínimo de Gobierno* (Minimal Government Plan), 1997-2003, Partido Acción Nacional, p. 18.

they would promote an access to information law, so that “the government is obliged to provide information to civil society”⁷.

Nevertheless, as Jose Luis Coinderau explains, former Secretary of Government, the dilemma for the PAN administration was “how” to incorporate the citizen will in the decision-making process without the government employee to be burdened with irresponsibility in the decision. This constituted, at least in practical terms, the question to decide (either in legal or pragmatical terms) in favor of the institutional integration of the citizen participation:

How do you find room in a government for the citizen desire that elected you to rule? They elect you to rule, and not to look for a consensus all day long, how can I incorporate an enterprising and mature society that wants to be listened and participate. How do I to incorporate it to the government decisions, without having my government employee losing the responsibility that he has?⁸

This difficulty for the first PAN government, expressed by one of its elite members, maybe lies in the fact that doctrinally there is more support in the notion of a liberal democracy, considering that despite the fact that in the discourse of the government’s platform “the incorporation of the civil society in the public decisions” is offered, there is not a programmatic plan designed in a specific way for this government’s objective.

Nonetheless, as we will account throughout the research paper, this absence for incorporating the citizens institutionally in the public decisions would be a deficit although there are, at least, basic institutional mechanisms established during the PRI administrations. The challenge for the PAN government was not only to favor this new paradigm in the inclusion and communication with the society which had been foreseen in their government platform, but also to respect the regular institutional mechanisms that were used for that purpose previously.

⁷ *Plataforma de Gobierno del Partido Acción Nacional* (Government Platform of the National Action Party), 1997-2003, pp. 17, 36-37.

⁸ The italics are part of the text. Interview to José Luis Coindreau, former Secretary of Government, June 6th, 2006, San Pedro Garza García.

These would be represented, on the one hand, in the Article 8 of the Political Constitution of the State, which provides legal interest to the citizen to request information to the public authority. Although these regulations would be made almost at the end of the government period, this constitutional guarantee safeguarded the citizen's interest in knowing in-depth the actions of the government, especially those that were considered harmful according to the public interest. Given the fact that the presented cases belong to the urban problems, the responsibility of a decision lies in the Secretary of Urban Development and Ecology (SEDUOP) that, according to the Law of Territorial Distribution of Human Settlements and Urban Development of the State of Nuevo Leon, would be obliged, in accordance with the articles 1, fraction III and 11, fraction XVII to promote the social participation in the process of planning territorial distribution. This "social participation", as described in the article 32, fraction I, is covered in the formulation, clarification, evaluation and vigilance of the accomplishment of urban development plans, human settlements and territorial distribution. And specifically, as fraction IV describes, in "the financing, construction and operation of projects and works of infrastructure, equipment, housing development, industrial, of social services, commercial, those related to amusement and touristic services, as well as providing public urban services". In addition, as the articles 26 and 27 of the aforementioned law state the creation and operation of a Consultative Council of Urban Development helped the governor to gather the opinion of the community on issues such as urban development, human settlements or territorial distribution in the entity and their possible solutions. The Consultative Council was constituted by representatives of the legislative power, the Technologic Institute and of Advanced Studies of Monterrey (*Instituto Tecnológico y de Estudios Superiores de Monterrey, ITESM*) and the Autonomous University of Nuevo Leon (UANL), organisms such as the National Chamber of Commerce of Monterrey, the Employers' Center of Nuevo Leon, the Real State and Housing Developers of Nuevo Leon, the Chamber of Owners of Real State of the State of Nuevo Leon and the Association of Architects of Nuevo Leon. As article 28, fractions I, II mentions, some of the functions of the Consultative Council are the promotion of the participation of the social groups in the elaboration or

revision of the plans and programs of urban development, human settlements or territorial distribution, as well as to promote consultations about their problems. Article 31 even authorizes the Consultative Council to create work groups aimed at “broadening the consultation or participation of the community” in the diverse areas of urban development.⁹ The purpose of reference to the existing law during the period of the PAN government is to recognize the obligatory character of this legal-formal framework to include the “social participation” in the urban planning process. These are, then, the mechanisms to generate a deliberative democracy that may have neutralized the open political challenges. As one can observe below, not only the foreseen possibilities did not occur in the shown cases, but the guiding principle of the democratic deliberation was nullified, which is the access to information.

The “unconnection” of the Puente de la Unidad (Unity Bridge)

The project of the Puente Viaducto de la Unidad (Viaduct Bridge of the Unity) was considered in the Metropolitan Plan of Highways 2001-2021, which was coordinated with two municipalities of the metropolitan area, Monterrey and San Pedro. Its objective was to lighten the traffic of the west zone of Monterrey, mainly on Gonzalitos Avenue, and to offer a new access between both municipalities. The project, in charge of SEDUOP, consisted of the construction of an asymmetrical suspension bridge with two lanes on each side which, with a viaduct elevated from the northern end of the bridge, would link Humberto Lobo Avenue in San Pedro Garza García with Rogelio Cantu Gomez Boulevard in Monterrey¹⁰.

SEDUOP justified the construction of the suspension bridge considering that this system without supports eliminated the overflowing risk of Santa Catarina River from the draining that comes from the Huasteca zone.

⁹ Law of Territorial Distribution of Human Settlements and Urban Development of the State of Nuevo Leon. This law was published in the Official Newspaper of the State, March 1999. Parliamentary and Legislative History of Nuevo Leon, Congress of the State of Nuevo Leon, CD-ROM

¹⁰ “Puente Viaducto de la Unidad. Justificación del Proyecto” (Viaducto de la Unidad Bridge, Justification of the Project), Subsecretaría de Desarrollo Regional y Urbano, SEDUOP, October 2001.

Nevertheless, this justification contradicted the announcement of the governor to construct the Rompepicos dam, aimed at avoiding this flood in the river¹¹. But, from the beginning, the project came up against a civil society that demanded information. In this context, ApSP becomes a relevant political actor. This civil organization, in contrast to the other case that will be presented in this work, was not formed during the circumstances of this government's period. It was created in 1992 as a movement of the inhabitants of the San Pedro municipality (especially in the Valle de San Angel residential development) adjacent to the Chipinque mountain range that impugned the permissions of use of land of the municipal government which damaged the environment sustainability of the mountain range¹². In the case of the construction of the Unity Bridge, it is the ApSP which demanded to both, the city council of San Pedro and the Government of the state the supply of information on the technical specifications, road studies and plans of the Viaduct Bridge of the Unity¹³. ApSP highlighted the need of making available all the information and reaching an agreement with "the hundred percent of society"¹⁴. Of course, this urban work was considered by the ApSP as an "avant-garde" chance to share the information with the society, in a democratic exercise¹⁵. The government, on their side, argued that there was no need of reaching an agreement on the construction of a bridge because it had already been considered in the Metropolitan Plan

¹¹ This contradiction is mentioned in the following editorials "El Santa Catarina Gate" (*sic*) by Enrique Torres López, *El Norte*, 04.01.02, p. 8a. "Ya no habrá río" (There will not be a river) by Luis Manuel Garza, 27.02.02, p. 7, also in the opinion of the president of the Alliance for San Pedro, Cesar Garza Livas, "Prueba cortina capricho con puente" (Bridge whim tests curtain), 07.04.02, p. 1b.

¹² Personal interview with Cesar Garza Livas, 29.05.06, president of Alliance for San Pedro, San Pedro Garza García, Nuevo León.

¹³ Information requested to SEDUOP by the Executive Committee of the Alliance for San Pedro, 03.01.02, San Pedro Garza García.

¹⁴ "Buscan vecinos 'abrir' el proyecto de puente" (Neighbors try to "open" the bridge project), *El Norte* newspaper, 05.01.02, p. 1b.

¹⁵ "Insisten. ¿Por qué puente colgante?" (They insist, why a suspension bridge?), *El Norte* newspaper, 23.12.01, p. 7b.

of Highways which had been already subject to approval¹⁶. When asked about the date when said consultation had taken place, the government answered the reporters: “[...] the fact that you don’t know, does not mean that it is not public”¹⁷. Likewise, the incumbent of the SEDUOP and the mayors of Monterrey and San Pedro dismissed the need of a consultation, for according to Oscar Bulnes, incumbent of the SEDUOP at that time, “the ‘how’ is never consulted”¹⁸.

Despite the fact that the government employees of this secretary made official a public meeting with the neighbors, it took place without providing the requested information. In view of the insistence of the inhabitants of San Pedro, the incumbent of the SEDUOP pointed out that there was information that couldn’t be made public legally, although he couldn’t also confirm the date of release of the information that could be made public, without specifying the articles of the Law of Territorial Distribution of the Human Settlements and of Urban Development of the State of Nuevo Leon that justify such argumentation¹⁹. Bulnes repeated in a subsequent interview that he would not provide information to the ApSP because it would be an “act outside of the law”, besides the fact that his responsibility prevented him from providing technical information and specifications, in these cases he didn’t provide a legal base of his argumentation again²⁰.

Consequently, the neighbors of ApSP, in view of the the lack of information, requested the suspension of all biddings related to the Unity Bridge, because no information had been provided. And they also requested

¹⁶ In the reply to the information request to the Secretary of Public Works of the Government of the State made for this research, it is indicated that this information is not in the files of this office. Official letter No. D.J. 074/2006, 14.06.06.

¹⁷ “Asegura Canales consultar la obra” (Canales assures that he is making consults on the work) *ElNorte* newspaper, 23.12.01, p. 7b.

¹⁸ “Puente Atirantado es el más rentable” (The suspension bridge is the most profitable option) Interview to Oscar Bulnes Valero, *ElNorte* newspaper, 15.01.02, p. 4b.

¹⁹ “Bulnes no logra apoyo de sampetrinos” (Bulnes does not obtain support from the inhabitants of San Pedro), *ElNorte* newspaper, 12.01.02, p. 2b.

²⁰ “Puente Atirantado es el más rentable” (The suspension bridge is the most profitable option) interview to Oscar Bulnes Valero, *ElNorte* newspaper, 15.01.02, p. 4b.

the integration of an inclusive of the civil society commission: “[...] Colegio de Profesionistas (Professional College), NGO, Neighbor Associations and Chambers, so that in conjunction with the SEDUOP they analyze which the best alternative for Nuevo Leon in this issue is”²¹. As we mentioned in the previous section, that was the sense of the Consultative Council of Urban Development. It was established as a space for democratic integration where different civil actors could debate the urban planning projects, as the legal framework indicated. But in view of the ineffectiveness of this institutional mechanism, the disseminated criticism of the organisms such as the National Chamber of Consulting Companies in Nuevo Leon, the Engineers College, the National Chamber of Commerce (CANACO), the civil organization Vertebra or different specialists in urban matters, there was a lack of joint support in cooperation with the AVCAVC. Due to the diversity of positions of these organisms their critics were not decisive in the situation²². On the other hand, aiming at defending itself, the SEDUOP indicated that the project had already reached a consensus with the different representatives of the civil society, government authorities and lawmakers. But they did not mention the date and place where these public deliberations took place. They took for granted that there was no need for more consensuses, considering “the urgency to carry out the project”²³.

In an exercise of public discussion, ApSP organized a Citizen Analysis Forum about the construction of the Unity Bridge, where specialists in engineering, members of the government of the State, as well as the incumbent of the SEDUOP and the governor Fernando Canales were invited. Nevertheless, neither the government employees attend the Citizen

²¹ Information request to SEDUOP from the Executive Committee of the Alliance for San Pedro, 14.01.02, San Pedro Garza García.

²² See the notes of *El Norte* newspaper, in which the critical postures of these social organizations are collected: “No convenció” (He was not convincing), 16.01.02. “Insisten: ¿Por qué puente colgante?” (They insist: Why a suspension bridge?), 23.12.01, “Desairan Canales y Bulnes foro sobre puente” (Canales and Bulnes snub the meeting on the bridge) 30.01.02. “Prueba cortina capricho con puente” (Bridge whim tests curtain), 07.04.02.

²³ SEDUOP reply to the information request of the Alliance for San Pedro. Official letter num. 053/DRU/2002, 19.02.02.

Analysis Forum, nor any representative of the state government²⁴. Although it can be pointed out that two formal meetings among the neighbors of the ApSP and government employees of the SEDUOP took place, no consensus was reached, given the fact that the information that the citizens requested to discuss the project was absent. As Cesar Garza Livas, leader of the ApSP, states:

There really was a space to discuss, but it was manipulated, that was the objective (of the SEDUOP). It aimed at considering a fait accompli, they never (were) in an open situation to say “we are going to obtain well supported opinions to make changes to the project”, which in the end was our objective. They took it as a fait accompli, something that was not subject to any change [...] “I receive you and explain you and invite you a cup of coffee and canapés. Now that I have received you, back me up”. It was a formal act [...] to meet a requirement²⁵.

As a result of this, the project faced many other questionings. There were other less expensive proposals than that of the Unity Bridge²⁶. The incumbent of the SEDUOP explained the advantages of building this bridge which was the great work of the six-year government period of PAN. “It’s our duty to look for the greater advantages for the State, none of them is looking for the cheapest option, because something cheap would be to make a ford or not to make anything or to make it out of wood sticks, to hoax everybody, but we don’t aim at that”²⁷. On the other hand, putting the bridge

²⁴ “Desairan Canales y Bulnes foro sobre puente” (Canales and Bulnes snub the meeting on the bridge), *El Norte* newspaper, 30.01.02, p. 2b.

²⁵ Personal interview with Cesar Garza Livas, 29.05.06, president of the Alliance for San Pedro, San Pedro Garza García. “Bulnes no logra apoyo de sampetrinos” (Bulnes does not obtain support from the inhabitants of San Pedro), *El Norte* newspaper, 12.01.02. “Exige Alianza por San Pedro transparentar gastos de puente” (Alliance for San Pedro demands to make the costs of the bridge transparent), *El Norte* newspaper, 27.07.03 (It derives from the meeting in March with FEB)

²⁶ “Surgen más ‘puentes’ desechados por Bulnes” (More “bridges” rejected by Bulnes appear), *El Norte* newspaper, 13.01.02, p. 1b. The proposals had a signature acknowledging receipt by SEDUOP.

²⁷ SEDUOP was also accused of intellectual plagiarism in the design of the bridge, given the fact that it belonged to the Spanish Santiago Calatrava, who had built the bridge in Sevilla.

to bidding faced questionings itself. The first phase of the bid took place behind closed doors, although the Law of Public Works for the State and Municipalities of Nuevo Leon states in its articles 28 and 38 that in public bids the opening act for the proposals must be public²⁸. Also, SEDUOP carried out a purchasing operation in which it paid many times as much the commercial value of two residences property of Llaguno family. Each residence cost 20 million pesos, an amount several times higher than the average cost of these residences in zones of high added value. According to the Mexican Valuation Institute of Nuevo Leon, the commercial value was of 5 million 829 thousand pesos²⁹. One of the figures involved in the case, Juan F. Llaguno Farías was the Citizen Commissioner in the State Electoral Commission, this fact gave the impression of a possible conflict of interests. The second case of affected land occurred because of an exchange. Rolando Cueva, former PAN alderman, made an exchange of land with Agua y Drenaje (Water and Drainage) (AyD)³⁰. The transaction consisted of two lots (63 thousand 842 square meters) that had been released from public domain some months ago by the Congress of the state and that belonged to AyD. The lots were located in the municipality of Santiago. They were going to be exchanged for a property that Cueva had on Aaron Saenz Avenue (thousand 467 square meters), which was affected by the construction of the Unity Bridge. Cueva paid the difference between both valuations³¹. Nevertheless, despite the fact that the Administration Council of AyD had denied in 1999 having sold the above mentioned land to the

²⁸ “Abren en secreto licitación; emitirán fallo este viernes” (The bid will be secretly opened, their judgment will be announced on Friday), *El Norte*, 23.01.02, p. 1b.

²⁹ “Compra gobierno cinco veces más por afectaciones de puente” (The government buys five times as much more due to the affected bridge), *Milenio* newspaper, 20.05.02, p.4.

³⁰ His brother Rogelio Cueva also performed a buy-sell transaction with the state, but he did not use the exchange for it. He was in charge of the campaign for the government of PAN in 1997 in Garza García by the XVIII district, according to the organization chart of the basic government program (Metropolitan area). Campaign Committee, Fernando Canales Clariond. Government Coordination, Monterrey, N.L. February, 1997.

³¹ “They used the majority by favoritism, former deputies argue”, *El Norte* newspaper, 18.09.04, p. 1b.

PAN member, in 2002 the Congress of the state, with a PAN majority, endorsed the initiative of the governor to release the state properties from public domain in favor of Cueva. This fact showed the conflict of interests in public decisions once more. In the final analysis that ApSP performed with the information that the SEDUOP provided them, and according to the validity of the law of access to public information that the PRI administration must apply, budget was exceeded. It reached a final cost of 680 million MXN and the original budget of the work was 550 million MXN³². Although these previously mentioned problems did not derive precisely from the lack of information provided to the neighbors of the ApSP, they did increase the inefficiency of the planning project.

The unskilled negotiation in Venustiano Carranza Avenue.

Another important Project of public work in the PAN six-year period was the extension of Venustiano Carranza Av. The program aimed at extending and restoring this avenue from Hidalgo Street to Colon Av. This is a strategic place for the traffic flow between the municipalities of San Pedro and Monterrey by the connection with the Loma Larga tunnel³³. Since July 1998 a qualitative study exists; it was ordered by SEDUOP to learn the neighbors' reception of the project, considering that it might damage the patrimony of the residential and commercial zones. On its side, the Fideicomiso para la Rehabilitación Metropolitana (Trusteeship for the Metropolitan Renovation) (FIRME) was the authorized institution by SEDUOP to negotiate with the neighbors on the extension project. The results of the qualitative study indicated the lack of information about the project on the side of the residents of the zone. The survey that was carried out among neighbors indicated that no public consultations had been performed by any institutional way to know the details of the project. Also, the neighbors mentioned that they had turned to different governmental authorities to obtain information,

³² Personal interview with Cesar Garza Livas, 29.05.06, president of the Alliance for San Pedro, San Pedro Garza García, Nuevo León.

³³ "Bulevar Venustiano Carranza. Proyecto de Renovación Urbana" (Venustiano Carranza's Boulevard. Urban Renewal Project), FIRME, SEDUOP, p. 11, 17.

without receiving a reply. The neighbors of the commercial zone particularly, requested to be taken into consideration for the projects of urban redistribution. Consequently, the recommendation of the study could not point toward another direction: “To develop a direct communication program with the population. It should inform about the long term benefits that will be generated with the execution of these works in the long term”³⁴. Despite the recommendation of the study, the government decision left this suggestion out to a great extent, given the fact that the development of the opposition to the project was based on the lack of information of the neighbors. This contributed to the democratic delegitimization of the project as well. The internal analysis warned about the uncertainty, distrust and disinformation that motivated the resistance of the neighbors of the east sidewalk of Venustiano Carranza Avenue³⁵. They pointed out that SEDUOP: “[...] have not achieved an interlocution labor with the nonconformist. The position of the neighbors got stronger with the opinion of urbanism specialists who described it as inadequate in urbanistic and road terms and lacking of social benefit”³⁶. Despite these recommendations, the neighbors’ claim was that they “knew” about the damages to the property through the media, and they had not been formally notified since 1998 when the project planning started³⁷. They also claimed that other external entities should have been consulted, for example, road design experts, Engineers College, citizens in general. It would have made the project’s pros and cons transparent³⁸. As in the previous case, this work of concentration would be in charge of the Urban Development Consultative Council, which did not provide signs of life.

³⁴ “Avenida Venustiano Carranza: Investigación Cualitativa” (Venustiano Carranza’s Boulevard: Qualitative Research), Grupo Quali, in *Bulevar Venustiano Carranza, Proyecto de Renovación Urbana: ocho estudios* (Boulevard Venustiano Carranza, Urban Renewal Project: eight studies), FIRME-SEDUOP, July, 1998, p. 72, 86, 97, 103.

³⁵ Local political scenery, Internal Analysis of the Political Development Undersecretaryship, Secretary of Government of the State of Nuevo León, 03.09.02.

³⁶ Internal Analysis of the Political Development Undersecretaryship, Secretary of Government of the State of Nuevo León, 08.09.01.

³⁷ Information request made to the governor by Lydia Garza Leal, 13.09.01.

³⁸ Information request made to FIRME-SEDUOP by Sergio Rodríguez and Lucila Gzz. De Rodríguez, 30.09.01.

Nevertheless, in view of the operative absence of this authority, a first meeting took place between neighbors and the main responsible government employees of the SEDUOP in October 2001 on Venustiano Carranza Avenue. In this meeting, Oscar Bulnes pointed out that the extension work was necessary to increase “the quality of life and a community service”. But the neighbors complained about the legal capacity of the authorities to decide in an unilateral way the development of the project and the destiny of their patrimony, given that in the end they only wanted to be taken into consideration “by the authority that they had elected democratically”³⁹. Despite this encounter between neighbors and authorities, requests of information about the project of extension of the avenue continued in regard to its executive project, budget, implementation, neighbor’s contribution and cost per square meter for the compensation for the affected lots⁴⁰.

In most of the cases, the official reply from SEDUOP had same layout. In this case it denoted that a meeting had already been held on November 29, 2001, where the “revision” of the project had been agreed. It is worth mentioning that the information requests that dated from September 2001 did not receive an official reply until December 17, 2001.

The meeting that the authorities alluded to was the presentation of a model representation of the project, but they did not made comments on the more specific demands of the neighbors during the meeting. Lyzzeta Lozano, one of the main activists of the neighbor’s movement, puts it this way:

The information they talked about (that from the November 29 meeting) was of a kind of flipchart (*slide*) where there was a little drawing with little trees, painted with little models and they said “this is how it will be” [...] we wanted other kind of information. How many square meters did the project involved,

³⁹ Neighbors meeting with architect Bulnes, 29.10.01. Audio transcript that is in the files of the president of the Association of Neighbors and Traders of Venustiano Carranza Avenue. Roberto Villareal, provided on 26.04.06 in Monterrey.

⁴⁰ Information request made to Oscar Bulnes, SEDUOP’s incumbent, by Lizetta Lozano, Sergio Rodríguez Q. and Roberto Villareal, 08.10.01.

the measures of the lot, the cost of the work, the executive plan. They never showed us an executive plan [...]. We could not entrust our patrimony on a little drawing. We wanted to see the executive project that was never shown [...]⁴¹.

But in the official justification that SEDUOP provided to the neighbors, they indicated that the lack of information occurred because: “although there had been several projects for Venustiano Carranza Avenue since 1998, they weren’t necessarily going to be performed. And to notify all the interested people about them would be futile”⁴². So, although the information provided in advance to the neighbors was considered “futile”, this omission ended up being the Achilles’ heel of the project. The neighbors couldn’t comprehend the project if they didn’t have information. Without this fundamental step there couldn’t exist access to a fully democratic and deliberative exercise in regard to the project. This need is accurately expressed in a letter that 45 neighbors sent to the SEDUOP:

Dear Secretary, we want to let you know that we are not against the project. We cannot be against something we don’t know. What we are opposed to is the way FIRME employees have handled the situation. We are against the fact that we know about what you want to do to this avenue through the media (that is why we also resort to them). But we feel, above all, uncertainty and fear, for we don’t know what is going to happen to our patrimony. Our interest in knowing the details of the project is to take preventive measures, because should the works start in January, as we have been told by the media, our businesses and residences would be seriously affected⁴³.

⁴¹ Interview with María del Carmen Lyzzeta Lozano Torres, member and leader of the Association of Neighbors and Traders of the Venustiano Carranza Avenue, 08.05.06, Monterrey.

⁴² Official reply to the request from Ms. Lyzzeta Lozano, SEDUOP, official letter num. 110/H-0.1/D.J./2001, 17.12.01. This is same argumentation SEDUOP provided, once Roberto Villareal took private legal action against Oscar Bulnes in the Court of Claims, as proved by the official document sent by Oscar Bulnes to the magistrate José Alfonso Solís Navarro, and according to the adversary procedure num. 513/2001, First Ordinary Court of the Court of Claims, 11.06.02.

⁴³ Information request letter sent by 45 neighbors, addressed to SEDUOP, 05.11.01, Monterrey.

Despite the fact that FIRME was the authority in charge of directly negotiating with the neighbors, it was precisely this authority, with the threats and intimidation that their employees showed towards the zone owners, the one who delegitimized the project to a great extent. They did not recognize the employee's participation; they requested the intervention of the incumbent of the SEDUOP or the governor. When an "information booth" was opened by FIRME in Venustiano Carranza Avenue, the neighbors mount guard in that office, and requested information about the executive project, but given the pressure of the neighbors, paradoxically the "information booth" closed in short time. Lozano points out:

They established an office of the Venustiano Carranza project here, between May 5th and 15th. "We said that it was OK, for we would not need to go to the SEDUOP to look for them". 80 neighbors became organized; about forty of them were active. We are going to mount guard while the office is open. The office opened about 8 or 9 in the morning, and a neighbor was already there and stayed there for one hour. After that hour, another neighbor was there, and each neighbor asked "do you already have the information?" It was a psychological war from us to them, in order to let them know that we were united and well organized [...] those little strategies helped us, until they decided to remove it, [...] the office lasted for a short period of time, maybe two months⁴⁴.

Corruption added more agitation to the political challenge opened by the neighbors. The technical coordinator of FIRME, Carlos O. Camacho Treviño, came into conflict with the neighbors when he was negotiating the compensation for the lots with the affected neighbors. The conflict derived from the fact that he was the FIRME coordinator and the real state broker at the same time and offered to buy and sell the land to the neighbors. He had two business cards: one that identified him with an institutional position, and another one that identified him as the general manager of the real state agency⁴⁵. He offered the neighbors, as real state broker, to buy their complete

⁴⁴ Personal interview with María del Carmen Lyzzeta Lozano Torres, leader of the Association of Neighbors and Traders of the Venustiano Carranza Avenue, 08.05.06, Monterrey.

⁴⁵ "Pretende funcionario "tajada" en Venustiano" (Government employee fights to take his "cut" in Venustiano Carranza), *ElNorte* newspaper, 23.10.01, p. 1b.

properties, before they were affected. Should they accept the official compensation, he would buy or sell the lots that were left, finding “clients” for them. The denunciation made by the neighbors caused his dismissal, and the Comptroller’s Office got involved in order to bar him from holding a public office⁴⁶. In addition to this denunciation, the neighbors made pacific resistance demonstrations. They hanged banners that expressed their nonconformity for several weeks. The banners were displayed throughout 2.5 kilometers of the avenue in dozens of houses and stores. Banners had a question mark in allusion to the lack of information from the authorities in regard to the project⁴⁷. Finally, the neighbors formed a civil association called Asociación de Vecinos y Comerciantes de la Av. Venustiano Carranza (Association of Neighbors and Traders of the Venustiano Carranza Avenue) (AVCAVC), so that it could act as direct interlocutor with the state government⁴⁸. Roberto Villarreal, leader of the association, explains that the treatment they received from the authorities was the main reason to get organized, given that the threats on the side of the members of the FIRME saying “we are going to strip you of your property” caused alarm among the neighbors⁴⁹. In view of the public pressure that was brought, SEDUOP

⁴⁶ Lyzzeta Lozano recorded the conversation with Carlos. O. Camacho. It demonstrated his illegal conduct and was later delivered to the reporters of *El Norte* newspaper. Interview with María del Carmen Lyzzeta Lozano Torres, leader of the Association of Neighbors and Traders of the Venustiano Carranza Avenue, 08.05.06, Monterrey. The government employee violated the Law of Responsibilities of Public Officers of the State that in its 50th article, XIII fragment, establishes that the public officer must avoid interfering under any way in issues in which he or she has a personal, familiar or business interest. Even at the moment of the illegal act, his higher-ranking officer was indulgent, for he acknowledged that the defendant gave both business cards, but that he was hired because he was a “specialist in the real state area” “Su jefe lo defiende; piden suspenderlo” (His boss defends him, they ask to suspend him), *El Norte* newspaper, 24.10.01, p. 1b.

⁴⁷ “They demonstrate with banners due to the lack of information”, *El Porvenir* newspaper, 22.10.01, p. 1 Local.

⁴⁸ Minutes of the Association of Neighbors and Traders of the Venustiano Carranza Avenue, public notary’s office num. 73, num. 131, vol. 41, book 3, Section III, 31.12.01.

⁴⁹ Personal interview with Roberto Villarreal, president of the Association of Neighbors and Traders of the Venustiano Carranza Avenue, 26.04.06, Monterrey. Lyzzeta Lozano expresses the same idea; the interview took place on 08.05.06.

finally announced in November 2001 that the work was suspended, while the “executive project” was revised one more time, and despite the initial resistance to stop the project⁵⁰. The government’s decision for the extension of the Venustiano Carranza Avenue had reached a deadlock caused by both, the incapacity to deliberate publicly with the neighbors and the corruption act in FIRME. The then Government undersecretary highlights these two factors that tarnished this project of extension of SEDUOP. They also acknowledge these two aspects that the deliberative policy implies, to solve the technical problems, but also the communicative part in front of the citizens:

In my view, problems should be seen according to the incapacity to transmit the benefits of the project to the neighbors. And that incapacity declined in its quality by the presence when the government employees were accused of trafficking [...] where did it fail? In the capacity to negotiate. Why did it fail? From my point of view in the negative aspect by the representation of the representatives (sic) of the Trusteeship [...] Not only does the technical capacity to handle the public issues is necessary, I believe that the most important fact is to communicate those public issues in the end. And I think that it was there where SEDUOP acted wrong⁵¹.

Although the project was suspended during the PAN government, once PRI was again the political power in 2003 the project was revived. Nevertheless, at this moment, with the new SEDUOP’s incumbent, Abel Guerra (who had brought the neighbors closer when he was PRI deputy during the climax of the conflict) continued the extension project, but he did not affect the properties of the neighbors of the east sidewalk, which was the zone where the neighbor’s activism lied. The extension works were made on the west side, given the negotiation with the authorities and that

⁵⁰ This was the objective of the declarations of governor Fernando Canales: “If there are mistakes they will be corrected”, *El Porvenir*, 28.10.01, p. 1. Local, and the Secretary of Government, José Luis Coindreau, said *Proyecto de ampliación de Venustiano no se detendrá*” (The project of extension of Venustiano Carranza Avenue will not be stopped), *El Porvenir*, 28.10.01, p. 1.

⁵¹ Personal interview with Jorge Aguirre, former undersecretary of government, from the Secretary of Government, 17.05.05, San Pedro Garza García.

the inhabitants did not oppose to it. By that time, an individual's lawsuit against the authority for their refusal to provide information had succeeded: the court of claims of the Government of the State decided that SEDUOP committed irresponsibility in meeting the information request made by a citizen in accordance to article 8 of the local Constitution, in regard to its legal interest to request information from the government. Therefore, SEDUOP was ordered to provide the classified information as public according to articles 7, 8 and 9 from the Law of Access to the Public Information that by that time was already an appeal warranted by the State⁵².

This law was approved few months before the six-year government period of PAN finished in February 2003. It was not a priority in the legislative agenda of the Congress of the state until the federal law of access to Public Information was approved in April 2002. The local alteration was made more as a result of the impact of the federal law than as a result of the local situation.

As a conclusion

The political change in the state of Nuevo Leon and that which happened in the national environment cannot be understood without making reference to the National Action Party.

In its role as democratic opposition, PAN has been fundamental. It has been important while two regimes were set up: an authoritarian presidential government and that of control of the political system that nullified the political plurality (by the presence of the hegemonic party) and the autonomy of the civil society (by the appearance of a solid corporative schema which relies in practices that reward supporters by providing them protection and specific favors in exchange for votes or support) PAN, according to its liberal democratic ideology, considers citizen's individual guarantees before actions

⁵² In the central part of the definitive judgment of the litigious administrative judgment in which Roberto Villareal brought suit against the Secretary of Urban Development, it was decided that the authority replied lately to a request made by a private, and when it did (18.12.01) it was untimely, given that the private made the request on 18.09.01, thus 45 days had already passed. Operations manual of the Court of Claims of the State, Government of the State of Nuevo León, file num. 594/2001, 12.04.04, p. 10-11.

of other individuals or those of the State. And given the lack of plurality in the political representation spaces, the party developed a political liberation path to defend the political and electoral rights of the citizen, which was a constant deficit during the Post-Revolutionary regimes to guarantee an electoral democracy. But maybe this historical and doctrinaire tendency is precisely what made it difficult for the party's elite that governs to achieve a democratic compromise beyond their electoral conception. This phenomenon represents a problem, given that inter-party replacements in the political power bring the expectation that there can be differences from the authoritarian past and open the possibility of a democratic routine in the institutional processes. Nuevo León's case of inter-party replacement through PAN is an example that shows that a change was not necessarily a *sine qua non* to advance progressively in the democratization. The two cases described in this article at least reveal the inability of the executive power to establish a strategy of intersubjective understanding between the involved parts, as a contributory factor in the public decision. This learning curve lacked guidelines to construct the governance anchored in the civil society's support, as an institutionalization's principle of the democratic policy. In both cases the establishment of the basic institutional process in order for the citizen to approach to the public decision was ignored: the legal guarantee to request information in article 8 from the Constitution and the "social participation" guaranteed in the Consultative Council of Urban Development. It could be said that this last article was the authorized "space" by the law for a formal encounter between authorities and citizens for the public decision in urban matters. Despite this last statement, it would be risky to conclude that the government that was a product of the inter-party replacement did not build the task of the democratic governance, given the fact that the study was limited to two cases. We are still far from determining conclusive results about the analysis of the governance of the political system as whole.

Despite the fact that the centerpiece is the access to information in regard to urban development, we can infer that the temporary problems were caused precisely by the lack of a democratizing will to meet the information requests of the civil society. So, conflicts appeared when there was not a regulation to access to information. This was made effective, as

we have seen, only until the last month of the PAN six-year period. But this absence does not discredit the use of the legal instruments that were fully current in the State. Nevertheless, as we have seen, both instruments were delayed with legal arguments (art. 8 from the constitution) or fully ineffective in the development of the conflicts (Consultative Council of Urban Development). The failure to comply these two legal resources implies questioning the support of the law by the authority's structure. It is worth clarifying, despite the fact that the authorities achieved an approach with the citizens for the dialog action, that the capacity to access to the requested information was formally delayed. We say "formally delayed" because the government of the state limited the legal possibility of the citizens for its real access. In both cases, real access to information was achieved only after the mentioned law came into force.

Several were the arguments of the government to deny access to the information: the act of providing information to the citizens was considered "futile" (Association of Neighbors and Traders of the Venustiano Carranza Avenue) or because it would be an act "outside the law" (ApSP). Also, the extension of the Venustiano Carranza Avenue would confront discredit by the corruption in FIRME and in the construction of the Unity Bridge. The decision would be questioned in the public opinion by the bidding process and the release from public domain of private lots. This questioning would decrease the efficiency of the performance of SEDUOP. The background of both cases reveals the incapacity of the government to maintain a democratic policy in regard to the social demands. Despite their possible limitations, current legal regulations would have led to the generation of a deliberative interaction between government and citizens. Maybe, if their use had been considered, PAN government would have provided a democratic legitimacy path to their decisions. The cases also show clearly that "electoral legitimacy" is not enough to claim that a democratic government is present. That is why the most important concern in the analysis has been the change from a qualitative differentiation in the capacity to govern from a party that comes to power through a process of political liberalization in the electoral level and the deep need (at least in the theoretical terms that we have defended here) that a democratic governability has to be constructed to differentiate from the PRI government.

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