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DELEGATE ALEXANDRA VELA
QUITO, EQUADOR
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JOHN: To begin, how are decisions made among the factions (*bancada*) - is *bancada* or *fracción* (faction) used here?

ALEXANDRA VELA: Well, I'll explain to you how the Congress functions now, because there were modifications to the Constitution of '98. How is the National Congress organized or should be organized at this time? Before, there never was - in any of the previous constitutions of Ecuador, and there have been 19 up 'til now- a disposition that permits a parliamentary faction to be established as a constitutional base. So, the Congress was practically managed by totally independent delegates; in the end, legislative initiatives, fiscalization initiatives, depended on only one of the Congressional delegates.

JOHN: Until what date?

ALEXANDRA VELA: Until 1998. Then in the Constitution of 1998, precisely due to all the governing problems and all the problems within the National Congress which led to the possibility that a single delegate could eliminate the Minister of the Economy in a moment of crisis, through an appeal process that caused - until the Constitution of '98 - strong censorship. This means, the Minister's dismissal was voted upon and the Minister was separated from his functions in the National Congress.

JOHN: But was an absolute majority of votes necessary?

ALEXANDRA VELA: A simple majority was necessary. That means, half plus one; that was a perfect disaster. For around 18 years, this resulted in an average term of between 8 and 9 months for a Minister of Economy or a Minister of Energy and Mines, which are the two most conflicting areas in a moment of economic crisis. So, seeking a mechanism that would give coherence to the legislation, and which also would give coherency to the fiscalization processes as well as looking for a minimum majority to at least present bills, an institution was created in article 128, which is called the legislative block.

How is a block formed? A block is made up by parties or political movements - because in Ecuador it's possible to present candidacies who are not only from parties - with a number of delegates who represent at least 10% of the National Congress. Initially, the fact that the legislative initiative was with the block and not with each of the delegates was arduously discussed in the Assembly. Above all, initiatives which referred to Constitutional reforms. In the end, the number of necessary votes wasn't obtained and we had to reach an agreement. The block persevered but it also had to allow the legislative initiative or the fiscalization initiative to be in delegates' hands that add up to 10%, but they can be delegates who are not part of the block.

JOHN: Any combination.

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ALEXANDRA VELA: A combination of delegates but always a minimum base, an entrance barrier, let's say, for the legislative initiative of 10% of the Congress. This wasn't the best thing, but facing the circumstance of going back to what we had before, anyway, it means that they have to make an effort to reach an agreement.

With regard to the other topic which refers to fiscalization, this was solved by the other side. Since it was impossible to eliminate the fiscalization, the possibility of censorship was eliminated. The Parliament can request reports. The present Congress doesn't have the ability to dismiss a Minister of the State. Congress may call him/her to provide reports, it can provoke a censorship motion, but the President of the Republic is the person who appoints him/her, and he's the only one who can resolve it.

Well, now there are these blocks. Each block inside the Congress works differently. Ours has special bylaws that require, for example, that all projects referring to Constitutional reforms be approved by the block, otherwise no one can present them. By the majority of the block. In a meeting of the block that pronounces favorably so that the initiative is presented, otherwise it's not an initiative of the block and there's no reason for it to be voted upon by any of the block's members. The block should solve fiscalization in the same way. When a Minister is summoned to a political trial, or the Vice-president or the President of the Republic or any of the Superintendents who are authorities of control, this resolution is by the legislative block. Our block is the only one that has a bylaws project which has been internally approved and functions in this way.

JOHN: Not the others?

ALEXANDRA VELA: No.

JOHN: Generally speaking, do all of the block's members vote together?

ALEXANDRA VELA: In general, yes, when a decision is to be made. But wait a moment, in order for the whole block to vote together on the most important decisions, there's always a previous meeting of the block that makes a resolution after an internal discussion is held inside the block. To the contrary, if there is not a resolution made from the block, each of the delegates can vote according to their own opinion because there isn't a mandate. But once there has been a resolution by the block, no one can withdraw from that directive, if he/she withdraws in his/her voting, he/she is subject to a sanction and this is established in the bylaws.

JOHN: And the sanction is used?

ALEXANDRA VELA: Ah yes, we just used it. What's more, since in the block there's - and this occurs in all of the blocks in the Congress, and there are really only four: the *Democracia Popular* (Popular Democracy), the *PartidoSocialcristiano* (Social Christian Party), the *Partido Roldosis Ecuatoriano -PRE* (Roldosis Ecuadorian Party) and the *Izquierda Dem ocrática* (Democratic Left). These are the only four blocks that there are, the rest are political forces which exist here but they aren't blocks. And there's one that is the *MIN*, which is the result of the division of other blocks; this is one of

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the practices that shouldn't occur, but the President of the Congress has recognized it as a block, even though this is impossible because a block can only be the outcome of the presentation of electoral lists which have been propitiated by a political party or by a movement that has been recognized by the *Tribunal Supremo de Electores* (Supreme Voters' Tribune).

JOHN: But the President of the Congress has already recognized it.

ALEXANDRA VELA: The President of the Congress has recognized it illegally and unconstitutionally, and that's how it works, it's called *MIN*. In reality, there are five.

JOHN: Which are the most important factors as to why delegates don't vote with their block or break the discipline of the block?

ALEXANDRA VELA: Fundamentally when a difference of opinion exists between, for example, the legislative block's decisions and the national government. And the government, or the executive, buys...that's to say, acquires the delegate's will, for example, in exchange for quotas; in other words, in exchange for a payment. I will mention an example of what has just happened. The President of the Republic made a proposal to elevate the added value tax, the *IVA*. The result of this proposal was that for different reasons, most of the Congressional blocks had contrary opinions. There were resolutions by the blocks. Then, the President of the Republic broke the legislative blocks, he broke all the blocks of the National Congress. How did he do it? In different ways. By coming to understandings at different levels. First, by granting to the delegates quotas of his discretion for the appointment of authorities in the provinces - as in the style of a satrap in the era of those..... -

JOHN: Budgetary items and such?

ALEXANDRA VELA: Remitence of budgetary items which by Constitution are no longer managed by the delegate, can not be because they can be object to the application of the Ethics Code and the expulsion of the delegate from the Parliament. But the reality of what occurs is that they're granted to, for example, the sectional governments of this delegate or this political block. Budgetary items that have several levels. One way is to grant items so that, for example, the mayor of the municipality that belongs to the same political party or is sponsored by this delegate, performs works in his district. The second is that the money is granted for the works and the contract; the contractor is designated by the delegate.

JOHN: This has more to do with corruption, no?

ALEXANDRA VELA: That's right. The delegate, then, also in some cases, receives part of the percentage of what they charge to the contractor for this. Another way is when there is..... an electoral recess, what is called a collective contract. In this case, the legislative block's members meet, the block's delegates, and they resolve to negotiate this quota with the President, in other words, with the government. That goes to different provinces with the degrees that I have pointed out before: from the least, to the worst of all. Aside from that, from what we have heard here time and time again, there are some who have directly received cash payments. So, this borders on what's corruption; Congress has to make decisions about this. Frankly, this is a tragedy, because since the year 96-97, from when

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Bucharam took power, this Congress had to work and produce a fiscalization process. It was very difficult internally to those who were on that fiscalization commission because we even ended up receiving death threats, and we removed the remaining Congressional members from the National Congress by an unanimous vote. We removed 18 delegates who were confirmed as having committed acts of corruption. We sent those processes to the Court, and currently only one is subject to process. So, it's very difficult. After that, the citizenship had a very strong reaction in opposition, and that pushed us to introduce a series of decrees in the Assembly, some of which I have already spoken about. In order to preserve a line of transparency and so the agreements that are carried out between the legislative forces of the Congress and the national government, are agreements of a programmatic character and not agreements of "under the table" corruption, as is the general practice. Unfortunately, the legal decrees are as good as the people who execute them. The result of what we have at this time is that the division of the blocks as a consequence of the purchase-sale of the delegates, has reached such a level that it has destroyed the possibilities of organic majorities. As a consequence of that, in this precise moment, the biggest block that you have inside the National Congress - or rather, the number of delegates, not block but the largest number of delegates - is that of the corrupt delegates. Of 123, this has 32.

JOHN: Then in fact, the blocks are not working.

ALEXANDRA VELA: The blocks work to sanction, but what can I tell you, for example, the Popular Democracy block began as a block of 36 delegates. At this time, after the expulsions that have taken place due to these changes of votes in the party line and the votings against the ideological and political program which was presented to the people for the elections - which is unacceptable for us -, the block has 20 delegates. We have just expelled three delegates from the block and one from the party. So, it is a tragedy, this doesn't work.

JOHN: How is nominal or nominative voting used in the Congress?

ALEXANDRA VELA: Let's see, what is nominal voting and what is nominative voting here? Nominative voting is simply a vote by list, expressing only the vote. A nominal vote is one with the possibility of a speech, in other words, a ten minute explanation of the reason for the vote. Well, then we are speaking of the same thing.

Nominative and nominal voting can be requested by any delegate in the plenary session if she/he has the backing of ten delegates to resolve any topic that's considered indispensable to have nominative voting. This is a resource to assure that the voting indeed gathers the number of votes and it normally occurs in this Congress when the topics that are being debated imply serious political consequences; for example, the voting of the Peace agreements with the Peru used nominative voting because the topic was of such a historical transcendency even for the country, that the voting needed to be registered nominatively. Now, there are some cases where nominative voting takes place by legal mandate; for example, the elections or appointments of control authorities which correspond to the National Congress, always take place nominatively and these are those that are recorded.

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JOHN: When the voting is not done nominatively, how does the block's leadership know how its delegates have voted?

ALEXANDRA VELA: In our case we keep a control of the voting, but inside the National Congress it isn't institutional. In other words, we in the block have a record of the most important votes because also...

JOHN: Of the block only or of everone?

ALEXANDRA VELA: No, only of the block because it would be necessary to have a team of people to be able to recheck each voting. I find it extremely negative that the voting isn't recorded. From 97 when I was Vice-president of the Congress, one of the most important things that I have tried to achieve in the Congress, is the installation of an electronic board and a record of all the votings. Technically it isn't a very difficult thing. I have always found a majority barrier in opposition.
JOHN: Why?

ALEXANDRA VELA: I think that's because on many occasions what we've done - and this isn't so you put it down, because if you do I'll get myself into a mess -, but the truth is the following: the President of the Congress often manipulates the votings of the legislation . So, when you don't have a nominative voting that records the number of votes and you're saying there are 64 delegates in the hall, it's very easy to say that the law was passed or that the article was voted because the control is in the hands of the Secretary of the Congress who certifies. So, if the Secretary says there are 64 votes out of the 110 delegates who are present in the hall, the article is passed. I usually have two of the assistants in the Congress at the front, on both sides of the plenary hall, who have been doing this work for three years and they are very able; it's a warning for the Secretary, because on more than one occasion we've demonstrated with the accounting that we have brought with us that they are giving a result that's incorrect.

JOHN: To insist in a nominative for.....?

ALEXANDRA VELA: The moment that we received the report, we asked for a rectification of the voting and for nominative voting. But it's very difficult and it lends itself to corrupt practices. First that. Secondly, there's no possibility to establish a line of behavior and coherence of the blocks in their votings, at the general level or within the legislative block. So, there are things that are positions of principles. One should be able to have a line for rechecking, in other words, and of demonstration, the same as with the votings of the countries that are in the United Nations. You have a record that demonstrates if the block has been coherent or not with the line.

The other tremendously negative effect of this is that the mechanism for the rendering of accounts doesn't function if there's no way to establish the votings. Why? Because you vote, in other words, from this election we have the obligation to present a legislative program. So, we notarize, we go to the notary and we publicly say this is the program. But since the Party, the legislative block, the citizenship requests accounts from its delegate as to whether this is the program that was presented and you don't

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know how each one voted. So, the process of rendering accounts demands that there be a voting of this kind. Also, for knowledge and for learning, as a pedagogical matter for the citizenship who doesn't understand and can't see how the mechanisms of a democracy function. It's important for them to see it.

JOHN: How would you characterize or describe the tie between the citizens or the voters and the delegates in Ecuador? How strong, weak?

ALEXANDRA VELA: Depending on each block and depending on each delegate's circumstances. There are some, the majority I would say, of the blocks, which don't have any relationship with the citizenship after the election. Only in very rare cases do they maintain the delegates' ties, mostly in the small provinces, the delegate's tie is maintained when that delegate intends to have a political career, because he/she is forced to be in contact with the people. But mainly in Ecuador's small provinces, this delegate is in contact with the people to promote works, which legally he's prohibited to do. But it's normal. On the other hand, delegates from large provinces, like mine - I represent Pichincha, Quito -, unless you have like me, or like Ramiro Rivera, who come from the local government; in other words, that we have been part of local governments before, we maintain work with the community that's conceded due to the type of previous work that we have done. So, for us, the work in the neighborhoods and since we're always returning to the neighborhoods, allows for the people to maintain this level of relationship, but here there are some delegates who never have done this, never.

JOHN: Do the majority of the delegates want to be re-elected to the Congress? Or do they want other political positions, or don't want to continue in a political career, or what?

ALEXANDRA VELA: No, I believe that the provincial delegates... in other words, before there were national delegates - up to right now there are national delegates and provincial delegates - later, after the next election, there will be only provincial delegates, there will no longer be national delegates. That's a change that's important to keep it in mind. Why? Because there is one delegate per province, he/she generally wants to be re-elected again by their same province and then, try to be on the national list. This was the dynamics. But many others use the appointment as delegate (deputation) to generate a bit of a national image from the perspective of their own province and then, opt for another type of election: such as a sectional election, that's to say, as mayor of their province's capital city or as the provincial prefect. They use it this way and the people who have a national political projection, generally come from the biggest provinces, mainly from Pichincha and Guayas; in other words, Quito and Guayaquil. These usually repeat their assignment as delegate and try to pass to the national list because the national delegate was elected throughout Ecuador, so his/her leadership surpasses the large province, becomes one of national leadership, and thus, has the possibility to become a candidate to the presidency or the vice-presidency of the Republic.

Now, you have to keep in mind that at this time we're in a period of transition. The previous deputations, which is what we are speaking about, were two-year deputations; so then, everybody was forced to request re-election. One two-year period was a perfect disaster because when the people finally learned how the parliamentary procedure worked, what the limits of their acts were, how to

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appropriately manage themselves, let's say, to organize their debate, to present bills...their time was up and they had to leave. So, it was a perfect disaster. For that reason, the people went out for re-election; in other words, it was a kind of wheel where one was always re-electing him/herself. Now, it's different, the periods are for four years; this period is a four-year period which is another of the Constitutional reforms. However, a thing that we couldn't achieve was the continuation of national delegates. I think that the national delegates should continue fundamentally because otherwise, with only provincial delegates, what will happen is that you'll never have a national projection, one that effectively reflects an adhesion which justifies and legitimizes an election of another nature. But also because this national delegate can finally overcome the barrier - in almost all of the cases - of an exclusively provincial vision. That it is what's happening here right now - that the provincial delegates, be it the province of Tunguramo or if it's the province of Pastaza or that of Manarí, the only thing that I care about is everything that's related to my province, the rest doesn't interest me. Sometimes they don't even study the bills. So they commit a series of errors in the legislation because, plain and simple, if it doesn't affect my province, I don't care what it's about.

On the other hand, a national deputy already has some kind of a greater experience at the level of his province; she/he has a vision which comes from a more global perspective of the country and that allows him to keep in mind and make an analysis on national topics. As well, in the political career, that ought to be a political career because it can't be...the other serious problem that there is in this thing is that the political leaderships don't take place in a consistent way and cadres aren't formed. So, you can't in a globalized world, in a dollarized economy and in a country with the problems that Ecuador has, you can't generate local political bosses and local-type or even national-type leaderships that don't even have the basic indispensable knowledge of economy, politics, international relations, educational and social policies, which are required to comprehend in what world she/he is living. Then, with very good intentions because I don't doubt that in general most of the votings of the delegates, except when there are interests that you can clearly see which permeate the decisions, like when there are interests regarding economic management. For example, when bills are discussed concerning bananas, because here one knows in which legislative block there are banana producers and exporters. Except in those cases, I believe that legislation is mostly approved with very good intentions but instead of benefitting national interests, it's highly negative. And it's done in good faith, the problem's not that, the problem is that there has to be knowledge in order to make the right decisions. You can't come to discuss a bill regarding intellectual property rights without having the least idea of what this means.

JOHN: So, was the intention to eliminate the national delegates to strengthen the tie between ...?

ALEXANDRA VELA: No, the elimination of the national delegates occured against the Assembly's majority judgement. On the contrary, we believe that the national delegates should be maintained for all the reasons that I have explained to you. Then, what happened in the Assembly? One of the assemblymen, it was Ricardo Novoa, the current President's brother, the President of Econao, made a proposal that sought to increase the number of delegates of Guais province and for this, he applied a formula without all the assemblymen having the knowledge and the effect of what this signified. The result of that proposal, which for example was voted by the block of assemblymen of the Social Christian Party, of the democratic left - we didn't vote for it, among other reasons, because we had a

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computer program where we were running the different alternatives and we knew that the proposal was a disaster; in other words, that the number of delegates was going to increase by too many. It increased the number of delegates to 123, which is the number of delegates that the National Congress has presently, which is a perfect disaster. It's too large a representation and what's more, it's a representation that doesn't eliminate the distortions of over-representation of the small provinces; on the other hand, because the Congress has two delegates from the provincial base - who are two delegates from any province, it doesn't matter whether it is a province like Guayas that has two and a half million voters or a province like Galapagos that has ten thousand. So, instead of eliminating the real problem that were the delegates from the base, what he did was to increase the faction that corresponds to the number of additional delegates by the number of the province's inhabitants. And then, what happened? In the end there were 123 delegates and since there was a reaction by everyone against this increase, they decided that the easiest thing was to eliminate the national delegates. Why? Because they weren't anybody's. In other words, how were you to go as an assemblyman to the province - except for us, who come from here, and we said: "it's a horror" and the people understood -, of Pastaza and say that you've just voted to remove a delegate from this province. So, the only alternative of consensus that was found, viable of being voted politics, was this. So, the next Congress will have 100 delegates without national delegates, but this isn't positive for the management of either the Congress or for political representation.

JOHN: My last questions have to do with the executive urgency initiative. It seems that this procedure in the Constitution changes the meaning of the legislative votings by the delegates in the sense that instead of voting to approve a new initiative, it has to do with voting to veto an initiative and to not have to do anything to carry out the initiative. That's my understanding, at least. Is this interpretation correct, or what?

ALEXANDRA VELA: Let's see...no. There's a problem here but I'll show you what it is. I'll explain to you what the origin of the institution is because the problem isn't so much the legislation. In Ecuador, and in general, I believe that in some Latin American countries but mostly in the Andean ones, there's a very serious problem which is that the law says one thing, the institution is well thought out and when it's applied, many times it's a disaster. Why? And then everybody says let's change the law now. No, the problem's not the law. The problem is that a law is as good, as the good faith of the people who apply it. So it's a problem of people's attitudes that end up doing the opposite of what the institution says with their acts and not respecting the institution, when the government's interest is to approve the *IVA* (Added Value Tax) rapidly without making any modification to it's economic policies and without even reaching a real understanding with the country about why it wants to increase the tax. On the other hand, the forces in the Congress don't have an alternative but to say it doesn't approve this topic.

So, what was the origin of the urgent economic bills, the crisis? If you analyze the history of Ecuador since 1979, in 1981-82 the first big crisis took place, which was related to the Mexican market crash and the whole debt crisis. We haven't come out of successive crises since 1981. At this time, when the first great crisis occured, all legislative initiatives on economic matters, including expense increase initiatives, were in the National Congress and it happened that there were decisions that had to be

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adopted immediately and in order to be able to make them the executive needed the approval of modifications to the laws, first. Second, the National Congress was not willing to make the decisions because they were highly unpopular. I'll give you an example, currency devaluation. For 25 years the country had maintained the same exchange rate; it was bad, this was one of the economic problems...but who was going to devaluate? Nobody. The economic, as well as the technical, highly trained knowledge to understand the problems, was in the executive not in the Congress. This continues to be one of the largest problems in this National Congress and I believe of some others. The Congress lacks a staff who thinks economically and that's at the same interlocution level as the executive. In addition, one that thinks in a non-partisan manner and instead, on the whole. If we had something here like, for example with the reports - the United States Library of Congress for all the delegates, I've seen some of these brochures, please -, clearly one can debate anything in this way. In other words, today you can debate the Colombia Plan initiative, tomorrow the bill regarding bananas, the day after tomorrow that of intellectual property rights and the following day that of the general education law. Why? Because I have a basis for real debate, with figures and not discourse. But the problem here is that this way of thinking is in the executive, not in the Congress. So, as a consequence of the disaster of the possibility of management of this crisis, between 1979 and 1984, the former President of the Republic, a Christian Democrat, Oswaldo Hurtado, who also has quite a larger vision than the rest, said: "good, a reform needs to be made that gives him authority because this crisis still isn't overcome". In other words, if there's a similar crisis tomorrow, the President of the Republic can't confront it. So, it's necessary to generate institutionality so the President can face moments of acute crisis that can occur, that will be fundamentally in the economic management given the circumstances of the international and national economies, and to do this...How do we do it? So, a constitutional reform project was presented which was approved because this president's proposal was that it wouldn't enter into effect during his mandate, but rather starting from the following president's taking of office. That's why it was approved. So, this institution was created which was the urgent economic bill. In other words, the President of the Republic's initiative, in moments of crisis, in order to send a bill regarding exclusively economic matters to the National Congress. A single matter, not several, that should be attended to by the Congress within 30 days. If the Congress couldn't expedite it by approving, modifying or denying it within 30 days, the President of the Republic could put it into effect by a law ordinance. This law ordinance was in effect until the National Congress, in conjunction with the President, resolved that the crisis had been overcome, that the institution was good and it was approved and they continued maintaining it, or they considered that it no longer fulfilled any purpose and it was eliminated.

So, as you can see, this mechanism was of great use; it has been of assistance to all of the governments beginning with the Fevres Cordero government of 1984. What was the text of that time? For example, the problems that occured when the project was remitted to the Congress, the Congress established some modifications. The President of the Republic partially vetoed, he said, "this part, yes, is correct but this other part is a mistake that goes against the project" and it was partially vetoed. It was returned here to the Congress and what happened in the Congress? That there was no obligation now to expedite it within the 30 days. So, then he said, "this part of the dollarization law is good, but it turns out that the Congress members have made a mistake in Article No. 2, because the disposition stated here, instead of helping, goes the opposite way. Therefore, it's necessary to modify three lines of this article, a partial veto. It was returned to the National Congress and the Congress could take the

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project, stow it away in the bottom desk drawer and let it sleep an eternal dream. The urgent economic bill was finished. It slept the eternal dream. So, what was done in this Constitution? A disposition was made that says and here's where the problem you're concerned about is, because the problem doesn't arise from the institution of the urgent economic project, it arises from the veto. Because to approve the urgent economic bill you need the normal common majority.

JOHN: What happens after 30 days if they don't do anything, if they don't vote, if they don't discuss it, if they don't debate?

ALEXANDRA VELA: Let's look at the two scenarios that you have here. Let's suppose that the bill reaches the National Congress; the Congress is debating national security problems and can't enter into the economic topic. Well then, 30 days have passed since the Congress has received the bill. After those 30 days, without the Congress having even seen it - the Congress hasn't debated it, hasn't taken it up, it has been attending to other things - the Secretariat issues a notification advising that 30 days have lapsed. At this time, the President of the Republic is enabled to remit the law ordinance to the official registry and this law ordinance enters into effect by mandate of the Constitution after its publication in the official registry. If this is the course that's followed, nothing happens. It's in effect. The law changes and the law's in effect. What can the Congress do after it finishes attending to its national security problem? It can say, let's see, let's analyze what the content of the law ordinance is and it can say, "Mr. President look, in Article No. 5 we believe that there should be a modification. Are we in agreement to make this modification?" Yes, okay, then we go to modify this according to the ordinary procedures for the formulation of laws. Or he can say, mister, it's no longer valid and I will repeal it and it's repealed.

JOHN: Two thirds are needed to prevail over it?

ALEXANDRA VELA: No. Up until now we 're always speaking about what's published in the official registry. When do you need two thirds? When you have a partial veto, Article No. 153 of the Constitution: partial veto. There always has to be a veto, there can't be insistence that there's no veto. So, what does the Constitution say about vetoes? It's not speaking about the original project, it's speaking about the veto, it's always speaking of the veto. A partial veto takes place. A partial veto can go two ways: it can be a partial veto that alleges unconstitutionality and it can be a partial veto that simply says it's necessary to modify these articles of the law; only these articles, not the whole project. If it were a partial veto due to unconstitutionality - this has never happened, it never has occured in this Constitution's application - you would have to send the project to the Constitutional Tribunal and the Constitutional Tribunal emits its verdict saying: a) it's unconstitutional and therefore returns the project to the Congress for the Congress to reform it, or b) there is no unconstitutionality, and it's sent to the official registry for publication and it becomes a law. Up to now, this has never happened. What has happened? What has just occured with the *IVA* (Added Value Tax) and it's the debate to which you refer. The President vetoed the *IVA* in some of its parts. The first discrepancy took place here. What was that discrepancy? When the Congress approves the bill and modifies an article, this article gathers the modifications and it's incorporated into the original text of the law. When the Congress denies

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something, this text is taken out from the text, it doesn't exist, it's not in the text. Why? Because it was denied, so it no longer in the article.
If it's a five-article project and the Congress resolves that it agrees with the 1st, 2nd and 3rd articles, with no modifications, it's incorporated into the original text of the law, approved by the Congress. If the Congress says: Article No.4 is the text of the second clause, it's this other one, it's modified and there's a text which is also incorporated into the original text. But if Article No.5 which says: "increase the *IVA* from 12 to 14%", is denied by Congress, this text isn't incorporated. Why? Because Congress denied it, it doesn't exist. So, which is the text that the President sent? A five-article law text. Which one is the Congress is returning to him? A four-article law text. Here's the problem's origin. Why? Because the Congress denied a part and there was no text. You can't formulate a partial veto on a non-existent text.

JOHN: But that's what the President has tried to do?

ALEXANDRA VELA: No, this is what he did. He then placed the texts in the veto and returned it to the Congress. Why? Because he wanted the *IVA* to enter into effect even though the Congress had denied it with 86 votes. The congressional voting was 86 votes in oppositon, more than two- thirds of the house. So, when it reached here, at the Congress in this way, everybody realized what the problem was and how he was playing: to achieve approval of the *IVA*, plain and simply, by less than 40 votes. Why? Because when you vote, you have a partial veto, according to the Constitution, you have two alternatives. One is to consent, to say yes, I accept the veto. In this case the Congress facilitates, that's to say, the assembly legislator facilitates the consent procedure. And what is requested for him to vote in consent, to say yes I accept your text with the modifications? Only one debate is requested from him - not two - and here they ask for a majority of those present in the hall. This means that if you have 62 delegates, which is the quorum, you have 32 delegates who approve this.

What is the other alternative? To deny, or rather, to ratify, to insist on the Congress' original text. In this case, the assembly member considers whether the topic should be insisted upon, supposing that given the circumstances the President of the Republic is the person who, due to the place he occupies, is called to think in the general interest, he places the Congress in the necessity of having a qualified majority and not just any qualified majority, but rather the equivalent of the Constitutional reform. Two-thirds of the votes are requested to insist. Why? Because she/he thinks that if the Congress gathers two-thirds of the votes - which are 82 delegates out of 123 - the President can be wrong. Which means, if there's such a large majority in opposition, perhaps the Congress is right. So, he/she requests 82 votes, but if he/she has them, the text remains just as the Congress sent it.

Then what happened here when this unconstitutional veto came back? Because this couldn't be done, in other words, put in a text, a text that wasn't there couldn't be vetoed - that Congress consented to 19 of the 23 vetoes and wasn't able to come up with 82 votes. The President didn't try to convince the people, what he did was buy the delegates. What for? It wasn't to have them consent because none of them voted. In other words, when you see a motion for consent, it's because it was brought up in Congress and it was voted upon. There were 73 votes in opposition to the consent motion, thereby denying the consent motion. What did he do here? He said, no, they need to gather 82 votes. So,

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what must be done? 41 delegates need to be removed from the hall, because if there are 123 and you remove 41, they're left with 81 votes or with 68 as it occured.

So, what happened? Here a conflict occured because consent was denied and this, too. So, then you go to the third part of the text of the Constitution that says: if the Congress doesn't make a pronouncement, after 30 days have lapsed after the partial veto, it doesn't know... we come back to the 30 days here -, then the President can send the law ordinance.

So, what occured then? The Congress voted, resolved and sent the text to the official registry in order for it to be published, and the President of the Republic drew up a letter - he didn't publish a law ordinance - he sent it to the official registry on his own, saying "Article 153 allows me to say that 30 days have passed and I interpret that the Congress has not resolved, and therefore I am sending the 4 articles of the *IVA* so that you publish them". So, the director of the official registry found a text of the law which was sent by the Congress that was the correct one together with a text sent by the President of the Republic that was not the entire text of the law, but only 4 articles. So, the director didn't know what to do, because he shouldn't have to have published in the official registry one law that said the *IVA* is 12% and another that said the *IVA* is 14%. Then the Constitutional Tribunal would have to settle which of the two is the law, because there can't be two laws that are contrary.

JOHN: And in the meantime, what will be charged?

ALEXANDRA VELA: No, it's worse than that. When the assemblyman gave the President of the Republic the capacity to act as legislator in these cases of exception, he told him "constitutionally you have to issue a law ordinance". Did the President issue a project or a law ordinance? No. The director of the official registry should have published the two complete texts. This is the official registry, this is the Congressional president's letter. The director of the official registry publishes a single text. This is the communication of the President of the Republic, and what does the President of the Republic says in this letter? The President says that the Congress approved the Tributary Reform and then he goes on to say that by virtue of the fact that Article No. 171 of the Constitution allows him to fulfill and make sure the Constitution is carried out, he then orders to publish the law ordinance of the *IVA* and he attaches the articles of the IVA, not the complete bill, not by law ordinance, he sent the articles in the letter.

Then the director of the official registry becomes the legislator and he begins to bring together the two texts. So, he takes Article 1, 2, 3 and 4, but when he reaches number 4 he says no, this here isn't the article, but it's this one here of the *IVA*. But the truth is that the texts don't agree and he publishes the text which he has fixed. That's what we have right now. So, there are two lawsuits in the Constitutional Tribunal: the first one is to settle the suitability of the bill, what are the attributions to legislate; and the second, which is an essential topic now about the *IVA*. While there's no pronouncement from the Constitutional Tribunal on the topic, *IVA* will be charged starting from June 1st.

So, is the problem in the Constitution and in the ordinance? No, it's in the President's interpretation, but this has demonstrated something to us that has an error, that can cause a problem. That's this, it's

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serious and we're thinking of how to fix it. It's this, that you can, indirectly, legislate with 41 votes. So, this is a problem, it's a gap in the Constitution. So, this needs to be faced and fixed so that what has just taken place doesn't occur again.

JOHN: It's going to be reformed?

ALEXANDRA VELA: We're working right now on a proposal to present a constitutional reform project that follows the procedure and will solve this, because this isn't good. You decide the form of management, you could go to partial veto in everything and legislate with 41 votes. Anything and this can't be. So, there's a constitutional gap here. The graveness of the resolutions here, the people still don't realize what's happening and I enumerate only 3 for you, no more.

JOHN: But the people will learn when the *IVA* increases.

ALEXANDRA VELA: Then look at what's happened and it's the reason why we've been insisting and yesterday we achieved the number of necessary votes for the settlement, so it goes to the Constitutional Tribunal and the Constitutional Tribunal will settle it. In the first place there's a problem that needs to be solved, but beyond that... what does this demonstrate now within the rules of a healthy democratic game? What's happened here demonstrates, first, that you can misinterpret the Constitution, attack the attributions of the other function of the State and if you have the force of the pronouncements by the armed forces - that shouldn't do this because they oughtn't intervene -, if you have declarations from the International Monetary Fund (IMF) and you have declarations from the United States Embassy, you can skip the Constitution and promulgate a proposal. Why? Because the agreement with the Fund must be fulfilled. This is very serious because the day after tomorrow it's not the *IVA*, it's the disposition that establishes norms for judgement in cases of human rights violations. What happens then if you apply exactly the same thing, liquidating the attributions of each one of the functions? You begin to walk down a path where you begin knowing what you're doing and end up without knowing how the tower of democracy falls down on you. It's a very easy road for a dictatorship to come about. Second, you are able to legislate with 41 votes and we're no longer in a democracy but rather we're in a minority government, because if you have this minority, it doesn't matter while this minority functions with the 41 votes, which says that the majority isn't important. And thirdly, here you introduce an element where the delegates' decisions aren't in the national interest, which is the obligation that they swear to respect - that's the oath that we take when we're here -, but instead what you're doing is seeing how many votes you can buy inside the National Congress, and with them you finish liquidating the management of a democracy.

That's what has just been seen here. The people are seeing some of these things: the sale and purchase of the delegates, for example. But the others, that are the deepest affectations to this system, the people still don't see it because it's subtle.

JOHN: In this morning's newspaper I noticed that in some of the articles the votings of individual delegates are analyzed, in other words, that this delegate voted for it, or he voted no. How do they do it without a record?

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ALEXANDRA VELA: Because the voting of the *IVA* was nominative. All the votings of the *IVA* have been nominative.

JOHN: There were sixteen, no?

ALEXANDRA VELA: There were several votings. You'll be here until Tuesday, no? I can take this from here because what you see there behind us are the certified records and all the certified documents of the *IVA*.

JOHN: Perfect, that would interest me.

ALEXANDRA VELA: Because I'm going to sit down to write this for a newsletter for the institution where we work, that is..... on the academic sphere, about this to show it to the people. So they see it and can analyze what the consequences are...