

# The New ISSSTE Law An Attack on the Future Of Public Employees

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Nelly Salas/Cuartoscuro

Public employees demonstrate against the ISSSTE Law.

*Because there is no true progress without liberty and legality, and without clear support for the reforms made by the public, convinced that the sacrifices it demands are necessary if we want to get out of our doldrums and take off. The lack of this conviction and the population's passive resistance to timid or clumsy attempts at modernization explain the failure of the so-called "neoliberal governments."*

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Throughout the world, most efficient governments base the reform of their pension systems<sup>2</sup> on consensus and the best information available so that,

with economic growth, a project for the country and their model of health and social security, they can negatively impact as little as possible the rights of active workers and, above all, young people. In Mexico, however, the political class has waylaid public affairs,<sup>3</sup> "measured," "designed," "communicat-

ed" and decided them taking into consideration no one's interests but its own.<sup>4</sup>

The Calderón government, its Finance Ministry technocrats and the decadent elite of Institutional Revolutionary Party (PRI), the country's third-largest party, forged an open alliance with

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**THE UNIVERSE OF THE ISSSTE “REFORM”**

- Number of people affiliated: 10,765,000
- Temporary and permanent employees affiliated: 2,420,000
- Affiliated family members: 7,256,000
- Pensioners: 275,000
- Retirees: 310,000
- Relatives of pensioners and retirees: 504,000

the strongman-headed union leaderships of the National Educational Workers Union (SNTE) and the Federation of Public Employees Unions (FSTSE). Together, they ended up imposing a financial reform (as opposed to a comprehensive reform to the system that would take into account the security of workers’ pensions) of the Public Employees Social Security Institute (ISSSTE) that they presented as the only way out. This reform is technically and politically unviable and therefore stillborn.

The biggest anomaly is that they opted to bypass society in making this “reform,” which affects more than 10 million Mexicans, among them 2.4 million public employees covered by the ISSSTE.<sup>5</sup> This flies in the face of the trends, experiments and evidence being explored worldwide.

THE UNITED STATES: PRIVATE COMPANIES AND PENSIONS

It seems that the times of super-pensions have ended and the succulent private pensions with which the big U.S. corporations used to delight their employees are a thing of the past. Traditional corporate plans created after World War II have been frozen out, while 401(k) funds are enthusiastically promoted, allowing companies to make

more flexible contributions and transfer all risks to the employee. In 2005, 42 percent of U.S. wage earners had one of these funds and only 21 percent was covered by a traditional company plan. The number of senior adults forced to go back to work to avoid falling beneath the poverty line is gradually expected to grow. This can already be seen in the employee lists of some of Wall Street’s giants: IBM, Hewlett-Packard, General Motors (the largest single private employer in the United States) or Verizon telephones.

The U.S. pension system is based on three complementary pillars: on one extreme are payments from the public Social Security system, which average about \$U.S.12 billion a year; on the other extreme are the private pension plans used by the highest-income groups as a supplement in their old age, and in the middle are, on the one hand, the coverage from companies to their former employees calculated according to wages and the years worked, and, on the other hand, the aforementioned 401(k) pension savings plans.

The 401(k) savings plan was designed a quarter of a century ago as a pension supplement to which companies could contribute, not as a substitute. It was preferred by small companies, but today, the trend is to bury the old plans, with some analysts maintaining that com-

panies had no other option. First to sign up were the airlines (United), the steel, metal-working and textile industries; they were then followed by companies with healthy spreadsheets like IBM, HP and Verizon who justified themselves arguing that their decision was due to the urgent need to cut costs that more modern companies cannot sustain if they are to compete.

The most recent figures from the Watson Wyatt consulting firm reveal that 627 of the *Fortune* 1000 corporations had traditional pension schemes. Of these, an estimated 115 have canceled or frozen the benefits for new employees. Labor experts explain that this move over to 401(k) funds is justified because corporate contributions are not as linked to the employee’s longevity, and they also warn about the threat that these changes represent for the middle class. During the stock market euphoria, the disadvantages linked to the risks of these funds were seen as an advantage for the employee since going into the stock market could make his/her future payments rise, or he/she could make smaller contributions. But after the technological bubble burst, the image changed radically.

EUROPE: MACRO-DESIGNS BY CONSENSUS

Given the disquieting prospect of private pensions, some efficient European governments are already designing and experimenting with different macro-plans.

While in Germany, the Christian Democratic/Social Democratic coalition is evaluating the possibility of increasing the retirement age from 65 to 67, though accompanying the measure with

the 50+ Initiative, which would keep over-50s active,<sup>6</sup> the United Kingdom is delaying its reform to continue to seek formulas that would lessen the impact on the population. The most recent proposal includes establishing a national savings system into which 5 percent of every employee's wage would be paid for his/her pension (1 percent would come from tax cuts, companies would contribute 3 percent, and the worker him/herself the remaining 1 percent directly). They are also studying a gradual increase in state pensions pegged to a gradual increase in retirement age.

France has put a stop to the debate about retirement age after the 2003 reform, made through a broad consensus, which eliminated the differences between pensions in the private and public sector. Now, an individual can only be forced to retire after the age of 65. There are exceptions: when an employee began working between the ages of 14 and 16, since in that case, he/she would finish out 40 years of employment before reaching 60. Starting in 2013, every year worked under the required 40 or 41 years will reduce the pension by 5 percent, and it will increase 3 percent until the age of 65.

And in Italy, although in 2004 the retirement age was raised to 60 for males, the reform, slated to go into effect in 2008, maintained women in the old system and anyone who has worked for 40 years will be able to retire, regardless of age. In addition, the reform includes an economic incentive for anyone working beyond retirement age. In 2008, those eligible for retirement who continue to work will receive a bonus in their paychecks: one-third of the sum contributed by the company to the social security system. The commonality of these reforms is the strategic defense

### THE "RECOGNITION" BONUS

- Any employee who decides to sign up for the individual account system will have the right to a federally-provided pension bonus in recognition of his/her pension rights.
- This bonus will be available to both employees who have fulfilled the prerequisites (1.3 million) and those who have not yet done so (1 million).
- The bonus will consist of a deposit in the employee's individual account of the money needed to obtain a lifetime pension that he/she had the right to at the time of the "reform."
- If the employee has been affiliated 30 years, the bonus will be equal to 100 percent of the lifetime pension. If the employee has been affiliated 15 years and is 55 or older, it will be equal to 50 percent.
- When the employee decides to retire, his/her pension will be equal to the bonus plus his/her contributions.

of those who might be affected by their efficient governments.

#### ARGENTINA RETURNS TO PUBLIC PENSIONS

Similarly, the Kirchner government is pushing through a law that will bury the obligatory privatization of the pension system designed by Menem in 1993. This means there will be a mixed system in which public coverage will play an increasing role. That is, 14 years later, Argentinean workers will be able to opt between continuing in the private system with individual accounts or returning to the old, public system, a possibility the previous legislation denied them.

#### THE MEXICAN ANOMALY: THE ISSSTE CASE

Felipe Calderón and his administration's team are maintaining the same eco-

nomical policy that has been in place for the last 20 years, which does not create growth or sufficient formal-sector jobs, but rather promotes widespread poverty, sharpening inequality and creating fertile ground for drug trafficking and migration. How, then, did they deal with the "reform" to the social security system for public employees embodied in the ISSSTE, which is the second largest national institute, surpassed only by the Mexican Social Security Institute (IMSS)?

Calderón did not dare evaluate the failure of the 1995 law that then-President Ernesto Zedillo imposed on the IMSS privatizing pensions for private-sector workers,<sup>7</sup> despite the fact that a Federal Commission on Economic Competition study proved that 12 years after that regressive reform, the commissions paid to retirement fund (Afore) management companies completely ate up the net annual earnings of worker's individual accounts for the years 1997-2006.<sup>8</sup> He also disregarded proposals made by different actors for new

reforms after the IMSS revamping.<sup>9</sup> What he did take into account were five “single response” documents—the kind that pose the question as “either we do this one thing or society will collapse”—<sup>10</sup> and used the PRI elite to present the “reform” bill.<sup>11</sup> Without any prior publicity, without sufficient debate, using closed parliamentary procedures,<sup>12</sup> he did, however, encounter clear opposition in the legislature from the numerous affected groups. Despite that, Calderón dared use a simple majority to impose a grievous “comprehensive” financial “reform” presented as an urgent need to “save” the institution, a reform which, jointly with certain businessmen’s groups and debt qualifiers, he immediately described as a “great victory.”<sup>13</sup>

Without any consultation with employees affiliated to the ISSSTE, the “reform” was approved imposing a system of individual accounts managed for the first 36 months by something called the PensionISSSTE, complete with attending commissions.<sup>14</sup> Workers’ re-

tirement paycheck deductions were increased; pension size was decreased; retirement requirements were increased; and neither the public employees’ wages’ decreasing purchasing power nor the freezing of the number of employees affiliated to the ISSSTE were taken into account.<sup>15</sup>

The reform was also not preceded by a comprehensive audit of all the services the ISSSTE manages (particularly the Pension Fund, the Housing Fund [Fovissste] and the Stores and Pharmacies), nor were better services guaranteed. Quite to the contrary. Despite the situation of the compromised medical fund,<sup>16</sup> the “reform” includes the increased participation of private service providers, increasing sub-contracting out services, fostering “competition” among the already under-funded public hospitals and reducing the catalogue of benefits and services.

With the new law, providing funeral services, which during the Fox administration dropped almost 24 percent,<sup>17</sup>

will be contingent on “the Social and Cultural Services Fund’s financial possibilities.” The previous law included no such condition. This benefit will probably disappear in the medium term, given that the new law allows private companies to provide the service to affiliated employees, charging the cost to the ISSSTE.

To top it all off, without really dealing with the basic challenge facing the Mexican pension system, the “reform” is also extraordinarily expensive: according to the Mexican Institute of Financial Executives (IMEF), it will cost more than two trillion pesos and will continue to be “insufficient.”<sup>18</sup>

Threatening national work stoppages and strikes, people took to the streets. The office of Joel Ayala, president of the FSTSE, was taken over and workers affiliated to the ISSSTE appealed to try to protect themselves from the new law and to get it struck from the books by having the Supreme Court declare it unconstitutional.

### THE PROPOSED ISSSTE REFORM

- Retirement age will gradually increase from 48 to 58 years for women and from 50 to 60 years for men, until 2028, increasing one year every two years.
- The minimum pension will increase from minimum wage to twice minimum wage.
- The government will increase its contribution from 19.75 percent to 25.14 percent.
- The government will contribute a social payment of 3.5 percent of the wage base to improve health services.
- The state will contribute 5.5 percent of the employees’ wages to the pension fund.
- 300,000 employees who were formerly being paid by honoraria or were considered temporary workers will be affiliated to the ISSSTE.
- 8 billion pesos will be contributed to medical services.
- 2 billion pesos will be earmarked for the fund for personal loans.
- 7,000 mortgages will be offered to pensioners.
- It is hoped that the deficits of five specialization hospitals, 10 general hospitals and several clinics will be dealt with.

## LOSSES AND GAINS

Affiliated employees will have to

- Change to a pension system based on individual savings, obligatory for all new employees.
- Accept a new retirement age that will gradually increase from now to 2028 from 51 years of age to 60.
- Increase their retirement contributions from 3.5 percent to 6.125 percent over the next six years.

The government promises to

- Increase its contribution to financing its employees' social security by 9 billion pesos a year.
- Contribute 3.5 percent of all employees' base wages to improve ISSSTE social security.
- Make an additional pension payment of almost 2 billion pesos a year plus 8 billion pesos for infrastructure.

What the government "gets":

- The "reform" will allow it to reduce the debt derived from public employees' pensions from almost 54 percent of GDP to 24 percent, a reduction of almost 3 billion pesos.
- The "savings" for public finances will not be felt for another 10 or 15 years. In the short term, it will have to spend an additional 25 billion pesos a year.

### THE RESULTS FOR THE POLITICAL CLASS

Without a doubt, this public issue demanded government attention, but not the kind it got. The Mexican anomaly clearly confirms the correctness of the proposals being experimented with by efficient governments elsewhere and points the way that the next administration team should follow. In retrospect, it also sheds light on the quality

of the "democratic" credentials of the current political class with its penchant for taking over the course of public affairs in an authoritarian manner.

In order to gain the legitimacy and strength it needs to really make reforms, any majority must win more from a proposed reform than it loses. The Calderón "reform" of the ISSSTE does not comply with this maxim: not only does it not resolve the pension challenge, but it also sparks more con-

frontations than agreements and more polarization than convergence.

The first step of any reform is to present a government proposal giving more and better information, and then allow enough time for democratic deliberation.

Calderón did none of this. The product of a "deal" among the elite, his "reform," like the reform of the IMSS before it, will also be a failure that will blow up from below. **MM**

### NOTES

<sup>1</sup> Mario Vargas Llosa, "Las exequias de un tirano," <<http://www.almedron.com/tribuna/?p=13301>> (accessed April 12, 2007).

<sup>2</sup> See Benjamín González Roaro, *La seguridad social en el mundo* (Mexico City: Siglo XXI, 2003).

<sup>3</sup> In this case, by "political class," I mean the executive, legislative and judicial branches; the system of parties; the communications media (with honorable exceptions); the business elites; union leaderships; national and international consulting firms; and academic "experts."

<sup>4</sup> See *Reforma integral del ISSSTE 2005*, <[http://www.issste.gob.mx/reforma/sup\\_ref.html](http://www.issste.gob.mx/reforma/sup_ref.html)>.

<sup>5</sup> See Gustavo Leal F., *El ISSSTE bajo el foxismo* (Mexico City: UAM, 2007); *Logros y avances en la gestión institucional 2001-2003* (Mexico City: ISSSTE, 2003); *El ISSSTE en la historia, 1959-2004* (Mexico City: ISSSTE, 2004); *La seguridad social de los trabajadores del Estado: avances y desafíos* (Mexico City: ISSSTE-FCE, 2005).

<sup>6</sup> This initiative also includes aid and subsidy payments to those over 50 and aims to improve their work situation. [Editor's Note.]

<sup>7</sup> See Gustavo Leal F., op. cit.

<sup>8</sup> Statement by Eduardo Pérez Mota, president of the commission, published in *El Financiero*, November 23, 2006.

<sup>9</sup> See the colloquium report *Perspectives for Social Security in Mexico and Latin America* (Mexico City: SNTISSSTE, 2003); *Sistemas de pensiones. Desafíos y oportunidades* (Mexico City: Comisión de Seguridad Social/LIX Legislatura de la Cámara de Diputados del Congreso de la Unión, 2004); *Sistemas estatales de pensiones* (Mexico City: Comisión de Seguridad Social/LIX Legislatura de la Cámara de Diputados del Congreso de la Unión, 2006); and "El SNTISSSTE convoca a construir una 'nueva fórmula social en México,'" *La Jornada*, October 3, 2006.

<sup>10</sup> World Bank, *Mexico, A Comprehensive Development Agenda for the New Era*, Chapter 10,

pp. 223-237 (Washington, D.C.: World Bank, 2001); World Bank, *Mexico-Technical Assistance for Public Sector Reform, ISSSTE* (Washington, D.C.: World Bank, April 2002); Secretaría de Hacienda y Crédito Público, *Una propuesta de reforma al ISSSTE* (Mexico City: DGSV/SHCP, July 17, 2003); "Iniciativas de ciudadanos senadores del senador Joel Ayala Almeida, del Grupo Parlamentario del Partido Revolucionario Institucional, la que contiene proyecto de Ley del Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado," *Gaceta Parlamentaria* no. 145, Primer Período Ordinario del Senado de la República, December 15, 2005; "Iniciativa de diputados que expide la Ley del Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado y Abroga la Ley del ISSSTE, suscrita por diputados de diversos grupos parlamentarios," *Gaceta Parlamentaria* no. 2214, Cámara de Diputados, March 15, 2007.

<sup>11</sup> This new positioning of the PRI had already been rehearsed in 2004 when then-PRI Deputy Manlio Fabio Beltrones presented a bill changing the pension and retirement system for IMSS employees. In self-defense, the workers' union, the SNTSS, appealed to the Supreme Court. Almost two years later, the court rejected the appeal saying that the union did not

have any legal standing. This new position of the PRI was repeated with the controversial Televisa Law and now with the ISSSTE "reform" bill.

<sup>12</sup> When the specific articles of the "reform" were passed, the senatorial debate "rejected all amendments, changes to a total of 17 articles and eight transitory articles, proposed by the PRD and Convergence caucuses." *Reforma*, March 29, 2007.

<sup>13</sup> Although the "benefits" will not become apparent until 2012, Héctor Rangel Domene of BBVA-Bancomer considered the "reform" "positive," while Mario Rodarte, of the Private Sector Economic Studies Center (CEESP) dubbed it "a positive measure" and the Businessmen's Coordinating Council described it as "a landmark that may be the turn toward modernity that the country needs."

<sup>14</sup> The PensionISSSTE will be a decentralized body of the ISSSTE itself with executive capabilities. It will manage public employees' individual accounts and invest them. It will be supervised by the National Commission of the Retirement Savings System (Consar), directed by an executive commission made up of the director of the ISSSTE; an executive representative appointed by the ISSSTE's Board of Directors at the director's proposal; three representatives appointed by the Finance Mi-

nistry; one each appointed by the Ministries of Labor and of the Public Function and the Bank of Mexico; and seven appointed by workers' organizations.

<sup>15</sup> According to a Finance Ministry document, "Compensación económica para la separación de servidores públicos de la administración pública federal, 2001-2006" (Severance Pay for Federal Public Servants, 2001-2006), published in October 2006, during the Fox administration, 95,347 state employees were let go, most of whom were given severance pay according to the "voluntary retirement" program. The program's total cost came to 30.7517 billion pesos, while savings came to 9.196 billion pesos.

<sup>16</sup> See *Situación del Fondo Médico* (Mexico City: ISSSTE, August 2005), mimeographed copy.

<sup>17</sup> According to the study *La seguridad social de los trabajadores del Estado: avances y desafíos* (see endnote 5), the 10-year freeze in rates meant that up to 81 percent of funeral costs were being subsidized. However, when under the direction of Benjamín González Roaro the institution updated prices in 2004, funeral home earnings rose 128.5 percent (from 6 billion pesos to more than 13 billion pesos), even though the adjustment made for a 19 percent drop in the number of funeral services.

<sup>18</sup> *El Financiero*, March 28, 2007.

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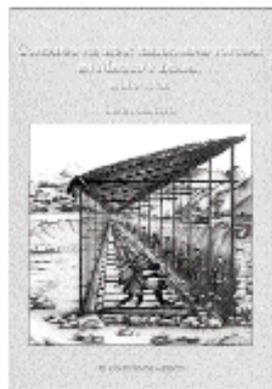


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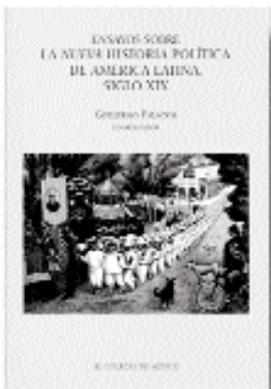
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