

The Reform of the State in Mexico

Advances and Setbacks

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Talking about the reform of the state in countries like the United States would be a waste of time. For the majority of Americans, their governmental institutions generally fulfill the aims for which they were created. Certainly, the average U.S. citizen usually complains about excessive red tape and the inefficiency of some public offices, but the debate there does not point to a complete overhaul of the country's state apparatus.

Things are different in Mexico. Without a doubt, both the form and essence of Mexico's political system urgently needs a change. This cannot be achieved from one day to the next. Nor is one six-year presidential term enough to implement the necessary transformations. Perhaps the first point here should be what is understood by reform of the state, a concept not always comprehensible to most citizens.

The reform of the state is a topic that has surfaced repeatedly since the 1980s when in Western Europe systematic critiques of the functioning of the welfare state, of the size of bureaucracies and fiscal crises forced state institutions to seek new forms of organization to make governments function better.

In Latin America, the transitions to democracy led to structural reforms of the state to make administrative processes more efficient and permit democracy—so long postponed in the area's political life—to consolidate.

To delve into the question of the reform of the state, we must remember that the particular objectives of institutional change vary according to each country's specific needs. The same recipe cannot be applied to every single state. The malaise of bureaucracy may be similar in one government and another, but the cure depends on the idiosyncracies, history and particular experience of each people.

In the case of Mexico, the reform of the state aims to give public functions new democratic content, establishing a new relationship between the state and society and promoting an internal reform of state institutions. What is sought is the stimulation of the country's social, economic and political development under conditions of democratic governability which, until recently, was questioned by broad sectors of the populace.

The reform of the state currently underway is an attempt to consolidate a democratic order that can ensure that whoever is elected Mexico's president in the year 2000 will have the legal-normative conditions that guarantee the full exercise of his prerogatives and attributions.

It should be taken into account that the transformations of the state apparatus are not linked to a specific policy, although the process is the result of a series of reforms that began in the government and the administration, that change the functioning of the institutions and redefine the extent of citizens' civil and political rights.

The reform of the state creates a necessary political space for negotiations among different groups and sectors in order for them to build polit-

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ical agreements to make it possible to live together in political harmony based on dialogue and negotiation, sidestepping confrontations and possible conflicts.

With this intention, in early 1998, the federal government, through the Ministry of the Interior, proposed to the political parties with seats in Congress that a legislative agenda for the reform of the state be drawn up. This agenda included general topics such as the political system and democratic governability, security and justice, federalism and public participation.

Later, the executive and legislative branches met and reached a consensus on an inclusive, balanced legislative agenda. It should be pointed out that, on the request of the political parties, the legislative agenda includes electoral questions, such as Mexicans' voting abroad, runoff elections, the reelection of legislators and the monitoring of party campaign spending.

The main agenda includes issues such as an overall fiscal reform, different forms of direct democracy, the strengthening of the legislative branch, the autonomy of the National Human Rights Commission, federalism and strengthening the municipality, among others. Other topics will be added as the ones listed above are dealt with, such as reforms to the Federal Labor Law and the development of environmental legislation.

Beyond the legal and political reforms approved during the present administration of President Ernesto Zedillo, we should take into account the different advances and setbacks on each of the points of the legislative agenda.

Take, for example, electoral reform. As part of a process of political modernization, a series of reforms have been promoted to transform the electoral system, making it more competitive. From 1911 until today, there have been 10 different electoral reforms, each useful in a particular moment and for a specific political situation in Mexico.

Recently, this important aspect of the political reform has been gone into more profoundly due to the debate on the democratic transition of the Mexican state suggested by political analysts such as Lorenzo Meyer and José Antonio Crespo. Another reason for this deepening of the debate was the July 1988 federal elections, in which the governing Institutional Revolutionary Party (PRI), which for the last 70 years has won every presidential election, received one of the lowest vote counts in its history.

On March 17, 1998, the congressional caucus of the conservative National Action Party (PAN), Mexico's second electoral force, presented a bill to the Chamber of Deputies to reform Article 81 of the Constitution to make runoff elections, or a second round, possible in the presidential elections when none of the candidates obtain an absolute majority of the votes in the first round of balloting. Since the 2000 elections are expected to be the closest in contemporary Mexican history, PAN legislators say a second round would make the winner more legitimate. In recent months, debate about this bill spread beyond the confines of the legislature to include the public nationwide. However, when this proposal is put to the vote in the Senate, dominated by the PRI, it may be rejected, among other reasons because of its operational and logistical difficulties.

On November 12, 1998, the Federal Electoral Institute (IFE) charged a commission of specialists with the study of whether Mexicans' voting abroad is viable and what forms it might take. This commission issued a report to try to establish norms on the necessary criteria based on trustworthy figures so that when the time came, the Congress could



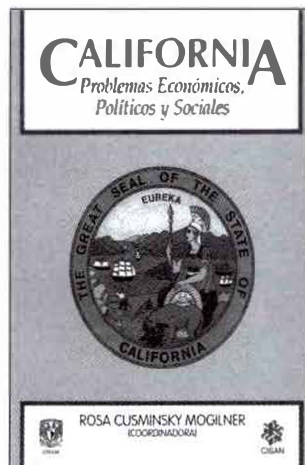
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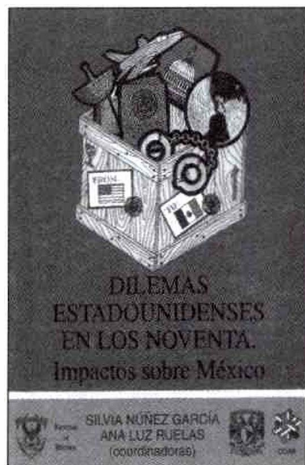
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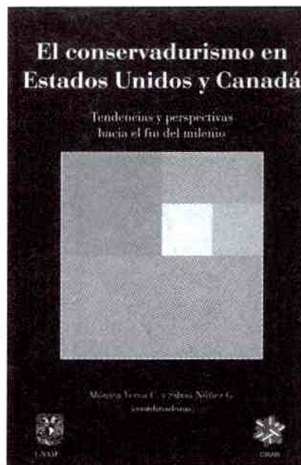


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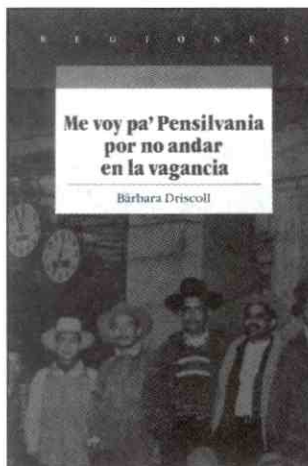
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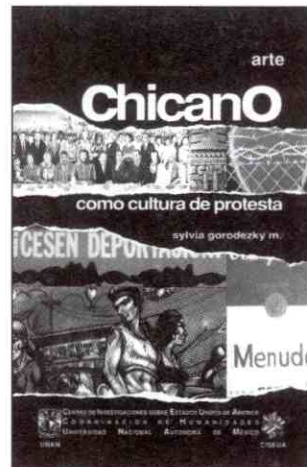
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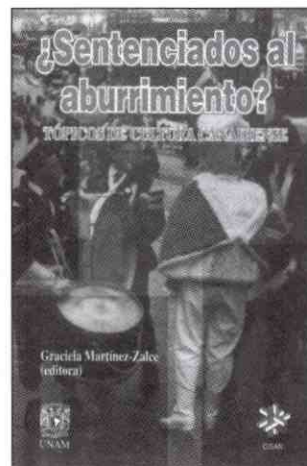
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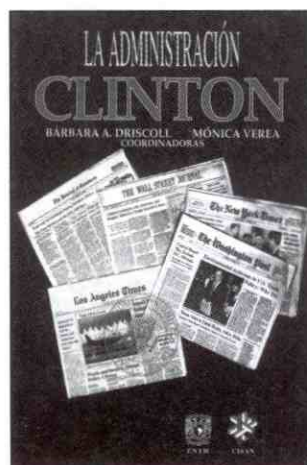
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decide about the legal reforms required. However, the discussion of this question turns around whether Mexicans resident abroad should enjoy the same rights as their countrymen (voting for those who govern them) without fulfilling the same obligations (paying taxes to the Mexican government, for example).

On April 29, 1999, the opposition majority in the Chamber of Deputies passed a bill that would reform, add to and repeal different articles in the Federal Electoral Institutions and Procedures Code, the legislation that regulates Mexico's elections, and sent it to the Senate. Among other things, the bill touches on coalitions, Mexicans' voting abroad, over-representation in the Chamber of Deputies, access to the media, monitoring of campaign spending, etc. Will this bill also be approved in the PRI-dominated Senate? Probably not. Mexico's Senate majority does not look kindly on any bill not presented by its own party or the executive. So, the future of this bill, already approved by the opposition in the Chamber of Deputies, is not very promising.

One of the Mexican government's most important concerns, just as important or more so than electoral reform, is the guerrilla conflict in Chiapas. Five years after the subversive Zapatista National Liberation Army (EZLN) movement broke out, led by Sebastián Guillén (alias Subcommander Marcos), the Mexican government has put a priority on dialogue and negotiations. However, the results have not been very fruitful. In any case, the indigenous issue made a deep impression in the state apparatus, which is why on March 15, 1998, President Zedillo sent the Senate a bill to reform the Constitution with regard to indigenous rights and culture. At this writing, discussion, and possible approval, of this bill is still pending. The bill, which has not met with the approval of the Party for the Democratic Revolution (PRD), proposes substantial changes to several articles of the Constitution in order to build a new relationship among the indigenous peoples, society and the state. Critiques of

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the proposal revolve around the idea that no legislation should be passed favoring a specific group of Mexicans (in this case, the indigenous communities) because, in the long run, this would lead to creating regional separatism.

In a different vein, it is a secret to no one that insecurity in Mexico has sharpened in recent years. Latent problems involving murder, robbery and kidnapping have risen to heights that worry Mexicans. To fight this terrible crime problem, reforms of the administration of justice, law enforcement and public safety systems were passed in December 1994. The General Law on the Coordination of the National Public Safety System was passed December 11. The National Public Safety Council was established March 7, 1996, to coordinate activities of federal and state law enforcement agencies. In June, different articles of the Constitution were amended to give law enforcement officials the legal instruments they needed to fight crime, including organized crime. In November of the same year, the Federal Law Against Organized Crime was passed to reinforce this fight with new instruments and to make it possible to initiate investigations of the illicit activities of suspects who had previously enjoyed a high degree of impunity.

Of course, legislative reforms are not enough to eradicate Mexico's galloping crime rate. Therefore, on August 26, 1998, President Zedillo launched the National Crusade Against Delinquency and Crime to foster the Mexican people's aspiration of two indissoluble aims, credibility and trust. On this basis, then-Minister of the Interior Francisco Labastida Ochoa presented the National Public

Security Program, implementing short- and medium-term police strategies and actions.

Another polemic issue this year was the bank crisis that forced the government and the Congress to intervene. After intense congressional debate, the government's *Official Gazette* published January 19, 1999, the Bank Savings Protection Law, as well as the reform, addition and repeal of different aspects of the Banco de México (central bank) charter, and legislation on credit institutions, the stock market and financial institutions. All this made it possible to establish the Institute for Bank Savings Protection (IPAB) in substitution of the Savings Protection Bank Fund (Fobaproa). Initially, it was thought that all the opposition parties would oppose the government solution to the case of Fobaproa, but in the end, the PAN backed the executive's proposal against the express wishes of the PRD and voted in favor in the lower chamber.

We should actually note that the federal executive has not presented legal reforms on the issues of the public budget, nor of certain forms of direct democracy (like the plebiscite, the referendum and recall of elected officials), or the National Human Rights Commission (CNDH).¹

However, the opposition parties have dealt with these issues, presenting their proposals in bills before Congress: on the budget (PAN and PRD), forms of direct democracy (PRD and PT) and the National Human Rights Commission (PAN, PRD and PT).

With regard to the CNDH, the federal government accepted in general terms the opposition's proposals in the meetings between the executive and legislative branches, also called the High Level Group (Ministry of the Interior and party caucus leaders from both chambers of Congress). Finally, at least in the case of the CNDH, all the political parties reached significant consensuses.

The executive also presented Congress with a bill November 28, 1995, that would reform the Constitution to establish a Federal Auditor's Office, which was not discussed on the floor of the Chamber of Deputies until the Fifty-seventh Congress ses-

sioned in the second half of 1998. Until now, audits and monitoring of government spending had been carried out by the Ministry of the Comptroller and Administrative Development, part of the executive branch itself. The new body, created by a bill passed by the Chamber of Deputies on April 29 of this year, will be independent, with high technical and professional levels, and the legal capability to make accountability impartial, trustworthy and convincing. Naturally, the law must still be approved by state legislatures to change the Constitution.

Mexico's agenda for the reform of the state is vast. Fortunately, it is no longer left solely in the hands of the executive. The responsibility has been divided up among different political actors, outstanding among whom are the nation's legislators. It cannot be denied, however, that the legislators have clearly not been up to their jobs, making them—as the Englishman Edmund Burke said in his day—the ambassadors of private interests instead of the architects of a renewed rule of law that would narrow the enormous gap between the ideal and reality and would make the constitutionally-established system of introducing and developing bills and passing laws more agile. The Mexican Congress needs—to again paraphrase Burke—representatives of judgement and reason who, once elected, have the freedom to decide their vote in Congress without being bound by passions or prejudices in their home districts. This is the only way the reform of the state will be completed. Until now, its agenda has been covered more or less, but not yet in the full way we all hope for. ■■■

NOTES

¹ At the close of this edition Mexico's Congress had approved changes both to the Constitution and regulatory legislation to give the CNDH full autonomy for its functioning and the use of its budget. The head of the CNDH will in future also be named by the Senate and not the president as in the past. [Editor's Note.]