

Toward a New Political Regimen in Mexico

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The role of Congress is one of the central issues in Mexico's democratic reforms.

Among the basic premises for studying the construction of a new Mexican political regimen, in addition to dealing with the partisan electoral aspect as the main variable for understanding what English academic Lawrence Whitehead has called the progressive dynamic of a “transition by stealth,” we should pay more attention to the functioning of the different branches of government, and particularly to the role played by the president.

After a quick —but not exhaustive— review of the specialized literature produced in the last three decades, we find that there has been a clear consensus around the need to lessen the central nature and the political capabilities and reach of the president, to the point of adopting some form of parliamentary government accompanied by a new Constitution. However, this cannot be confused with the need for the legal and administrative powers assigned to the branches of government and the different political actors to be performed effectively and expediently in the framework of a democratic dynamic that respects the separation

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and checks and balances among the branches of government.

As a result, I should point out that the differences about the extent of institutional reforms in Mexico center on establishing the decision-making powers of the presidency, and on proposing or not that it and the other institutions of the executive branch be capable of self-negotiating their own repositioning and permanence vis-à-vis the different political forces, or whether the reforms that lead to a limitation of presidential power should emanate from external bodies.

Although there is an increasing tendency to value leaving behind the presidential regime completely to create a semi-parliamentary system headed by someone in the cabinet—a move motivated by the slim results of the Fox administration and even promoted from the Ministry of the Interior itself—undoubtedly it is the case that it is the dynamic of authoritarian governability, in transition toward a democratic model, which makes it difficult to adopt mechanisms that make us think that the Congress and the judicial branch (in its role of arbiter in constitutional and/or electoral controversies) could in the short term be the new centers of power in the Mexican political system. However, the Mexican presidency today faces different factors that are the result of a long series of constitutional and electoral reforms made over recent years that force us to visualize a way forward:

a) Changes must be made to encourage the forging of a majority inside a Congress whose current structure and productivity have created a poor model of consensus that always requires at least two parties—which can even be different from the party in office—to

pass constitutional reforms or simple legislation.¹ One positive thing that cannot be denied is that the traditional logic of imposing the administration's agenda on the Congress is now a process that requires continual negotiations and potentially could even include its submitting to an agenda set by the legislature. An interesting item is that until now the two chambers of Congress have maintained a dynamic of responding to the administration's legislative agenda, mainly based on the bills sent by the executive. This is very important if we recall that for the last three Congresses, no single party has

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had an absolute majority in either chamber.

b) We are faced with administrative and budget structures that have diminished in recent years and require substantial investment and reforms to function appropriately. In that sense, it should be said that no one has assimilated the fact that presidential omnipotence no longer corresponds to the economic capabilities with which the administration can respond to the public's needs in general, despite the fact that the new regimen has a neo-entrepreneurial logic reminiscent of the discourse and political practice of the Alemán administration, based on the concession of a wide range of political and econom-

ic freedoms to the private sector, with the difference that the administration can no longer be the means whereby that process is actually put into practice.² It is interesting to note the similarity to the Alemán way of operating, above all in the significant change in the composition of the political elite, which now includes businessmen heading up the main ministries and parastate companies. The prospect of a public administration not riddled with corruption in which quality reigns as a criteria has not managed to prompt the passage of the fiscal, labor or agricultural-industrial reforms required to substantially decrease poverty.

c) Paradoxically, this incompatibility in political-economic traits and perceptions about what the presidency should do shows us the remains of a authoritarian, centralist, corporatist dynamic that has not been assimilated into the formal conditions of a modern liberal democracy in which a blossoming civil society would take into its own hands the reins of indicating to the government how and in what spheres it should act, without limiting its own creative capabilities. To a great extent, the real practice of a subsidiary, functionally limited, balanced and long-term state is out of step with a cultural perception that today demands short-term action by a politically strong presidency, above all in matters of security and leadership.

d) It is clear that no value is yet given to reformulating the judicial branch's capabilities with regard to its tasks of arbitrating constitutional and electoral controversies. Strengthening the Supreme Court as the ultimate decision-making body for discrepancies between the executive and the legislative branch as well as among the different govern-

ment bodies and the federal government is a move of crucial importance in decentralizing power in Mexico. Equally, we can mention the action and autonomy of the Electoral Tribunal of the Federal Judiciary, advances that should be compared to those achieved by the separation of the executive from the organization, judging and authorization of elections, also taken out of the hands of the legislature by the creation of the Federal Electoral Institute (IFE). We can hardly consider these institutions solid if they are not complemented by important actions to strengthen the citizenry, through the protection of human rights, the guarantee of access to information and accountability, which have barely begun to be glimpsed as the new arenas for the construction of democracy.

Seen in perspective, these four manifestations of the process of restructuring Mexico's political regimen would force us to take another look at a basic question: Have we come to the end of the institutional reform of the executive branch? Must we continue to speak of a strictly functional reform, not a political one, of the president's role in the political system? If the answer is that the reforms should continue, what political and administrative functions must be reviewed?

These questions could be answered as follows: the change in the political centrality of the president has practically concluded in the strictly legal-constitutional sphere if what is desired is to continue maintaining a purely presidential system. If what we are aiming for is to reduce his powers more without pushing through the corresponding reforms in the legislative and judicial branches, social and political conditions would worsen, possibly leading to un-

governability and the economic instability of the system, whose performance has been precarious, but manageable. In this fashion, we should situate three basic issues in a possible reorganization of the branches of government: their method of election, the duration of their mandates and the possibilities for continuity.

With regard to the method of election, experience tells us that holding elections with two rounds (including run-off elections) would only be feasible with a strong, moderate, consolidated party system, with minimum thresholds of electoral participation in

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the first and second rounds. Participation would have to be the same or greater in the second round (at least by one vote) in order to not legitimize a president with fewer votes than those won in the first round, thus overcoming the general criticism of this form of election.

With regard to the length of the mandate, those who support reducing and synchronizing the presidential terms with those of governors and municipal authorities (like jurist Diego Valadéz, among others) would only be right if we also accept adjusting legislators' terms and allowing for reelection for an additional term (except in the case of the president who would continue

to not be subject to reelection). At the same time, we would rely on a political system that would have the maximum possible compatibility in executing government programs. It could only happen in this way because it would be very complex to increase or reduce federal and local legislative and mayoral mandates. Neither does it seem attractive to create a system like the U.S. Senate's, where one-third of the senators are elected every two years, above all given the recent failure of renovating half the Mexican Senate at a time.

In that sense, the impact of the possibility of immediate (but not unlimited) reelection in all elected posts would propitiate increased competition inside and among the political parties to put forward their best candidates who would then remain in office based on performance. Another advantage of this proposal is that it would reduce the criticisms of the idea that it would produce sclerosis inside the political, parliamentary class.

Otherwise, the lack of coordination caused by continual but non-synchronized elections for different government posts will only continue to create a dynamic of the sterile reinvention of the systems of coordination among the federal government, the states and municipalities. This would undoubtedly lead us to attrition and strong pressures on all levels of government since they would be in constant political negotiation with few moments of repose. It is crucial to solve this problem if we aspire to the current government being able to still design a long-term reform of the state.

Despite all this, the permanence and influence of the institution of the presidency means that it is still not very appropriate to talk about having

effectively reformed the federal administration since each presidency has tried to maintain structures parallel to the ministries which have contributed little and, on the contrary, have been obstacles to the correct way of decision making about public policies. This situation seems to have become more serious in the most recent administration since without appropriate discussion with the legislature, a series of offices and posts were created outside the procedures established by legislation about the organization of the federal administration, particularly in such sensitive areas as the press office, national and public security or foreign relations.

In that sense, a general balance sheet of Mexico's political regimen must take on the challenge of evaluating what its budgetary cost must be, in addition to fixing the number of employees needed for the appropriate functioning of first-level institutions. Current data tells us that the executive branch is continuing to shrink, but without narrowing the wage gaps between high- and low-level public officials. We should point this out as evidence of the high degree of vulnerability to corruption and the resulting inefficacy that this branch of government may show vis-à-vis such central matters as promoting a culture of accountability or comptroller's offices that should be in the hands of the legislature and even in tandem with the judiciary.

Of course, it is not only a matter of a reform exclusively oriented to controlling the presidency. However, this is the dimension that the public most often sees as needing urgent changes. In matters of dialogue and checks and balances among branches of government, it is sufficient to specify the for-

mat and dynamic of the reports by ministers of state, and even the mechanics of presidential reports to the nation. Until now, they are strictly a matter of protocol: actions are simply reported, and no broad discussion about the big national issues is initiated. With regard to this, a clear strengthening of the legislative and judicial branch is warranted.

The kinds of review and observations that the executive branch can or cannot make (a de facto veto) about laws or bills created or modified by the legislature when the executive sends proposals (such as in the case of the recent

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budget discussions) should also be analyzed. It is tempting to govern by accord or decree, as President Carlos Salinas de Gortari (1988-1994) did during the first three years of his term when he lacked a two-thirds majority to pass the constitutional reforms he needed to push through his administration's economic reforms. For that reason, the government's proposal of so-called "preferential bills" is important, in which the branches of government would give priority to approving the bills urgently needed by the nation.

It should be mentioned that general reforms to the political system have fostered the de-concentration of many of the political controls previously used

by the executive branch: for example, permitting workers' voluntary affiliation to unions; creating the possibility of more than one union existing in a single company and guaranteeing people's individual—not collective—affiliation to the political party of their choice; relaxing government control over publications (breaking the monopoly on newsprint);³ and, in the media, opening up content and lines of information. Also, the law on chambers of commerce and industry has been liberalized to allow every businessman to decide to join or not without threat to his business. The same can be said of the new relationship between the government and the country's churches.

All these actions, which tend to eliminate the corporatist nature of Mexico's political regimen, together with the aforementioned reforms to electoral law, show us little-appreciated facts about how that "transition by stealth" was made. We can situate there a good part of the political change and the repositioning of the spheres of influence of the executive branch in particular.

Finally, we should evaluate a substantive aspect derived from all these changes: the break with the classic relationship between party and government and the presidential succession in the year 2006. The recent transformations in the executive branch have minimized the benefits that caused social organizations' dependence because they were basic extensions necessary for implementing the government programs and actions that might directly support the party in office.

Seen in this way, what has happened shows that in Mexico there has been a "de-partisan-ization" of public actions. The weakness of Mexican political parties is a matter for concern.

Abstentionism, a dearth of legislation, administrative inefficacy and superfluous spending are some of the issues that generate the most diverse criticism from society of their performance and force us to also think of ways of limiting their functioning. It is clear that without a credible party system that attracts public participation, it will be of little or no use to change the size of the houses of Congress or the methods of election.

A few years ago, the dilemmas of the Mexican political system in its transition from authoritarianism to democracy were rooted in being able to link up the means of access to political representation, that is, the origin and the

legal-constitutional functions of the parties, with the real efficacy of their action (regarding the legitimacy of their acts). Under authoritarianism, people questioned the absence of institutions, but not authority itself. Curiously, today, we discover an incompatibility that must be completely overcome within the democratic framework. Paradoxically, we have authorities elected with practically no questioning of their legal origins, but we ask ourselves how far their authority goes. Today, we have no doubts about the institutions, but we do have doubts about the kind of authority who should lead them. For that reason, the debate about the configuration and immediate future of the

political regimen is a substantive issue for the efforts to consolidate democracy in Mexico. ■■■

NOTES

¹ A case in point: the two opposition parties, the Party of the Democratic Revolution and the Institutional Revolutionary Party, joined forces to create a majority to change the president's budget proposal. [Editor's Note.]

² The author refers to the administration of President Miguel Alemán (1952-1958), a member of the PRI. [Editor's Note.]

³ For many years in Mexico a single government company, the Industrial Paper Producer (PIPSA), produced more than 95 percent of the paper for the country's newspapers, giving the government absolute control over information in the printed media. [Editor's Note.]