

# Mexico's Stagnating Democracy

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Recounting votes.

The 2000 victory of Vicente Fox, candidate of the center-right National Action Party, for 60 years the political force with the greatest tradition of electoral opposition to the hegemonic Institutional Revolutionary Party (PRI), brought to a close a series of incremental institutional reforms that turned Mexico into a democracy in reality and not just on paper, as it had been since the passage of the 1917 Constitution.

The slow process of institutional reforms began in 1977 as the regime's response to an increase in radical groups' activities and union and social movements operating outside the corporatist patronage system the PRI had suc-

cessfully operated since the late 1930s. After the 1968 student movement and the excessively repressive response to it, Mexico went through years of violence and social mobilizations. While these did not pose an immediate threat to the regime, they did undermine its stability at a time in which the successful economic arrangement based on industrialization rooted in import substitution, supported from the state by protectionism and monopoly privileges both for businessmen and unions, was showing clear signs of wearing out, with stagnant growth and only oil income and indebtedness to shore up a fictitious bonanza.

In this convulsive scenario, the José López Portillo administration (1976-1982) pushed through the first democratic electoral reform, which changed the relative price of doing pol-

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itics outside the PRI. It conferred legal status on opposition political parties, gave them certain prerogatives and basically created a limited system of proportional representation in Congress that, with important modifications, continues in place today.

Different local electoral races from the 1980s on showed that the reform had been successful in channeling discontent through the ballot box. But in 1988, in the midst of an important economic crisis that had forced substantial cutbacks in the regime's ability to offer jobs in the public sector and distribute state monies to different parts of its corporatist client network, a significant group in the PRI broke with the party, moving to the left and building the biggest electoral opposition in the regime's history.

From the mid-1980s, the change in the relative price of posing an electoral opposition to the PRI had led different social groups to do electoral politics outside the government party. However, the channels for processing opposition victories through the institutions themselves were very narrow, and frequently, electoral wins were not recognized, hiking up the sharpness of post-electoral conflicts. The 1986 Chihuahua state elections marked the greatest resistance to the proclamation of a PRI win in the gubernatorial race. The candidate passed over was from the National Action Party. In 1988, the dissatisfaction with the murky federal elections that gave the presidency to Carlos Salinas de Gortari (1988-1994) over the dissident PRI candidate supported by the left, Cuauhtémoc Cárdenas Solórzano, became a national movement for democracy. Finally, the regime was able to control the situation, but the electoral system under

construction since 1977, which opened up spaces for opposition representation without wresting control of the results from the regime's apparatus, showed that it had hit bottom.

Thus began a process of institutional change marked by intense negotiations among the political actors. At first, the left coalition kept out of the negotiations and the first important adjustments were agreed on only between the PRI and the PAN. However, at the end of the Salinas administration, the insurrection of the Zapatista National Liberation Army (EZLN) in the midst of the presidential campaign and the assassination of the PRI presidential candidate forced an emergency accord that increased the certainty of the electoral process. It was during the Ernesto Zedillo administration (1994-2000) that the three important forces of the political scene (the incumbent PRI, the center-right PAN and the Party of the Democratic Revolution [PRD] that combined the left and the PRI split) came to an agreement on an institutional reform that created relatively equitable conditions of competition for these three players, although at the same time making it more difficult for new political forces to establish themselves.

The 1996 reform made the Federal Electoral Institute (IFE), the enormous

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bureaucratic machinery responsible for organizing federal elections created in 1990 through an agreement between the PRI and the PAN, fully autonomous. It also created a complex security system to prevent government influence in the elections. This opened the door for the PRI's losing its majority in the Chamber of Deputies in the 1997 congressional elections and, finally, for an opposition candidate to win the presidency in 2000.

While attention was centered on electoral mechanisms from 1988 on, other important changes were a central part of the process of democratization. The reforms of the judicial branch, including the creation of the Judiciary Council in early 1995 and the transformation of the Supreme Court into a constitutional tribunal, as well as the autonomy of Mexico's Central Bank, were particularly important. These initiatives were pushed through by the regime itself and were not at the center of political debate. However, they have played a substantial role in the new functioning of the political arrangement based on democratic pluralism.

Vicente Fox became president of Mexico with an institutional arrangement that, while it had changed the rules of the game in elections and created a judicial mechanism to resolve conflicts among branches and bodies of the government, had not changed in essence. Constitutional presidentialism, which implies a profound division of power, or system of checks and balances, between the executive and the legislature, the basis of Mexico's constitutional arrangement since 1824, with changes that seemed to strengthen the executive in the 1917 Constitution, had been supplanted completely illegally by the total domination by the execu-

tive through the discipline of the party in power. To a great extent, this had been an authoritarian solution of the problems of governability that arose out of the presidential regime established by the Constitution. When the PRI lost control of Congress in 1997, the conflicts between the executive and legislative branches that had existed in Mexico since before there even was a government party flowered once again.

Vicente Fox's win was not accompanied by a PAN victory in the legislature. The new president, despite having an advantage as a result of his democratic victory, was unable to push through his legislative agenda. This made him weak, and he was unable to overcome that weakness during his six years in office, particularly because in the 2003 legislative elections he did not achieve a majority in the Chamber of Deputies either, the only body that renewed all its seats then.

Mexican democracy has been built without substantially changing the basis of the 1917 Constitution, most of which had been in effect since 1857. This is because for the important political actors, the problem did not lie in the fundamental lines of the Constitution (presidentialism, a sharp separation between the executive and legislative branches, the formation of a government without legislative interference, a fixed six-year presidential term, no re-election of the president and no consecutive re-election of legislators). It lay, rather, in the deformation of this arrangement by the PRI's monopoly of power. Thus, during the years of the institutional changes and debates about democracy, the matter of constitutional presidentialism was not under discussion. Criticism centered on the form of presidentialism the PRI regime had adopted.

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However, since 1997, but above all since Vicente Fox took office, problems of government capability derived from the Constitution's presidentialism have been clear, even though important political actors prefer to attribute the failures to the specific political incapacity of the president himself more than to the institutional arrangement as such. This is a problem typical of inefficient institutions: the important actors prefer to adjust their strategies within the same old institutional arrangement rather than getting into the game of changing the institutions, which would offer very uncertain results.

Thus, the most important characteristic of the Fox administration has been its limitations in pushing forward its own legislative agenda. The presidential regime, designed on the basis of the 1787 U.S. Constitution in order to limit governmental capacity to change property rights, in Mexico, like in other countries of Latin America, has shown itself in practice to be a source of governmental weakness. Not everything, however, can be chalked up to the institutional arrangement. The Fox administration's explicit agenda did not go beyond a change in property rights in the energy sector and a limited fiscal reform to center tax revenues in taxes on consumption.

During the Fox administration, there have been significant advances in the unconcluded construction of an effective democratic regime. The greatest one was undoubtedly the approval and implementation of the Federal Law of Transparency and Access to Public Information. Since the 1977 political reform, the right to information had been established in the Constitution with no practical consequences at all since the constitutional precept was never regulated by legislation. From the beginning of the Fox administration, different non-governmental organizations and groups of academics lobbied intensively with legislators and the new government to get a bill written, which was finally discussed in Congress in 2002 and came into effect in June 2003. With this new law, all information generated by the federal government, autonomous bodies and the branches of federal government is public, unless it involves personal data and therefore affects someone's private life or is information linked to state security, which is temporarily off-limits. The autonomous Federal Institute of Access to Information (IFAI) was created to make the public's access to information effective, with a council made up of commissioners approved by the Senate, who decide on cases in which government agencies deny information requested.

Another more limited advance was the passage of the Career Public Federal Administration Professional Service Law, which also came into effect in 2003. Since the *Porfiriato* (1876 to 1911), in Mexico, the federal administration has been the main source for feeding patronage networks, for the distribution of public jobs; it is the favorite mechanism for building political loy-

alties. The regime that came out of the revolution was very lavish in rewarding loyalists with public positions, and the PRI's monopoly control, together with the disproportionate importance that public jobs had as a source of employment in the country, discouraged dissidence since the wayward ran the risk of being put out of work. In addition, a large part of public jobs were handed over exclusively to one of the corporate entities that supported the PRI: the Federation of State Employees Unions (FSTSE), which distributed the lower ranking jobs among its members, while the middle and upper posts were positions "of trust", meaning they were distributed freely by the political operators who headed up the ministries. In this way, the president practically controlled all public employment, from general directors down to the mail boy.

However, the law Congress passed in 2003 —sponsored by PRI senators— only partially changed this arrangement because it did not touch on jobs controlled by the union and completely left out the teachers —also a union sinecure— and the previously existing professional services like the foreign service and the tax administration system. In addition, it created a variegated system of hiring, promotion and tenure that leaves important spaces to arbitrary job assignation. This is an especially important as yet unresolved issue on which the relative neutrality of the public administration depends, something which has been considered one of the minimum requirements for the existence of a democracy.

These are the main things on the plus side of the balance sheet in terms of the development of democracy during the Fox government. However,

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there are many things on the minus side, and even some steps backward. The main step backward is linked to the party system: after the 2003 elections, the legislators decided to toughen up the already restrictive mechanism for letting new players participate in elections. The 1996 reform, which in almost every respect was a great advance, had already eliminated the so-called conditional registration for political parties, first included in the law in 1977. The original idea was to allow the participation of new parties in every election as long as they could demonstrate that they had a distinct political program and had carried out constant activity for a reasonable length of time in a goodly percentage of the states. Their continuing to participate in subsequent elections would depend on their getting 1.5 percent of the vote, and the subsidies and rights they enjoyed during their first electoral experience were limited. But with this mechanism, the party system stayed quite open to new political forces. Thanks to the existence of this category, the Mexican Communist Party (PCM) entered into legal electoral politics in 1979. It was this registration that it finally passed on to the PRD, since that recently formed party could not fulfill the complex requirements demanded by the

law in 1989, and the 1986 law had already eliminated the mechanism of conditional registration.

The 1991 Federal Code of Electoral Institutions and Procedures (Cofipe) once again included conditional registration, but in the negotiating process in 1996, the first thing the large parties (the PRI, the PAN and the PRD) did was to eliminate it. The amended legislation left a single mechanism open for registering as a national political party (which gives them the right to run candidates for any office): a toughened version of what had previously been called definitive registration. This is a formula that was introduced into law in 1946, when the first protectionist federal electoral law was enacted; its purpose was to only authorize the participation of parties that the regime considered in its interest to allow in order to protect the PRI's electoral monopoly. The 1996 version system of registration was no longer designed to protect a monopoly, but to give the advantage to a new political oligopoly formed by the three important parties who were making the deal and by other smaller forces that did not really constitute true competitors and from that time on have survived on the alliances they forge with the big three. According to the 1996 law, to be a national political party, a group must have three basic documents (by-laws, a declaration of principles and an action program) in line with constitutional and legal requirements; have a membership equivalent to 0.13 percent of the voters' rolls, proven by affiliation slips that include the information from each member's voter registration card; and have held at least 10 statewide assemblies of at least 3,000 registered voters or 100 district-wide assemblies

of at least 300 registered voters. For example, for the 2000 elections, the organization that wanted to run candidates for the first time had to affiliate more than 70,000 citizens with voting rights and mobilize 30,000 of them in assemblies.

This procedure, as one might guess, did not foster the existence of parties made up of citizens, of cadre convinced of a program, but rather created incentives for groups that mobilized clients motivated by patronage. These groups were eager to get the public funding available to political parties which, although it did not allow them to compete with the larger parties—the monies given to a new party came to less than a tenth of those given to the smallest of the large parties—it did become appetizing booty for the political confidence men who abound in a country where the PRI had created a school of politics that thrived on people's misery.

Whoever had enough money to mobilize his patronage base sufficiently to fulfill the prerequisites of assemblies and affiliation could receive about U.S.\$5 million for the year of the election (figures for the 2000 election) with very weak mechanisms for accountability. Of course, if they did not get 2 percent of the vote in one of the federal elections, they would be left out the next time around. In the 2000 elections, of the six new parties, three managed to stay in the ring until the next election thanks to their alliance with the PRD. Of the other three, only one, Social Democracy, almost got enough votes to maintain its registration (it got 1.92 percent of the vote in the election for federal deputies), but in the end, none of the three kept its registration. In the 2003 election, when

the PRD refused to ally with them again, two of the ones that had kept their hat in the ring in 2000 demonstrated their absolute lack of any electoral support of their own, and one, the sadly memorable Party of the Nationalist Society, did not even hold a campaign. Its leader disappeared without a trace either of himself or of the nearly U.S.\$20 million that they were given.

With this kind of background, legislators decided to tighten up the prerequisites for registering parties and doubled the number of assemblies to 20 states or 200 districts, as well as demanding that an aspiring party have a membership of 0.26 percent of the voters' rolls, and forbidding them to make alliances with other registered parties the first time they run candidates. This limited enormously the possibilities of new parties incorporating themselves into the system of competition, and, since only parties can run candidates for election, it restricted even further the citizens' constitutional right to be voted into office.

The argument given for this restriction is that since new parties receive public funding, there must be guarantees that they are really representative. However, the system of assemblies in a country with 50 million poor people who lack practically any political

information at all only fosters mobilizations based on patronage and not the existence of political forces with possibilities of becoming real electoral options.

And party funding is precisely one of the central issues Mexican democracy has had to deal with during the Fox administration. In 1996, the Ernesto Zedillo administration proposed to Congress a funding formula that granted huge resources to parties in accordance with their vote count in the preceding elections and the number of seats they had won in the Chamber of Deputies. The executive's aim was that the PRI accept the reform, which put very strict limits on the traditional access to public funds by the government party, and that this would allow it to continue to have sufficient income to keep the enormous machinery of patronage and corporatism from which it got its political support well oiled. The PAN and the PRD rejected the amendment and broke the consensus that had made the previous constitutional reforms possible. In the end, only the PRI voted for the amendments to the law.

With this funding model, the political parties have received almost U.S.\$450 million for the 2006 electoral race. The PRI, the PAN and the PRD together, however, received 80 percent of that amount, while the two new parties were given about U.S.\$9 million each, by no means a paltry sum, but insufficient to compete with the huge quantities of the larger parties. The model's deformation can clearly be seen if we note that 70 percent of these public resources go directly to the country's two largest television networks, since the law allows the parties free reign to hire publicity spots

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in the media. This freedom means not only that public funding of parties becomes a form of indirect subsidy to the broadcast media, but also that it generates an enormous need for resources for the parties, which perceive the media as the battlefield where elections are won or lost. Therefore, they seek additional resources, even from illegal sources, contributing in turn to the deformation of the election process.

During the Fox administration, the executive branch and the different congressional caucuses fostered electoral reform bills that dealt with both campaign funding and campaign length (five months in the case of the presidential election). However, they got nowhere

because of the enormous difficulties in coming to any agreement in such a fragmented legislature and with no incentives for forging stable coalitions. The pending reform should eliminate the possibility of freely hiring publicity in the broadcast media, giving rise to programs and platforms in spaces distributed equally by electoral authorities. It should also substantially reduce campaign length; this would cut parties' financial requirements, and public funding could be significantly lower and more balanced among the large and small parties.

One of Mexican democracy's central problems, six years after the first presidential election won by the PRI's

opposition, is that it has gone from a political monopoly to a closed oligopoly that has led to deal-making among the three large parties who are not willing to broaden out the political playing field. This, together with an institutional arrangement that does not generate incentives for creating stable coalitions to support the executive in the legislature capable of pushing through clear government agendas, has led to Mexico's burgeoning democracy getting mediocre results in the field of economic growth and social development. In a sea of uncertainty, Mexican democracy is stagnating, and, regardless of who is in office, it does not seem like it will be easy to pull it out of that hole. ■■■