

# Still on Mexico's Agenda Why Reform the State?

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The Law to Reform the State passed March 29, 2007. Its aim is to establish the mechanisms needed to analyze, negotiate and forge the agreements needed to make it possible to transform Mexican institutions. After a period of consultations, the Congress is now carrying out the debate and negotiations.

The law will be in effect for one year, and therefore, its ambitious agenda is expected to be completed by mid-April 2008. But the law is flawed, since it does not establish sanctions for legislators if they do not fully comply with it. This means senators and deputies are not responsible for either their successes or their failures.

Over recent months, we have seen how, far from seriously reviewing the institutions as expected, the political parties have been introducing and passing bills that, while they are not completely self-interested, make solely cosmetic changes

to our laws. What is worse, all of this is being done without public debate, isolating the citizenry in the process.

The issue known as the reform of the state has been on the public agenda for 18 years. However, advances have been modest and seldom do they go beyond party interests, such as in the case of changes to electoral legislation. This is due to the fact that the reasons underlying the need to transform our institutions have not been put forward, and the preconditions that should be considered to consolidate our democracy are unknown.

## WHAT IS THE REFORM OF THE STATE?

Before we can understand why this discussion has not progressed, we have to have a clear idea of how we should understand it, and what its real scope is. The state is based on institutions, and they are the rules of the game for the political

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and social actors who interact in a specific time and place. These rules can be written down or based only on convention.

Society changes constantly and often these changes are not immediately perceptible because they may be occurring on the level of day-to-day relations. Naturally, one change fosters another and that chain of events will continue. As a result, the greater the difference between institutions and social interaction, the more probable and necessary will be the change in the former. Therefore, the state is reformed constantly and permanently, through both its formal and informal rules. Following along this line of thought, and to be more concrete, the process of the reform of the Mexican state began—and it has never stopped—with its independence, September 27, 1821. This implies that, since the state is continually changing, its reform should be seen as a gradual, incremental, permanent process, subject to constant evaluation. As a result, changes should be a combination of innovation and adaptation subject to trial and error: no ideal or lasting equilibriums are possible.

#### WHY HAS THE REFORM OF THE STATE NOT BEEN ACHIEVED?

Although it is necessary to reform the institutions, by its very nature, change always creates fear and reservations, and these increase when, instead of presenting concrete reform proposals based on assertive diagnostic analyses and accompanied by projections about their possible impacts, people present ambitious agendas, like those that propose a “comprehensive review of the Constitution.” And what is worse, rarely is the public informed about the need for changes, which increases its resistance to them.

Let us look at the main reasons why the different exercises in the reform of the state have not prospered for almost the last 20 years.

In the first place, we have no real perspective on how our institutions would perform in a pluralistic environment. That

is, we are barely learning to live with effective written legislation after 70 years in which whoever was president defined the real rules. Therefore, if we do not know how our legal framework would function, it is irresponsible to suppose that it should change because people think it was conceived for a hegemonic party regime.

Therefore, as long as our political class cannot accumulate experience over time, thus developing an institutional memory that will make it possible to perform assertive diagnostic analyses, we should reevaluate our institutions.

The second reason the reform of the state has not prospered is the way in which we conceive of the process. Many politicians and academics want the review to lead to a new founding of the state. Thus, they have been presenting general models, almost all created in the interests of each of their proponents or sponsors. Naturally, these “perfect models” are based mainly on superficial theories and observations about how their proposals work in other parts of the world. This only increases fear of change.

For example, some of these positions presuppose that there is a final destination, such as changing to a semi-presidential or even a parliamentary regime. This ignores the fact that a transformation of this magnitude can only occur in one scenario: the restoration of democracy after the breakdown of the previous system. It must be clearly stated: without serious reflection and the necessary continuity, only those proposals that are popular at any given moment will pass, and they are not always the best ones.

The third reason is that the procedures being proposed to review our institutions are not necessarily applicable in Mexico. Using them, people extrapolate about other countries and the processes needed to implement them. The most frequently cited examples are Spain’s transition to democracy and the role and will of a single individual in the process, such as the case of Charles de Gaulle in France’s Fifth Republic.

However, once again, what proponents are trying to hide from us is that these global processes are only feasible when they begin from zero. That is, they overestimate the process to the detriment of implementing a few urgent reforms and the clarification of the debate and its true scope.

In the fourth place, it should be pointed out that the debate emphasizes the will of political actors to achieve reforms, instead of conceiving change as the result of opposing interests, between those who seek change and those who resist it. Since the transformation of institutions is a gradual,

incremental, permanent process, what is required from politicians and social actors is more wisdom in order to ask themselves about the performance of the institutions in a changing situation, instead of a disinterested “will to reform,” as some would have us believe.

In addition, no exercise in reforming the state has convened all the political and social actors who should participate. Indeed, very often, they have been headed up by people who are not truly representative, and the results are similar to those of the 2007 electoral reform: the parties ended up changing the rules in their own interests. There has been no advance on this front because more value has been placed on the desired changes than on the forms for achieving a consensus about them.

The fifth reason—and perhaps one of the most important—is inertia in the images and discourses of power. A political system does not base its legitimacy on laws and performance alone, but also on symbols and ways of conceiving of reality. This has always been part of the theory and exercise of power. Therefore, the images used generate perceptions and forms of expression that concretely legitimize a regimen.

Given that some reforms would require a change in the way that society conceives of these symbols, a profound, broad process like the one needed would take many years to complete. In many cases, it would be necessary to replace some discourses with new ones, in addition to encouraging a change in the way we conceive of our Constitution.

In the sixth place, we should mention the primacy of the short term for the public agenda. Political life is full of specific dilemmas that must be dealt with, and very often the discussion is immersed in the dynamic of dealing with whatever is urgent instead of what is important. And lastly, we have to contend with the political class’s amateurism and irresponsibility, particularly our legislators. A process of reviewing institutions requires our politicians to have an institutional memory. Otherwise they might propose reforms that would reap negative results. In addition, they have to have the capability of following up on the reforms they pass, as well as taking responsibility for both their successes and their mistakes. Quite the contrary to what is needed, the prohibition of consecutive reelection of our legislators means that legislature after legislature leaves the reform of the state last on the agenda and never gets to it. Or, what is worse, it is distorted and turned into an instrument for blackmail in the hands of the parties.

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#### WHERE TO START?

All of this shows that the reform of the state is a permanent review process of our institutions. Therefore, we must rethink it in order to ask ourselves the questions that will allow us to achieve it in the national interest. What follows are a few reflections on this task.

For a start, we should ask ourselves why we would want to reform the state and our reflection should lead us to seriously ask how modern it is—this, with the complete conviction that institutional change is a matter of national security. That is, if our institutions are not modern, they are weak, and if they are weak, they are vulnerable to attack by groups alien to the national interest. What is more, inaction in the face of the need for change can lead other political and social actors to use the issue in their own interests.

In the second place, the reforms must incorporate a vision of the state focused on the national interest. That is, they must be conceived of and presented as beneficial for all actors under all circumstances. In addition, far from thinking that inventing posts that correspond to parliamentary regimes, like the head of cabinet, would create predictable, automatic majorities, the changes needed must aim for politics as negotiation and a search for agreements.

Therefore, the political class must be responsible and propose concrete, necessary reforms: the changes must be gradual, not maximalist. Identifying the changes to be made is not a secondary matter. Since we are talking about a permanent endeavor, initiatives must be found that foster new changes in a permanently monitored process. It is also necessary to develop minimum and maximum scenarios about the impact of these transformations, thus facilitating their debate.

In this way, the changes will naturally lead to other reforms. With this method, the interaction of the political forces will show the need for new changes, and the ways in which they could be concretized. Therefore, if the desired reforms require pre-conditions, it is irresponsible to think that everything should be transformed in a single review.

We must also have an idea of how much we can actually do. The reforms that will be carried out will be nothing more than another link in the long list of innumerable transformations in the past—which we sometimes do not fully understand—and in the future—all of whose repercussions we are unable to predict. Therefore, we must accept *a priori* that there will be results that may not be only unexpected, but also not the ones we wanted. Since institutional design is a process of trial and error, we must take the risk.

Lastly, if the state needs reforms to modernize, no effort will give the desired effects if the citizenry is not informed and drawn into the debate. This can be done using popular, understandable language and laying out the issues in the most concise, specific way possible. Unfortunately, no party has concerned itself with doing this until now. Now, what would the pre-condition be for seriously pushing forward the

reform of the state? Essentially, it would be that legislators be able to get experience so that they could develop an institutional memory. Then they could formulate bills based on an understanding of what really works and what does not, instead of the proposals based on conjecture that today flood party agendas.

And, derived from this, our legislators also need to take responsibility when they get it right and when they make mistakes in passing laws. This can only happen if they start to run for reelection. This means that the key for really reforming the state is allowing consecutive reelection of legislators, an issue the parties do not want to touch because it is not in the interest of the most entrenched sector of the political class that would disappear with the advent of more responsible deputies and senators who are closer to their constituencies. **MM**