

The Reform of the State

THE POLITICAL-ELECTORAL REFORM IN MEXICO

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The 1994 victory of the Institutional Revolutionary Party (PRI) demolished some—or at least a sizeable number—of the opposition's expectations, particularly those of the Party of the Democratic Revolution (PRD), that the party which had governed this country for the last six decades might lose a presidential election. At first, some of the PRD's "organic intellectuals" tried to de-legitimize the voting results by denouncing what they called an unprecedented fraud: PRD legal advisor Samuel del Villar unashamedly claimed that the 1994 elections were "the biggest and most spectacular fraud in the history of the world." Given that the PRD came in third, its censure did not have the impact it expected, especially since the National Action Party (PAN) recognized the PRI victory despite its claim that the conditions for running competitive campaigns had been unfair. Slightly later, the opposition strategy, especially that of the intellectual left, was to demand an immediate electoral reform whereby the opposition parties would finally achieve the conditions they needed to compete in and win elections, even though it was not really very clear just what should be changed in the electoral process and institutions.

In response to this demand, the winning presidential candidate called on all groups in society to participate in a defin-

itive electoral reform with the idea that it would aim to permanently solve structural problems involved in the organization of elections. A definitive reform would make it possible for later reforms to simply fine tune some questions, but not change what was in essence already agreed upon. On January 17, 1995, the four parties with seats in Congress signed the National Political Agreement for the Reform of the State in Los Pinos¹ with the president as an honorary signatory.

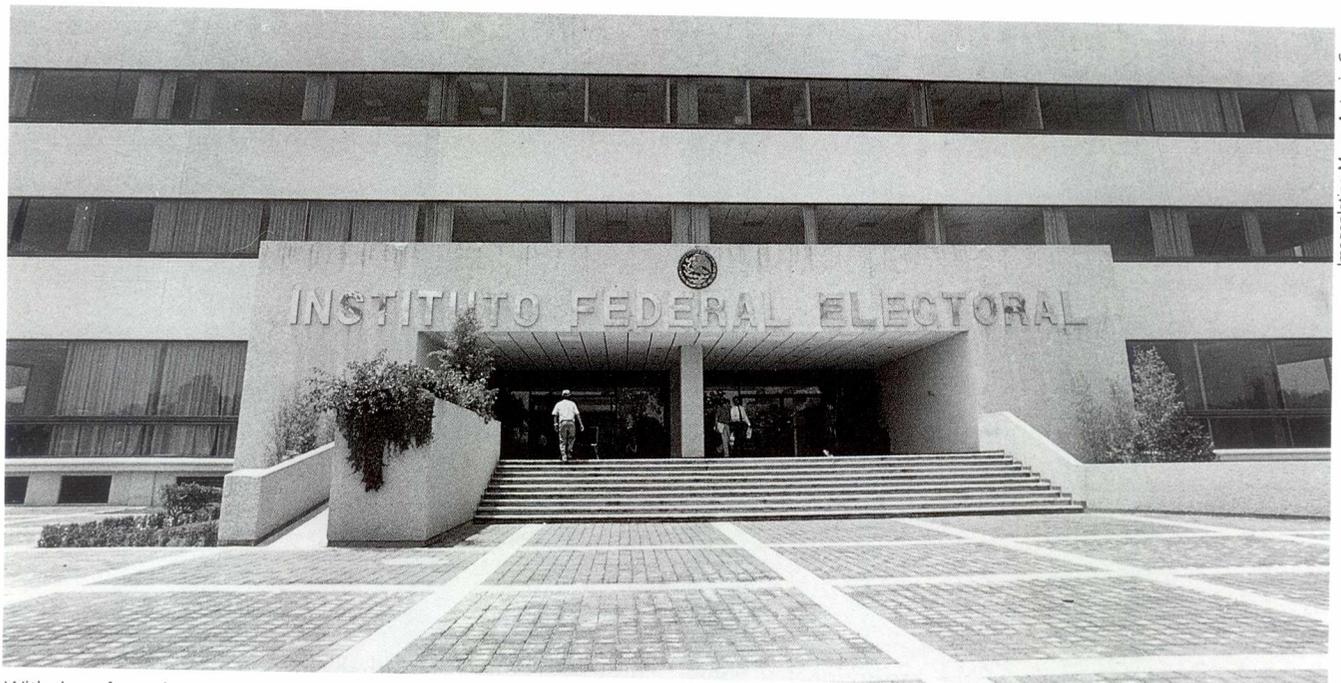
The reform of the state turned around three broad areas of concern. The first was the establishment once and for all of the rules of access to power. This point would include the federal electoral reform—which we will come back to—touching on some questions involving state legislatures and the issue of the democratization of Mexico City, the Federal District.² For the first time in many years the election of the head of Mexico City government by universal ballot was discussed. This once again broached the old idea of conferring on Mexico City the status of a municipality which Alvaro Obregón,³ for reasons of governability, squelched in the late 1920s.

¹ Mexico's official executive residence. [Translator's Note.]

² Mexico City proper (as opposed to the metropolitan area as a whole) is officially called the Federal District and is the seat of the executive branch of government. Its mayor or head of government was appointed by the president until the 1996 reform, which stipulates that as of the July 6, 1997 elections, the post will be filled by universal, secret and direct ballot of Federal District inhabitants. [Editor's Note.]

³ Alvaro Obregón, Mexico's president from 1920 to 1924, was assassinated in 1928 after having been reelected. [Editor's Note.]

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With the reform, for the first time, the Federal Electoral Institute will seat no government representatives. Its decisions and policies will be completely autonomous.

The second matter dealt with the rules for exercising power: the idea was to establish rules to strengthen and create equilibrium in the relationship between the federal government and the states without weakening federalism; rules which would also strengthen the balance of power among the different branches of government, giving the legislative branch more prerogatives not only to legislate, but also as auditor and comptroller of the federal executive branch. Naturally, reinforcing the judicial branch would also be part of this discussion.

Finally, a third area of concern touched on by the Agreement for the Reform of the State was the relationship of the different branches of government with the public, that is between the state and society. It was clear that there was a need to open up and fortify the channels of communication between the state and what is called civil society, made up of non-governmental organizations (NGOs), the media, social interest groups like indigenous peoples and, in general, all sectors interested in having an impact on government decisions or at least communicating more freely with the government.

The reality has been that the reform of the state has not dealt with all the points of these three areas of concern. Given the economic crisis that the government and the

country went through over the last two years, the diverse aspects of the reform got off to uneven starts and have developed differently. Some points have moved ahead quite a bit, as in the case of the reform to the judiciary which has given the Federal Supreme Court a new structure and attributions, created a Judiciary Council with administrative functions and the power to appoint officials and moved ahead in establishing a career civil service system for this branch of government.

The legislative branch is also undergoing a reform: amendments to the laws governing the legislature's operations and the internal rules of both chambers of Congress are currently being prepared. However, the new attributions of legislative bodies have still not been defined, and on some points negotiations have broken down, such as the debate about naming an opposition deputy to head up the congressional committee which supervises executive spending.

There are also some advances regarding the relationship between the federal government and the states: to wit, a certain decentralization of health and educational services and almost all government services, as well as larger transfers of federal funds to the states through bilaterally decided coordinating agreements.



Imageniátina-Tomás Bravo

One of the topics still to be discussed is the transformation of government informational policy and the public's right to know.

Perhaps the most important question—not so much in and of itself, but because of its impact in the mass media—is the political-electoral reform. Negotiations among the political parties, with the arbitration of the Ministry of the Interior, took more than 18 months. The results include, first, agreements among the three main national parties, presented to the Chamber of Deputies for discussion in April 1996. Then, in June, all the parties with congressional caucuses approved constitutional amendments, a step of enormous importance because it was the first time since Independence that consensus was reached on matters of political reform, therefore setting a historic precedent. Lastly, in December, Congress passed the enabling legislation for the constitutional reforms.

The definitive reform touched on many points; I will point to only a few:

1) For the first time in Mexican history, the political rights of the public are legally protected through specific legislation.

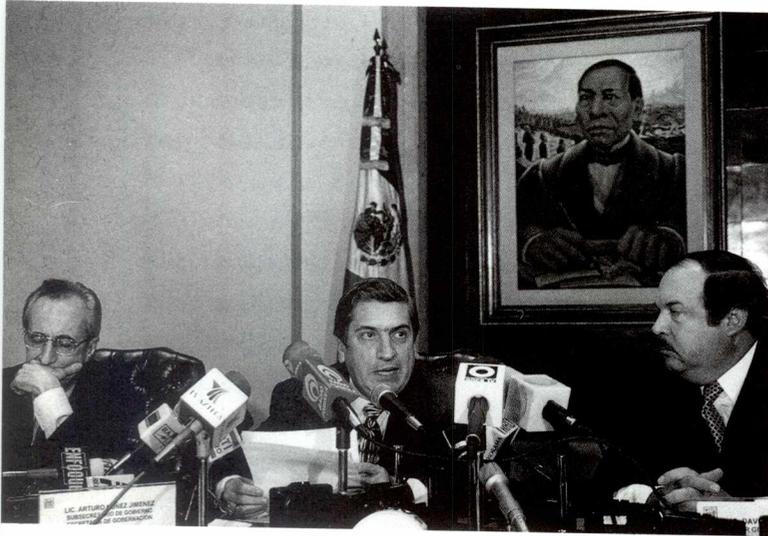
2) The reforms to Article 116 of the Constitution define the principles on which the individual states must base their legislation and electoral procedures; this aims to harmonize them both among themselves and with regard to the changes on a federal level.

3) The Federal Electoral Tribunal (with its new official name, the Electoral Tribunal of the Federal Judiciary) is now part of the federal judiciary and is empowered to review and hand down judgments on cases of protection of citizens' political rights and on the constitutionality of the actions and decisions of both federal and local authorities. This last point is extremely important because it guarantees that post-electoral controversies involving the states will not be resolved on a partisan basis as in the past, but strictly following due process.

4) The momentous amendments to Fraction II of Article 105 of the Constitution give the judiciary the right to review the constitutionality of both federal and state legislation, as well as enabling the national leaderships of political parties to formally participate in the proceedings thereof, which will come under the aegis of the Federal Supreme Court and not the Electoral Tribunal of the Federal Judiciary.

5) The constitutional amendments also satisfy the public's demand that the executive no longer play any direct role in federal or state elections. This means that from now on, the executive will not be represented in the Federal Electoral Institute's (IFE) General Council or on the Electoral Tribunal of the Federal Judiciary. This, in turn, means that the IFE General Council is totally in the hands of individual citizens, nine electoral councilors including the president,

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Announcing the reform. In the center, the Vice Minister of the Interior, Arturo Núñez Jiménez.

all presumably non-partisan and the only members of the council with the right to speak and vote. It is also important to point out that the legislative branch representatives have definitively lost the right to vote they had prior to 1994. Just like political party representatives, they now have only a right to speak in the council.

6) Conditions for fair electoral competition became very polemical after 1994. With regard to this point, a more equitable model for government financial support to political parties has been set up. Prior legislation provided that 10 percent of all government funding was divided in equal parts among all the political parties and the other 90 percent was distributed proportionately among the parties according to the number of votes they had received in the previous federal elections. The new legislation stipulates that 30 percent of all government campaign funding will be divided equally among the political parties and the part divided among them according to their vote count will be reduced to 70 percent. Also, due to the substantial increase in government

financial support to electoral campaigns, for the first time in history, all the political parties will be able to set up truly national structures and ensure that they not become regionalized. In particular, in an unprecedented set of circumstances, the left will for the first time have sufficient funds to ensure continuity in its activity as well as increased training of its activists and a deeper study of the country's problems so it can make proposals to solve them. All these measures serve to even up the playing field for carrying out a competitive campaign and make the elections more equitable.

7) Government time slots given over to political parties for commercials in the electronic media have increased significantly.⁴ Ten thousand radio spots a month will be distributed among the political parties using the same percentages as in funding: 30 percent in equal parts and 70 percent according to each party's vote count.

These modifications all make for a considerable change. Clearly, the electoral reform, the initial great achievement of the reform of the state, gives us for the first time in history an undisputed electoral system that will undoubtedly result in the consolidation of a strong party system and in turn facilitate the transition to democracy. Electoral democracy, then, is within arm's reach. However, it has made the public expect too much: it would almost seem that as if by magic, more competitive elections and the possibility of really alternating parties in government were the solutions to society's most urgent problems. We should remember that the Constitution itself offers a definition of democracy that includes social justice, and no democracy can exist without a culture of democracy that transforms day-to-day life. That is why it is important not to lose sight of the fact that just like elections, the economic system must also be transformed to make development more equitable for all. In addition, nothing will eliminate authoritarian attitudes in society's organizations—unions, schools and even families—if democratic values like debate, deliberation, tolerance and consensus are not consolidated. ❧

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⁴In Mexico, the law stipulates that radio and television stations must give over eight percent of the total time they have for commercials to government public service announcements. This air time is free and is normally divided among different government and civic bodies, including political parties. During electoral campaign periods, the media must increase the percentage to give more time to partisan ads. [Editor's Note.]