

A Window on the Future Mexico's Next Electoral Reform

Miguel Carbonell*



Cuartocero/IFE

Today political analysts and parties are debating whether the electoral reform should include replacing the Federal Electoral Institute councilors.

Now that the July 2 federal elections are far behind us, perhaps it is the time to reflect about what should be reviewed or changed in a future reform to our electoral legislation.

After what happened during the electoral process, I think that we now have important evidence to be able to carry out a good electoral reform. But we also have enough time to serenely, unhurriedly make the changes needed because the next federal elections will not be held until 2009. This does not mean we should postpone the reform until then, but it is important that the changes not be “cooked up” overnight given that the experience of recent years

shows that that is not the way to get the best possible reforms.

In any case, the next electoral reform should take into account the following:

1. REDUCE CAMPAIGN LENGTH

The effectiveness of politics in general and electoral campaign politics in particular is determined to a certain extent by time. In politics, time always has an impact, whether positive or negative.

The attention to (and tension during) campaigns cannot last very long. Otherwise, we run the risk of making electoral activity banal, of starting to repeat the same messages and, in

* Researcher at the UNAM Institute for Legal Research.

short, of making the race boring, while it should rivet the public's attention.

Nobody's attention is riveted in Mexico, as we were able to clearly observe in the 2006 campaign. During the last few weeks before voting day, everyone was getting tired and fed up; candidates' speeches became repetitive and thousands of citizens took refuge in the World Cup soccer matches.

The period when candidates can officially campaign urgently needs to be reduced. Campaigns should start in early April and last three months at the most.

2. CUT PARTY FUNDING

We can think it is a good thing or not, but the fact of the matter is that one of the main things that determines electoral outcomes today is the amount of money available to a candidate. Briefly put: the more money you have, the greater your chances of winning the election. In that context, if we want to maintain equality among the contenders and ensure that the principle of "one person-one vote" continues to be upheld, we have to regulate the availability of funds the candidates and parties have to spend.

Generally speaking, we can say that the breadth and level of detail with which Article 41, Subsection II of the Constitution regulates party financing can only be understood in light of Mexico's political history. For decades, inequality was a constant in politics. While the long-time hegemonic party enjoyed unlimited resources (much of which came out of the public coffers), the rest of the parties could barely survive on their members' dues and small government stipends. To create greater equity and improve conditions for electoral competition, it was necessary to increase fund-

ing to all the parties, making it predominantly public. This would, in addition, make it easier for electoral officials to monitor it.

The idea of public financing has its proponents and its opponents. Many say that the financing parties receive is excessive in light of the many needs Mexico has in areas like education, health or housing. For others, public financing is the only way to balance out the conditions for electoral competition and to make certain illicit monies are not introduced into campaigns and party structures. It certainly is true that public funding has been very positive and its effects

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are undoubtedly encouraging. But, in the future, the amounts—a large part of which are funneled directly into the broadcast media—should be diminished, at the same time that electoral officials' monitoring ability is improved.

Despite electoral authorities' important efforts to monitor spending and the sophisticated legal framework aimed at avoiding excesses and abuses by political parties, campaign financing scandals have surfaced in several of the recent electoral campaigns. Although to differing degrees, no national political party seems exempt from committing all kinds of trickery and offenses.¹ For this and other reasons, we should continue to think about the best way to finance parties and, more generally

speaking, about the relationship between money and politics.²

The next electoral reform will have to deal with these issues. I do not believe that it will be necessary to discuss the relevance of public financing, which has already shown itself to be an important lever for ensuring the political pluralism we enjoy, but what is indefensible is the current amount. Parties will have to get used to running much more austere campaigns with fewer resources. Electoral legislation must take into account the need to reduce public financing. For this point to have positive effects, it should go hand in hand with the next point on regulating the communications media. We must not forget that a substantial part of campaign funding goes directly to the media, particularly the broadcast media. Therefore, a reform that regulates parties' access to the media differently could imply an important decrease in the funding they receive.

3. REGULATE RELATIONS BETWEEN PARTIES AND THE MEDIA

Whether we like it or not, the communications media are among the most important actors in our contemporary democracies. During election campaigns, the media become even more important since their news coverage or analytical programs can sway the vote of a not insignificant percent of the electorate. If election results are very close, such as in the case of the 2006 presidential race, media influence can be decisive.

The media can have a positive or negative influence. They can weigh in heavily for one party or another and act in consequence. In fact, it is not unusual for the media to have a "preference"

for certain candidates or to espouse a discourse and editorials favoring one over another. In this context, we should start thinking about mechanisms to promote media pluralism, which is the only thing that would allow us to limit the media's influence, since the preferences of one medium would be compensated by the preference of others, and could even be neutralized so they would not be exposed as biased in the face of their competitors. Media pluralism fosters a diversity of voices, beliefs and discourses and ends up substantially nurturing public debate.

Electoral reform on these matters should at least prohibit direct purchase of publicity in the broadcast media, where most party funding currently goes. It is an absurd form of public "subsidy" that only makes for private profit, mainly for the two major television corporations. There are several options for avoiding this waste. One is to centralize all purchases of publicity spots in the hands of the Federal Electoral Institute so that they will be acquired for all the parties before the race starts. Another more radical but much more beneficial solution is to forbid all publicity in the broadcast media. It is important for the parties to learn to live without buying television air time, but to earn coverage with good speeches and news of general interest to the public. The citizenry is asking for ideas and proposals, not slogans and jingles.

4. EXPAND MECHANISMS FOR MONITORING PARTY RESOURCES

In recent years we have seen important scandals over illicit party funding activities. Naturally, Mexico has not cornered the market on this particular item

worldwide: similar scandals have broken in Spain, Italy, Germany and the United States, to mention just a few. But it certainly is true that the level of criminal activities we have seen in Mexico is considerable and has involved at least two of the three main political parties.

There is much to be done in this area, but we could begin at least with effective monitoring of the so-called "pre-campaigns," on the one hand, and on the other, give electoral officials the authority to investigate "informal" contributions that different associations and groups give parties and candidates. Often toward the end of the campaign,

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when the parties are about to go over their spending limits, ads sponsored by "civic associations" or "citizens groups" appear, pushing for a vote for one candidate or another. This allows us to suppose there is a funding network parallel to the official one. This should not only be banned —as a matter of fact, it already is— but also punished.

In any case, most of the illegal resources flowing into campaigns continue to come from the public coffers. We would have to conclude, then, that effective supervision of campaign spending would necessarily mean an improvement in monitoring of public institutions, which often use their resources to pay for the campaign activities of candidates running on the ticket of the political

party their directors or ministers are members of.

5. GRADUAL RENOVATION OF ELECTORAL BODIES

In recent decades, the electoral road as the only legitimate way to access public positions has required the construction of a complex electoral institutional framework. This institutional, normative framework has become an example for many countries, even some with consolidated democratic systems. Electoral bodies' successful functioning has been based on their good institutional design. But some matters have been neglected (perhaps deliberately) and should be corrected in a new electoral reform. One of these questions is the renovation of the members of the highest electoral body.

Once the presidential election was ruled upon, six of the seven judges of the Electoral Tribunal finished their terms of office; one remained: Judge Alejandro Luna Ramos, who had replaced Don José Luis de la Peza when he died. The six were replaced by people who in a few weeks will have to make important decisions about local elections held during the second half of the year. Would it not be better for the judges to be replaced little by little and not all at once?

The same thing happens with the administrative electoral authorities. Federal Electoral Institute councilors are not replaced gradually either. This institutional arrangement is not very beneficial for the continuity of electoral activity and only ensures that every time officials are replaced, there is a long phase of adaptation and learning. This should be changed as soon as possible.

6. GUARANTEE CONTENDERS’
FREEDOM OF EXPRESSION

During the 2006 campaigns, an issue came up that had not been discussed before and was of the greatest importance: the freedom the contenders have to bad-talk other candidates. The so-called “negative campaigns” were new to our political scene and in some cases ended up in electoral court.

If we look at how campaigns are held in other countries, we would conclude that the law must ban only statements that clearly defame a candidate or accuse him/her of having committed a crime or are simply insults without any kind of positive message. For example, it should be forbidden to say that such-and-such a candidate is a child molester, but not that his/her election could represent a “danger” to Mexico or to its financial stability.

Campaigns are an ideal moment for presenting the electorate with all

the elements needed to decide which party to vote for. Citizens’ criteria can only be adequately formulated if they have enough information, both negative and positive, about those who are asking for their vote.³ Raoul Vaneigem’s thinking should also be taken into account: “There is no idea or statement or belief that should be free of criticism, scorn, ridicule, humor, parody, caricature, imitation.... Anything that sanctifies kills. Execration arises from adoration. Sanctified, the child is a tyrant, the woman an object, life, a disembodied abstraction.”⁴

All these points should be studied during the discussion Mexico’s Congress will have to have about the new electoral reform. It is encouraging to think that these important issues are all based on the supposition that we already have a functioning electoral system which merely requires some adjustments. Therefore, it is not a matter of reinventing the way we organize elec-

tions but of improving it, something very positive in light of our bad historic experiences. **MM**

NOTES

- ¹ Jaime Cárdenas’s interesting narration of two unique cases of this kind can be found in his book *Lecciones de los asuntos Pemex y Amigos de Fox* (Lessons on the Pemex and Friends of Fox Affairs) (Mexico City: IJ-UNAM, 2004). Another book on the same subject is Lorenzo Córdova and Ciro Murayama, *Elecciones, dinero y corrupción: Pemexgate y amigos de Fox* (Mexico City: Cal y Arena, 2006).
- ² For a novel look at this, see Bruce Ackerman and Ian Ayres, *Voting with Dollars. A New Paradigm for Campaign Finance* (New Haven, Conn. and London: Yale University Press, 2002).
- ³ Thinking about the role of freedom of expression within a democratic political system can start from Cass Sustein’s important book *Democracy and the Problem of Free Speech* (New York: The Free Press, 1993). The same author defended a dissident discourse and its necessity in the democratic regeneration of any country in her *Why Societies Need Dissent* (Cambridge: Harvard University Press, 2003).
- ⁴ Raoul Vaneigem, *Nada es sagrado, todo se puede decir* (Barcelona: Mesalina, 2006), p. 12.

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