

Mexico's New Electoral Reforms Consolidating the Rules of Political Competition

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A long-simmering debate over new proposals for the reform of Mexico's electoral system came to a head in August, focusing on the proposal to ban registered political parties, private institutions and individuals from purchasing air time in the broadcast media during campaigns. Arguments on both sides were heated, charging rampant media manipulation and profit-seeking on the one hand and the violation of the freedom of expression on the other. Hearings attended by some of the country's best known media figures put the spotlight on the congressional debate, which finally ended in the passage of a bill severely curtailing air time used during electoral campaigns, renovating the Federal Electoral Institute and limiting campaign length.

More than 10 years after the 1996 electoral reform, then considered "definitive," once again a profound process of deliberation and negotiation has

opened up among the country's main political forces about the legal-institutional framework for federal elections starting in 2009. The 1996 rules of the game for electoral competition basically hinged on the construction of trustworthy electoral institutions: the make-up of the Federal Electoral Institute (IFE) and the Electoral Tribunal of the Federal Judiciary (TEPJF). Today, this has been complemented by a new constitution-

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al design dealing with some of the main problems linked to forms of political competition that put the country's political stability at grave risk during the 2006 elections.

To understand the central thrust of the new electoral reform, it is useful to compare the conditions in which the 2000 presidential campaigns were waged with those of the 2006 elections, which were decisive in sparking both society and the national political forces' determination to reform.

The year 2000 certainly opened up the possibilities for the consolidation of democracy in Mexico with the alternation in the presidency. That year, competition took place without too many contretemps and electoral authorities' performance was not severely questioned. This was due in part to the wide margin by which National Action Party (PAN) candidate Vicente Fox took the election, but also to the electoral authority's correct organization of the elections and management of all the information involved in the process. Another contribution to the social and political calm of that decisive moment

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in the country's democratic evolution was the acceptance of defeat by Institutional Revolutionary Party (PRI) candidate Francisco Labastida and the attitude of outgoing President Ernesto Zedillo, who lent certainty to the electoral results when he recognized the victory of the opposition party candidate.

The 2006 elections were totally different for several reasons. In the first place, in contrast with the council in charge of the 2000 presidential elections the newly elected IFE General Council, did not have the unanimous support of all congressional caucuses, thus bringing its legitimacy into question; this was an important element that muddied the waters. At the time, it was considered something that could spark serious doubts about the impartiality of the organization of the 2006 elections because the fact that the Party of the Democratic Revolution (PRD) had not participated in electing the council introduced a principle of illegitimacy in its actions. This concern would become open discontent after the president councilor's questionable statements following the close

of voting: before the legal process had concluded, he practically gave the win to the frontrunner in the balloting.

In addition, the fact that one candidate had remained consistently ahead in the polls before election day significantly changed the way that his competitors waged their campaigns. The political work that Andrés Manuel López Obrador, the candidate for the Coalition for the Good of All, had done as mayor of Mexico City had given him enormous visibility at the formal start of the campaigns. So, with this head start, to his rivals, López Obrador looked like the enemy to beat, which led the campaigns to take a different tack from previous elections: a high dose of political belligerence led to what different analysts considered a dirty war against the frontrunner. In that context, the media played a clear role: it was a powerful influence on both relations among candidates and their links to the citizenry. For several months it was evident that the parties were willing to invest a large part of their campaign funding in their media outreach.

The fact that the campaigns were waged in large part in the media gave the latter great power to negotiate and make political decisions, and they used it to impose conditions on the parties and candidates. It is well known, for example, that in the last months of the Fox administration, changes were made in the legislation governing broadcast media—remember the so called “Televisa Law”—¹ to increase the privileges of Mexico's communications monopolies. The fact that the parties had to directly negotiate the time slots and rates for airing their ads with the communications consortia in the midst of tense political competition, gave the media a degree of influence seldom seen in Mexico's modern history. As some of their main representatives have admitted, media entrepreneurs pressured and subjected the political class as a whole to humiliating treatment.

It is absolutely necessary to keep all this in mind to be able to understand the content and scope of the recently approved electoral reform.² Thus, for example, the questioning of the IFE General Council's performance, and particularly that of its president, led to an agreement on its comprehensive, step-by-step overhaul.³ The law also mandated that this should be carried out right away, stipulating that within 30 days of the legislation going into effect, the Chamber of Deputies would elect a new IFE General Council.

Thus, and despite the fact that it was never clearly proven that the election had been fraudulent, the removal of the members of the IFE General Council was accepted, even by the PAN, in order to reach a comprehensive agreement on

new legislation in this matter. It should also be emphasized that many sectors had demanded the council be renovated in a staggered way in order to ensure the experience thus far accumulated not be lost.

Fundamentally, the changes proposed created a new model of relationships among political parties, media and election campaigns. The aforementioned media heavy-handedness during the 2006 elections, which turned into multi-million-peso profits for their owners, created the conditions for the political parties to be able to propose a radical shift in their relations with the media.⁴

The new norms are not just a technical or financial change in the relationship between parties and the media. What has happened is a profound break with the forms of political interaction that had made the media a de facto power with the capability of subordinating the institutional powers

The electoral reform thus affirms a model of representative democracy that had been significantly infringed upon by media pressure. Both the form and the content of the legislative changes implied a major reconfiguration of power relations, which sparked an unprecedented political and ideological reaction by the affected groups. As everyone knows, the media consortia mounted an intense campaign to impugn and discredit the changes that bring with them a substantial reduction in their income from the sale of political ads. In fact, the constitutional reform contained several stipulations that were unacceptable from the point of view of these entrepreneurs' interests. Among the most important are:

- Prohibiting the purchase of air time for electoral spots directly by political parties or others on television and radio.
- Prohibiting the purchase by any individual or legal entity of radio or television ads aimed at influencing electoral choices.
- Stipulating that parties will disseminate their views in the broadcast media exclusively in the time slots allocated to the government by law.
- Designating the IFE as the body in charge of administering and distributing government air time among the parties and authorizing it to cancel radio and television broadcasts if they violate electoral legislation.
- Prohibiting government ads during electoral campaigns.
- Reducing presidential campaign length from 186 to 90 days and midterm federal elections for deputies to only 60 days. Pre-campaigns will also be limited to two-thirds the time allotted to the campaigns themselves.

As a whole, all this implied a considerable reduction in sales of air time for the broadcast media. That is why, arguing that they were supposedly defending freedom of expression, the big radio and television networks openly challenged the legislature both through direct aggression in the open Senate hearings on the issue and in editorials and negative spots inserted in their regular programming. They also tried to influence state legislatures to vote against the bill passed by the federal Congress because a constitutional reform requires the approval of at least 16 of Mexico's 31 state legislatures to go into effect. They were joined in these efforts by some locally important political figures interested in promoting their media image to create more opportunities for themselves in the future. However, despite all the pressure, the reform kept gaining strength, getting important support from different parts of the public and giving rise to broad consensuses that ensured the resounding result of only a single state legislature (Coahuila) voting it down.

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In this context, the reform's passage has effectively made for a reordering not only of the institutional variables in electoral play, but the reestablishment—even if only partial—of the sovereignty of state institutions through the subordination of a de facto power that had been increasing its range of economic, political and cultural influence in recent decades.

In addition to the reforms already described, the Congress also established a series of complementary stipulations that have the 2006 elections as a reference point. For example, unions and syndicates of any kind are forbidden from participating in the creation of political parties, since this is reserved exclusively for the citizenry through their free, individual affiliation. It should be remembered here that the participation of teachers in the founding and leadership of the New Alliance Party was roundly criticized.

Negative campaigning has also been prohibited, obligating the parties to abstain from making denigrating and/or slan-

derous statements about institutions, parties or individuals. I already mentioned how belligerent the 2006 campaigns were and their shift from the confrontation of ideas and programs to personal disqualification and fear-mongering. Although it is desirable that the campaigns be pro-active and stay away from slander and insults, it is also the case that electoral authorities will have to be extremely careful to not confuse the latter with the legitimate, necessary criticism political opponents must make of each other.


Even more polemical than this last prohibition is the one that stipulates that the head of the controller's office of the Federal Electoral Institute will be designated by the Chamber of Deputies itself, which throws some doubt on the autonomy that office will enjoy. There has also been a lively debate about autonomy in the relationship between the IFE and local electoral bodies, since the constitutional reform opens up the possibility that, through a specific agreement and at the request of competent state authorities, the IFE can take over the organization of local elections.

We should not forget that the precise profile and scope of the constitutional reform will depend to a great extent on the regulatory legislation that still must be formulated. In effect, then, a great deal remains to be determined with regard to the relationship among the communications media, money and political parties, between the IFE and the Congress, or with regard to the electoral authorities' supervisory powers over the parties. Nevertheless, the general lines of the constitutional reform are a good starting point for creating


a more solid, dependable basis for Mexico's system of competition and representation. **NMM**


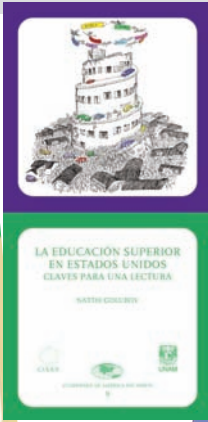

NOTES

- ¹ See my article in issue 77 of *Voices of Mexico*.
- ² The reform began to take shape in the framework of the broad discussion about the reform of the state in Mexico, and was considered a priority on that agenda. It received the almost unanimous backing of the national political forces: in the Chamber of Deputies it was passed with 361 votes; in the Senate, with 111; and 30 of the 31 state and local congresses ratified it. The opposition in some of the congresses came from minority parties that felt their survival to be threatened since the distribution of public monies and broadcast times will be based fundamentally on the number of votes each party received in previous elections.
- ³ The legal procedure for beginning practically immediately the overhaul of the council is stipulated in Transitory Article Four of the reform, which states, "The president councilor will serve a term of six years and can be reelected once. The electoral councilors will serve a term of nine years, will be replaced in a staggered fashion and cannot be re-elected. Both the president and the other councilors will be elected successively by a vote of two-thirds of the members present at the time of the vote in the Chamber of Deputies, after being proposed by the parliamentary caucuses and a broad consultation with society." Their election will take place as follows: "a) A new president councilor will be elected whose mandate will conclude October 30, 2013. He or she may be re-elected for a single term according to the terms of paragraph three of Article 41 of this Constitution; b) Two new electoral councilors will be elected, whose mandate will conclude October 30, 2016; c) When this decree goes into effect, of the eight currently sitting electoral councilors, three will be elected to have their mandates end August 15, 2008, and three who will continue to sit until October 30, 2010; d) By August 15, 2008, three new electoral councilors will be elected whose mandate will conclude October 30, 2013."
- ⁴ In 2006, more than half the public funds allotted to political parties were estimated to have been earmarked for media ads. It should be noted that between 1994 and 2006, 4.5 billion pesos were spent on ads in the broadcast media. See Alonso Urrutia's article "Entre 1994 y 2006 se gastaron 4,500 millones en radio y TV," *La Jornada*, September 7, 2007.



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