

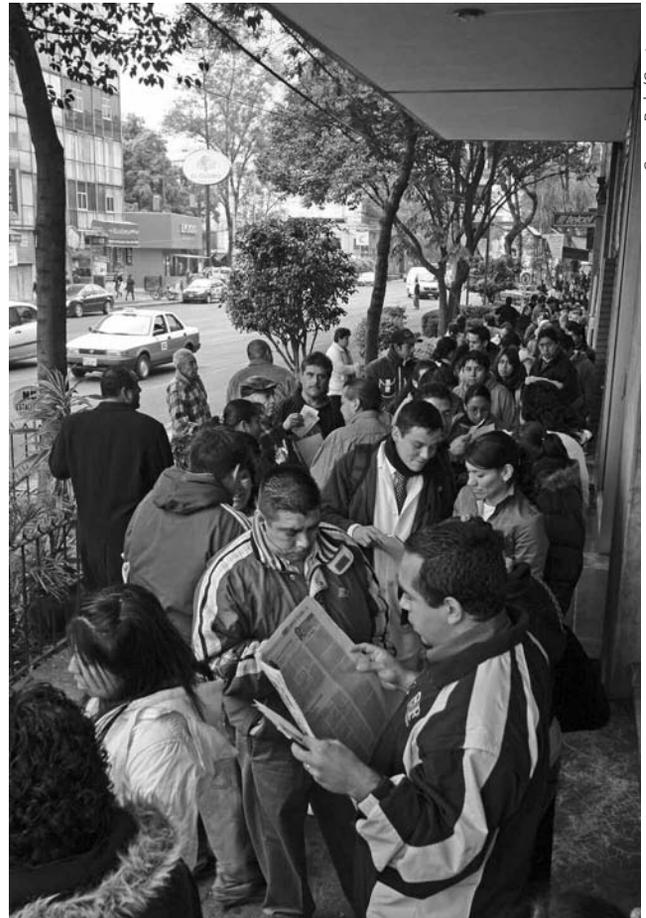
The 2009 Elections Perspectives and Challenges

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FOR A START, WHAT'S AT STAKE

In this year's midterm elections, federally, only the Chamber of Deputies will be replaced. However, the votes will be very important, at least in the following ways: a) the new norms established by the 2007-2008 electoral reform will be put to the test; b) eleven states will be holding local elections at the same time as the federal elections, in three cases to elect new governors: Nuevo León, San Luis Potosí and Sonora; c) conditions surrounding these elections are extremely complex, both regarding the economy —we are in the midst of a full-blown world crisis— and public safety —we are experiencing unprecedented violence including the omnipresence of organized crime nationwide.

In this sense, the 2009 elections bring with them numerous implicit variables that make them both very delicate and crucial, and a terrain in which the country's short- and medium-term future will play out. This is the case, first of all, because the elections' successful organization and imple-



People in line to get their voter's IDs.

mentation depends on the 2007-2008 electoral reform arriving at safe harbor. This reform was a significant government effort to improve conditions for competition and the democracy of our electoral system by introducing a completely new model of political communication.¹

In the second place, they are crucial because, the results will probably largely redefine the existing balances on the country's political map, both nationally and locally.

In the third place, these midterm elections will take the temperature of the public's evaluation of the performance of one-third of state governments and the federal administration. They are a kind of cut-off point for a look back.

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In the fourth place, they are critical because probably the big problems plaguing the country will be planks of the party platforms, and they will allow the citizenry to express its opinion about the different proposals and solutions offered during the campaigns.

Finally, because given the climate of violence reigning in the country, participation in the elections indicates a preference for peaceful, democratic forms of resolving our ideological differences. In this sense, massive voter participation like we saw in 1994 is devoutly to be wished; those elections, with their clear differences, were also characterized by a climate of violence.

THE REFORM PUT TO THE TEST

Elections are the times when the institutions and rules designed to organize and govern them are put to the test; this is just as obvious as it is indisputable. The efficacy of what is designed at a legislator's desk has to be validated in its practical application. This is even more evident when, as is the case of this year's elections, many new rules are being applied that were introduced by the 2007-2008 reform.

However, the very obviousness of this statement brings to the fore the great challenge involved in the 2009 elections.

Some of the most important new provisions introduced by the reform that will be applied for the first time in this year's elections, making them an "acid test," are: the model for regulating political communication on radio and television, centering on the ban on purchasing publicity spots and the parties' use of government slots for their campaign ads; the new monitoring procedures and a reformed body to apply them; the Federal Electoral Institute's ability to implement expeditious administrative procedures to stop and sanction illicit actions by parties and candidates (including its controversial attribute of controlling negative publicity); the revised formula for public campaign funding; the regulation, control and monitoring of candidate selection inside the political parties; the redesigned structure and jurisdiction of the Electoral Tribunal.

I would emphasize that this is nothing new. At the time, the 1979, 1988, 1991, 1994 and 1997 elections were also tests of the rules introduced by the reforms that preceded them.² However, there is one big difference: this time, the opponents to these new rules are numerous and very powerful. The previous reforms never faced this kind of an adverse environment.



The 2007 constitutional reform gave the IFE yet another particularly onerous, but equally necessary, task: overseeing public radio and television time slots the parties have the right to.

Today, several large business groups and media consortia, whose interests were gravely affected by the reform, have openly stated their opposition to the new rules. They have filed several requests for injunctions against the constitutional and legislative changes; they operate and lobby against them; they manipulate information to undercut the meaning and scope of the reform; and they constantly challenge electoral authorities, disregarding their rulings and not fulfilling their own obligations. In short: they are betting on its failure.

The changes introduced in 2007 and 2008 were not only a necessary adjustment of electoral norms to the demands of the new, changing political reality—the vacuums, inconsistencies and undesired effects of the norms introduced a decade before, in 1996, had begun to be dangerously problematic—and an attempt to resolve the problems arising from the controversial 2006 presidential election.³ They were also a vindication of state sovereignty *vis-à-vis* the blackmail and conditions the big radio and television licensees were imposing on the political process.⁴ The reaction of a large part of the media licensees and their defenders to the reform and the new model of political communication shows just how much their interests have been affected by the constitutional changes of late 2007.⁵

The lessons of this year's elections will have to be reflected on and evaluated to make the necessary adjustments to legislation for future electoral processes—the 2012 elections will in many ways be more complex than this midterm election. But it is a matter for concern that this necessary revision of the norms could be used as a pretext to try to reverse the recently introduced communications model.

These are not merely the warnings of soothsayers. There is a growing part of the political class—the same part that has been reluctant to concretize the pending aspects of the legislation left over from the reform, among them the new Law of the Right to Reply—that is willing to try to smooth over the animosities sparked among broadcast media owners caused by the reform's passage, and has said straight out that the reform's content should be revised.



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THE INSTITUTIONAL CHALLENGE

Undoubtedly the Federal Electoral Institute (IFE) is the most finely honed and most accomplished public body of the entire transition to democracy in Mexico. Born in 1990, it marked a watershed in institutional design as the country's first autonomous, constitutionally established body—even though its president would be the serving minister of the interior until 1996—that was given the responsibility of organizing Mexico's elections.⁶

The idea of a government body independent of the administration that would take charge of organizing elections, an old demand of the opposition, could no longer be postponed if there was to be confidence and certainty surrounding the elections as the legitimate, democratic way of acceding to power after the ominous 1988 experience.

The IFE was thus born with a clear end: to make the elections transparent so the votes could be counted effectively. For that, clear norms, effective controls and the gradual process of putting individual citizens, and therefore the public, in charge of the electoral body all became crucial—the term “citizenization” was coined, not, as many erroneously think, to mean that the IFE decision-makers are representatives of the citizenry, but simply that they are not prisoners of the political parties and their partisan interests.

That original aim was obviously successful. Since 1994, practically no one has questioned the way federal elections have been organized.⁷

However, the substantial increase in public funding of political parties and the resulting need to monitor their finances that was included in the 1996 reform created a new set of demands on the IFE as the monitoring body. Since that time, in addition to having to organize trustworthy elections, it has had to face the challenge of auditing political parties' books and sanctioning them for any irregularities found. This was no simple task, due to their natural complexity and the many legal—and political—obstacles the IFE had to deal with. However, it successfully fulfilled its task, as is shown emblematically in the famous “Pemexgate” and “Friends of Fox” cases.⁸

As with the task it was founded to perform, its strict application of the law, without excess or faltering, has allowed the IFE to fulfill in general the complex function of monitoring party income and expenditures.

As if that were not enough, the 2007 constitutional reform gave the IFE yet another particularly onerous, but equally necessary, task, given the disruptive effect of the broadcast media during the 2006 elections. It is a task that would be very difficult to carry out: overseeing the public radio and television time slots the parties have the right to use, as well as to monitor compliance of the new norms and, if necessary, to sanction violations by parties, candidates, public officials, broadcast licensees and private citizens.⁹

The reform set the IFE, once again, a historic challenge without relieving it of the responsibilities it had already been fulfilling. Becoming the authority in charge of administering government broadcasting time slots during election processes and being responsible for monitoring compliance with the new radio and television broadcasting norms, as well as for imposing sanctions in the case of non-compliance, is added on to its mandate of organizing and carrying out the election processes and monitoring party spending and income. Its ability to fulfill this new charge will depend on whether the recipe that was successful in the past continues to be its maxim for the future: being neither rash nor fearful in the application of the law and sanctioning without excess or defect any transgression against it.

TO CONCLUDE

As we said, the 2009 elections bring with them numerous challenges. On the one hand, the political, social and economic context is complicated and even adverse; on the other hand, the complexities of implementing the renovated electoral system that came out of the last reform are acute. In this sense, for the democratic logic to prevail at the end of the day, many actors are involved, and a single one or even a few of them cannot be held responsible exclusively. The electoral authorities must face the challenges of successfully applying the new norms and contain the natural tendency toward confrontation that comes with electoral competition between parties and their candidates. The parties, for their part, must be up to the task and not turn the election into an arena for mud-slinging and affronts that will irremediably electrify the political climate. Radio and televi-

sion broadcasters must understand that the rules of the game have changed, and that, while those rules are perfectible and can be changed in the future, for the time being, they are what they are, and they will have to be followed. We citizens have the responsibility of following what happens in the electoral arena and creating a context that demands that the authorities, parties and media be up to the task the times set for them. It is the responsibility of all of us to contribute to this task. A great deal is at stake for us in this rather “unattractive midterm election”: nothing more or less than the viability of our democratic system as the peaceful way to resolve our conflicts and differences. Failure would open the door to the powers —both legal and illegal— that dangerously threaten our living together in society. ■■■

NOTES

- ¹ There are very few systematic studies of the 2007-2008 electoral reform. The most complete work on the topic is the collection of essays in Lorenzo Córdova Viannello and Pedro Salazar Ugarte, *Reforma electoral 2007. Hacia un nuevo modelo* (Mexico City: Tribunal Electoral del Poder Judicial de la Federación, 2008).
- ² For a historical, systematic review of the various electoral reforms and their impact on the transition to democracy, see Ricardo Becerra, Pedro Salazar and José Woldenberg, *La mecánica del cambio político en México. Elecciones, partidos y reformas* (Mexico City: Cal y Arena, 2005).
- ³ An analysis of the 2006 elections from different perspectives can be found in Jacqueline Peschard, comp., *2 de julio. Reflexiones y alternativas* (Mexico City: UNAM, 2007).
- ⁴ About the growing power of Mexico’s media consortia, see Raúl Trejo Delarbre, *Mediocracia sin mediaciones. Prensa, televisión y elecciones* (Mexico City: Cal y Arena, 2001); and Raúl Trejo Delarbre, *Poderes salviajes: mediocracia sin contrapesos* (Mexico City: Cal y Arena, 2005).
- ⁵ See Pedro Salazar, “La reforma constitucional: una apuesta exitosa,” Lorenzo Córdova Vianello and Pedro Salazar Ugarte, op. cit.
- ⁶ About the IFE’s characteristics and the expectations it sparked when it was created, see Arturo Núñez, *La reforma electoral de 1989-1990* (Mexico City: Fondo de Cultura Económica, 1994).
- ⁷ Ricardo Becerra, Pedro Salazar and José Woldenberg, op. cit., pp. 354 on.
- ⁸ These cases are reconstructed in Lorenzo Córdova and Ciro Murayama, *Elecciones, dinero y corrupción. Pemexgate y Amigos de Fox* (Mexico City: Cal y Arena, 2006).
- ⁹ In late January 2009, as the primaries, now explicitly regulated by electoral legislation, started getting underway, the country’s biggest television broadcasters failed to live up to their obligation to broadcast the political party spots the IFE had sent them. It was an open challenge by the television consortia to the new norms and the IFE’s authority. This sparked a series of administrative procedures against them.

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