

The Importance of Setting Agendas President Calderón's Proposal For Political Reform

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Probably the great issue pending on the political agenda is the one known as the “reform of the state.” For more than 20 years, forums, consultations and conferences have been held and negotiating tables set up in Congress. But, the little that has been passed is linked primarily to the interests of our political parties, especially regarding elections.

For some, this change should be the founding moment of a renovated state and the consolidation of the transition process in which the whole of society makes a pact about the institutions everyone wants. Others propose fostering a clear agenda of reforms that by their very dynamic would modernize and update the rules.

Thus, the political reform —or the reform of the state— can be defined as the gradual, incremental, ongoing process of evaluation and renovation of institutional arrangements, so that the state can continue fulfilling its basic functions: providing security and stability.

Last December 15, President Felipe Calderón introduced a bill to the Senate putting forward his agenda for political reform. Some actors rushed to disqualify it saying that no consensus had been reached on it with the Congress. Others supported it, arguing that it delineated the agenda for discussion.

WHERE ARE WE COMING FROM?

Before analyzing President Calderón's reform, it is a good idea to know where we are coming from and what is needed at the current juncture.

The system designed in 1917 emerged from the need to rebuild the state after the revolutionary period. This was done through political centralization, both in the sphere of

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Two governors, Marcelo Ebrard of Mexico City's Federal District and Fidel Herrera of Veracruz, discuss the president's proposal.

the president's normal faculties and in the construction and consolidation of a hegemonic party based on an authoritarian patronage system and corporatism. Thanks to this, the party of the regime almost completely monopolized political posts, inhibiting the appropriate functioning of the checks and balances written into the Constitution.

Four conditions came together to achieve this: 1) the presidential system of government established in the Constitution; 2) a unified government in which the hegemonic party controlled the three branches of the federal government and the majority of the state governorships and legislatures; 3) the highly disciplined party, which consolidated itself by banning the reelection of legislators and municipal authorities; and 4) the de facto leadership the president exercised in the

party thanks to the mechanisms he wielded for rewarding and punishing.

Starting in the 1960s, a gradual liberation of the regime began in the face of demands made by actors who questioned its entire legitimacy. The changes were mainly to the electoral sphere, permitting greater certainty in the vote count and increased political pluralism.

In 1997, there stopped being single-party majorities in the Chamber of Deputies, followed by the Senate in 2000. The president's constitutional powers were also limited to an important extent in the last decade, or were transferred to other bodies like the Federal Electoral Institute, the Electoral Tribunal of the Federal Judiciary, the Federal Auditor's Office and the Supreme Court. The local government for Mexico City's Federal District is now elected instead of appointed by the president. Congress was given the power to appoint or ratify public servants, and municipalities were strengthened.

However, since the institutions were designed for the domination of a hegemonic regime, democracy has been ineffective in providing the reforms our country needs. In this context, the political reform should have four characteristics:

- 1) To modernize institutions, making possible a relationship of responsibility between representatives and represented;
- 2) To generate mechanisms so that political actors can overcome the competitive dynamic created during electoral campaigns and move on to cooperation and agreements in decision making;
- 3) To ensure that the incipient democracy can be governed in different scenarios of the distribution of power; and
- 4) To open channels for public participation in the decision-making process.

There is a great deal to reform, and there are other agendas that are equally pressing, like labor, energy or taxes. However, all bills are processed through political institutions and procedures that have not been revised in decades and whose time-frame horizons are limited to the next election.

This means that to the extent that these procedures are not revised to their very core, the results of further reforms will be similar to the ones we have already had. Therefore, the political reform is the necessary condition—though insufficient in itself—for dealing with the other issues.

PRESIDENT CALDERÓN'S BILL

Now that the current challenges to political reform have been described, let us review the 10 points of President Calderón's bill:

- 1) *Consecutive reelection of federal and local legislators.* Permitting the reelection for consecutive terms of federal legislators for up to 12 years and raising the ban on consecutive election for local legislators, so that each state can decide the issue for itself.
- 2) *Consecutive reelection of mayors and heads of boroughs.* Raising the ban on consecutive reelection for mayors and heads of boroughs, so that each state can decide for itself.
- 3) *Reducing the size of Congress.* Creating a Chamber of Deputies with 400 seats: 240 elected by absolute majority by district and 160 by the principle of proportional representation. Creating a Senate with 96 seats, three per state, decided by the 25-percent-plus-remainder method.
- 4) *Instituting a run-off round of voting for presidential elections.* This would require that the president-elect must have 50 percent plus one of the votes. If no candidate won that amount in the first round of voting, the run-off ballot would be a contest between the two front-runners. Elections for Congress would take place on the date of the second round of voting for the first executive.
- 5) *Increasing the voting threshold to 4 percent.* Stipulating that for a political party to retain its official status or legal registration and obtain seats in Congress, it would need a minimum of 4 percent of the vote.
- 6) *Creating the legal category of independent candidacies.* Allowing individuals to get on the ballot for all elected posts without having to be nominated by a political party. They would have to be backed by at least 1 percent of the citizens registered to vote in the corresponding district.
- 7) *Creating the legal category of citizen's bills.* Recognizing the right of citizens to propose bills of law or decrees when they have the backing of at least 1 percent of the registered voters nationwide.
- 8) *Allowing the Supreme Court to introduce bills in its field of jurisdiction.*
- 9) *Creating the category of preferential bill and referendum* to be presented by the president for constitutional

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reforms. Give the president the faculty of introducing two bills before Congress in each legislative session that would have to be voted on in committee and on the floor before the end of that session. If Congress did not vote on them in committee and on the floor, the bill would be considered passed as initially presented. Preferential bills for constitutional reform would not go into force before having been approved in a referendum.

- 10) *Introducing the partial veto for legislation and the federal spending budget.* Explicitly establishing the president's right to make either partial observations about, or completely veto the federal spending budget. If the executive completely vetoed the bill and the two-thirds majority required for Congress to overturn the veto did not materialize, the existing legislation would continue in force until a new bill passed. The executive could completely or partially veto the law on revenues passed by Congress as well as any other legislation. If it were a partial veto and the time limit was up, the federal budget for revenues that had been in force in the previous fiscal year would continue in force.

WHAT DOES PRESIDENT CALDERÓN'S PROPOSAL REPRESENT?

President Calderón's bill consists of two central elements. The first is the modernization of representative democracy through something that all democracies have enjoyed since the nineteenth century except our own and that of Costa Rica: the consecutive reelection of legislators and mayors. On the other hand, although in a rather exaggerated way *vis-à-vis* similar models,¹ the proposals for preferential bills and presidential vetoing of the budget create a balanced presidential system in which the executive and legislative branches have checks and balances to monitor the other and withstand their onslaughts. However, these proposals are not very popular.

Two proposals would improve the performance of our democracy as long as consecutive reelection were established:

independent candidacies and the popular (citizen's) referendum or proposition. As long as he or she had politically responsible officials available to him/her, a non-partisan candidate would have incentives for being accountable and an effective competitor. A responsible Congress, for its part, would deal more effectively with citizens' referendums.

Other proposals are popular, but would not improve our democracy's performance in and of themselves. Reducing the size of Congress does not attack the problem of effectiveness, since legislators get involved or not in parliamentary tasks to the extent that it furthers their political future, and this does not happen if there is no possibility of being reelected to the same post. Increasing the percentage of votes required for a party to keep its registration or to get seats in Congress also does not make for a better democracy since the problem is not the number of parties in our electoral system, but their disengagement with the electorate.

The other reforms could either not achieve the desired effects or would not be very useful in practice. Although it is to be expected that holding the second round of voting for the presidency at the same time as electing Congress would help create a majority for the winner's party, the outcome is still uncertain. Finally, giving the Supreme Court the right to present bills does not mean that they would not have to be lobbied.

WHAT CRITICISMS HAVE BEEN LEVELED AT PRESIDENT CALDERÓN'S BILL?

As always in the political game, the first executive's proposal has met with criticism by different political groups. The following are the main ones:

- 1) *The reform would weaken Congress.* For some, the creation of the preferential bill would subject the legislative branch to the demands and time frame of the executive. Actually, the proposal would balance the president *vis-à-vis* the two chambers by giving him/her the power to set the agenda. The possibility that the preferential bill would be approved if Congress does not act is very remote. In any case, the legislature would not lose power, but the political leaders who slow up debate as a form of blackmail would. If that were not enough, the preferential bill does not imply that Congress has to approve it, or that the executive

is not obliged to design a communications strategy or to carefully consider how appropriate it is to present polemical bills. For example, the legislature would probably immediately vote down an unpopular proposal.

- 2) *Several of the proposals are unpopular*, like the consecutive reelection of legislators and municipal authorities. Although polls state that consecutive reelection only has about 20 percent approval among the public, when citizens are asked if they would like to evaluate representatives at the end of their terms, approval goes up to more than 50 percent. Therefore, the acceptance of the measure is a matter of how the question is phrased, not the issue itself.
- 3) *The executive's proposal is inconsistent*. Some critics add that it is contradictory. However, if we leave to one side the proposal of increasing the threshold of representation to 4 percent, the rest of the bill seeks to modernize our democracy, making it more plural within the framework of a presidential system.

WHAT ARE ITS CHANCES OF PASSING?

Any constitutional reform bill requires a two-thirds majority in the legislature. Therefore, cooperation is required of the party with 47.4 percent of the seats in the Chamber of Deputies and 25.7 percent in the Senate: the Institutional Revolutionary Party (PRI).

Last February 23, the PRI Senate caucus presented its political reform bill, and, at the time of this writing, its Chamber of Deputies caucus is expected to present another.

The PRI proposes something that can be understood as making the system more parliamentary. That is, the belief that we would look more like a parliamentary regime if more powers are taken away from the executive branch and transferred to the legislature.

Comparative evidence shows that the argument of “parliamentarization” is unfounded. In parliamentary systems, the executive is chosen from and depends on the support of a parliamentary majority. The dynamic of government is to keep the majority group cohesive, not to monitor the prime minister. This is why legislative bodies in parliamentary systems are structurally weak.

If the PRI proposal were implemented, it would take maneuvering room away from the executive and could create greater ineffectiveness than the public sees. If what is want-

Two proposals would improve our democracy's performance if consecutive reelection were established: independent candidacies and the popular (citizen's) referendum or proposition.

ed is a strong Congress, it is also necessary to have an effective administration.

Nevertheless, if the PAN and the PRI find common points and issues for negotiation, a minimal scenario for passage could exist, assuming that the left parties do not participate and the PRI caucus in the Chamber of Deputies does not present a totally different reform bill. The proposals the PRI might make include a mechanism for replacing the president in his/her absence or inability to fulfill the functions of office; the ratification of the cabinet by the Senate; the consecutive reelection of federal and local legislators; a reduction of the size of Congress; a mechanism for maintaining the previous spending budget if the Chamber of Deputies cannot pass one in time; creating the mechanism of popular consultations for important decisions; making prosecutors' offices autonomous; and a revision of the system of immunity for certain public servants.

Several factors will have an influence on the passage of some combination of political reform proposals. The capacity the political actors have for getting public approval for their agendas will be important. Electoral timetables will also play a significant role in negotiations.

And, above all are the calculations of those perceived as “presidential material.” For them, supporting or blocking this or that issue, no matter how important, could increase or decrease their possibilities for 2012.

For example, behind the PRI bills in the Chamber of Deputies and the Senate could be State of Mexico Governor Enrique Peña Nieto and Senator Manlio Fabio Beltrones, both seen as possible hopefuls for their party's nomination. This means that the negotiations could become difficult if both see the issue of the political reform as a way of positioning themselves or blocking each other. ■■■

NOTES

¹ Although the preferential bill is an instrument the first executives enjoy in presidential systems, President Calderón's proposal is that they would be considered passed if Congress does not analyze and vote on them.