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If it ain't broke, don't fix it. Amending Mexico's electoral system.

By Miguel Ruelas.

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If it ain´t broke, don't fix it.

Mexico's electoral process is governed and overseen by the Instituto Nacional Electoral (National Electoral Institute) ('INE'). INE is an autonomous, independent specialized public body responsible for the State function of organizing and overseeing federal [and local] elections in Mexico[1]. Created in 1990, under the name Instituto Federal Electoral (Federal Electoral Institute), the main objective of its creation—now proven successful—was to develop an impartial institution that certifies with legality and transparency federal and local elections[2].

"Today, demoting the own system that granted them control of the Federal government, substantial majority in Congress, and most State governorships, Mexico's ruling party is tirelessly aiming to change it."

On February 10, 2014 INE underwent a constitutional reform aimed to perfect the democratic process in Mexico. Amongst the fundamental attributions bestowed then, were:

1- Equal standards and requirements amongst federal and local elections
2- Restructure of the INE Council to be comprised of 11 citizens elected and nominated by the Representatives of the Lower Chamber of the Mexican Congress. One to act as President of the Council and 10 to act as electoral councilmembers.
3- The General Council to designate local councilmembers and their oversight
4- Organize the internal elections of political parties
5- Organize referendums, and
6- Audit campaign funds for political parties.

With this enhanced system, the current federal administration came into power, trusting its transparency, resilience, and respect for the Mexican democratic project. Today, demoting the own system that granted them control of the Federal government, substantial majority in Congress, and most State governorships, Mexico's ruling party is tirelessly aiming to change it.

What happened?

On November 2022 the INE suffered its first attack—in a series of multiple ones--in a proposed constitutional reform under presidential order. This law reform initiative proposed to[3]:

- Change the INE to Instituto Nacional Electoral y de Consultas (National Electoral and Consulation Institute),
- Modify its autonomous organic nature by making it subject to scrutiny and interventions by the Executive

1.- INE website: https://portalanterior.ine.mx/archivos3/portal/historico/contenido/Que_es/ consulted on 24.01.22
2.- Prior to its creation the Mexican Congress was in charge of ratifying election results.
3.- Source of official documents laying out the proposed failed changes: https://reformaelectoral2022.diputados.gob.mx/index.html#acuerdos . Consulted on 24.01.23

and Legislative branches,
- Reduce the number of seats in the Lower Chamber of the Mexican Congress from 500 to 300,
- Reduce the number Senate seats from 128 to 96,
- Appoint the Governing Council of the Institute by popular vote, after exclusive nomination by the President and sign-off of Congress,
- Have the magistrates of the Tribunal Electoral del Poder Judicial de la Federación (Electoral Tribunal of the Judicial Power of the Federation)[4] be elected by popular vote, again, after direct Presidential nomination,
- Reduce the Governing Council members to seven,
- Limit the authority to audit electoral campaign funds exclusively during election times,
- Amend the validity threshold of national referendums from 40% to 33%.
- Eliminate local offices, and
- A substantial reduction in the Federal funds to run the INE.

The proposal read bluntly, and between the lines, evidences a ruling party that desires to maintain the political control and dominance in the country—a familiar reckoning of Mexico's pre-democratic era with a governing party in control until the creation of the INE--. TThe proposed presidential reform aimed to destroy checks and balances, control the INE's operational budget, and assure the INE's members and executives be appointed directly by the governing party--so depleting the institution's organic, legal and economic autonomy--.

On 13 November 2022, a considerable number of Mexicans took the streets in a protest against the proposal, demanding their representatives in Congress to act against it. The constitutional reform required 2/3 of the Lower Chamber of the Mexican Congress to be sanctioned into law. The political opposition, barely, and with great effort was able to reject it. However, this victory would not last long.

In the cynical manner that characterizes this administration the president reacted to his failed plan openly. " I will send a law reform that does not require two-thirds… a Plan B…. What would be ideal would be a constitutional reform, however, since it is the interest of the oligarchs that do not want a democracy, then we shall do that which is possible without violating the Constitution"[5]. An audacious statement by a president, blaming the opposition on what he openly said would be a direct violation to the Constitution.

"The proposed presidential reform aimed to destroy checks and balances, control the INE's operational budget, and assure the INE's members and executives be appointed directly by the governing party--so depleting the institution's organic, legal and economic autonomy--. ."

Immediately after the presidential statement, the Plan B was presented before the the Lower Chamber of the Mexican Congress Deputies, and approved in a fast-track manner—meaning with no further debate--, by the required simple majority for law amendments on 15 December 2022. The reform modifies 450 provisions and five general laws[6].

4.- The Electoral Tribunal of the Judicial Power of the Federation is the autonomous court with special jurisdiction on any and all electoral legal disputes in Mexico.

5.- Statement quoted from Mexican President press conference. Available at: https://elpais.com/mexico/2022-11-15/lopez-obrador-y-morena-alistan-un-plan-b-para-sacar-adelante-su-reforma-electoral-ante-una-oposicion-reunificada.html.

6.- Ley General de Instituciones y Procedimientos Electorales (General Law of Electoral Institutions and Procedures, Ley General de Partidos Políticos (General Law of Public Parties), Ley Orgánica del Poder Judicial de la Federación (Organiz Law of the Federal Judicial Power), and Ley General de los Medios de Impugnación en Materia Electoral (General Law for the Impugnation Mechanisms on Electoral Matters).

The second attack against INE consists of [7]:

1. A substantial reduction in the Federal funds to run the INE.

As mentioned openly by the President who has on multiple occasions said that the democracy in Mexico via the INE is too expensive, the now Plan B reform limits labor benefits to all its employees, sets a substantial reduction in employee's salaries, and more importantly, obliges the INE to terminate all trusts and Bank accounts that allowed the retention of funds for labor and operational use. These amounts are to be held by the Federal government.

2. The internal structure of INE is re-arranged with the deletion of the Executive office of the Institute, limiting not only financial but also human resources.

Federal Electoral districts are reduced from 300 to 260, and in most cases conditioned to open/work only on an election-period basis.

3. The INE and Electoral Tribunal are stripped off the strong authority to sanction political party violations.

The reform has removed the authority to sanction political parties and candidates with their removal from running for office after severe faults, and limits their sanctioning to monetary infractions.

4. Finally, it allows current public servants in office to openly endorse candidates and promote their political party a time-period before, as well as during the electoral process. The reform also foresees severe sanctions to any political propaganda that may slander current officeholders.

However, the recent events and path to go forward still has a beacon of hope. This Plan B has been set forth in Congress in a package of multiple laws. The Senate has approved the modifications of point 4 above, which have become law. The rest of the modifications are yet to be discussed in the Mexican Senate. A Senate in which the President's party has simple majority, that needed to approve the reform. The Senate is scheduled to discuss the remaining parts of the proposed Reform in late February.

In the meantime, the political minority and opposition have presented an Acción de Inconstitucionalidad (Unconstitutionality Action), which is a constitutional mechanism that allows select entities, in this case political parties, to question the constitutionality of an approved new law. It is de-facto an ex-post constitutionality check. The opposition parties in unison have presented on 25 January 2023 such Unconstitutionality Action against the already-approved portions of the Plan B electoral reform before the Mexican Supreme Court.

This action underlies the raison d'etre behind the reform, highlights that whilst no Constitutional provisions have been reformed, the amended provisions and laws go against the Mexican Carta Magna and its democracy, one that has taken more than a century to build. Allowing the President to control the financial stability of the institutions that foresees elections, reducing its sanctioning force, and allowing pro-political propaganda is a dangerous recipe with foreseeable consequences that may hinder or collapse a democratic state.

If it ain't broke… don't 'fix' it.

7.- Source of points outlined below: https://comunicacionsocial.diputados.gob.mx/revista/index.php/desde-el-pleno/reforma-electoral-el-gran-debate. Consulted on 24.01.23 . Officially published in the Federal Gazette: https://www.dof.gob.mx/nota_detalle.php?codigo=5675885&fecha=27/12/2022#gsc.tab=0

Anti-smoking law 2023: What are the fines for displaying cigarettes in prohibited places?

Regulations to the General Law on Tobacco Control, better known as the anti-tobacco law 2023, entered into force on January 15, which means that restaurants, commercial plazas, stores, and any commercial establishment that fails to comply with the direct display of cigarettes may be subject to fines. Fines of up to half a million pesos, closure for allowing customers to smoke on their premises, and even cancellation of the health license are some of the penalties provided for in the anti-smoking law. Stores are prohibited from directly or indirectly displaying tobacco products, and tobacco companies are prevented from advertising of any kind. Hiram Vera, president of the National Council of the Tobacco Industry (Conainta) stated that the over-regulation of the business could feed a black market, which will only benefit certain groups. The law establishes that smoking is prohibited in workplaces, public transportation, schools, venues where shows are held, hotels, stadiums, and shopping malls. *www.elfinanciero.com.mx/empresas/2023/01/16/ley-antitabaco-2023-cuales-son-las-multas-por-exhibir-cigarros-en-lugares-prohibidos/* January 16, 2023.

45% of Mexicans have insufficient income to overcome poverty.

Based on official data from the Mexican Social Security Institute (IMSS), the situation of 45% of formally employed Mexicans, equivalent to almost 9.6 million people, lacks a salary that allows them to overcome poverty, the equivalent to buy two basic baskets and satisfy the family welfare line, reported the association Acción Ciudadana Frente a la Pobreza (Citizen Action Against Poverty). Of these, 53% of formal workers are in medium and large companies, such as factories, warehouses, department stores, corporations, or consortiums, according to the analysis. "Poverty and precarious employment, which is associated only with informality or underemployment, also pervades the formal economy to a large extent," the report added. *www.forbes.com.mx/el-45-de-los-mexicanos-tiene-un-sueldo-insuficiente-para-superar-la-pobreza/* January 24, 2023.

Stagnant growth in Mexico's wind energy sector blamed on government policy.

Industry experts argue that the slowdown in response to regulatory changes that undermine private clean energy producers in favor of Mexico's two state-owned energy companies: Federal Electricity Commission (CFE) and Pemex, which generate the bulk of their revenue from fossil fuels. Mexico's goal of a reduction in greenhouse gas emissions by 35% and increase in generating electricity from clean energy sources is to be met by 2030. However, experts criticize the governments lack of infrastructure and funds to meet reenable energy goals and argue that the investment must come from private firms. *www.mexiconewsdaily.com/news/stagnant-growth-in-mexicos-wind-energy-sector-blamed-on-government-policy/* January 25, 2023.

Questioned electoral reform.

It is likely that this week the legislative process in the Senate to approve the President's plan "B" will conclude. Simultaneously to the public deliberation on the reform, the electoral processes of Coahuila and the State of Mexico are underway, and we are in the preamble of the 2023-2024 electoral process. The ruling party clung to impose its regressive reform, which drastically curtails the electoral authority and diminishes its capacity to arbitrate elections. The reform has caused the tone of the public discussion to escalate, generating an atrocious relationship between the electoral arbitrators that seek to maintain a viable and efficient electoral system for the country and the Government that promotes a new legal framework to return to improvised elections and controlled authorities. *www.elfinanciero.com.mx/opinion/marco-banos/2023/01/30/reforma-electoral-cuestionada/* January 30, 2023.

US $200 million investment in lithium-ion better production in Nuevo León.

A Mexican affiliate of a US company has announced a US $200 million investment to produce lithium-ion batteries in Nuevo León and distribute electric vehicles across the country. Cenntro Automotive México will make lithium-ion batteries at a plant in OMA VYNMSA Aeroindustrial Park at the Monterrey International Airport. The investment made by Cenntro Automotive will be spread over the course of three years and expects to initiate its operations in the second quarter of 2023. *www.mexiconewsdaily.com/news/lithium-ion-battery-production-nuevo-leon/* January 30, 2023.

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