A democratic threat: a proposal to modify the electoral processes in Mexico.

by Miguel Ruelas.

TERRUM.



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Democracy is never stagnant or complete. It requires many pieces and actions for it to function and be safeguarded. Countless academics, philosophers and intellectuals have written compendiums on the subject matter. Amongst the many pieces described by scholars and experts in the subject matter, one is of particular importance for this article: The electoral process and the institution that safeguards it.

The importance of the institutions and the form in which elections are held, plays a central role in the assessment of Democratic Indexes such as the Tobin Project, CIVICUS and the Economist Intelligence Unit's Democracy Index[1]. The strength and reliance of this institution is and will continue to be a central, and foundational piece for contemporary democratic states to remain healthy. The group decision making process to elect individuals for public office has, in evolved democracies, been overseen by an independent regulatory agency of the government. As modern democracies ripped past civil wars, dictatorships, and false democratic governments across the world, they confirmed it best for an independent regulatory agency to oversee the process.

For Mexico, this institution is the *Instituto Nacional Electoral* ('National Electoral Institute', INE). Thirty-one years after its creation, as it just began to consolidate itself—it is now under threat.

"For the creation of these institutions, three things were pivotal: (i) their apolitical nature, (ii) their independence, and (iii) for the INE to regulate and oversee the public funds that political parties could use in the electoral process".

The current Mexican president, who was elected and certified by the electoral process safeguarded and regulated by INE, has set forth a proposed reform of this key democratic institution.

The proposed reform, like most reforms advanced by the president under this administration have been interlocked with secrecy, vagueness and lack of proper documentation. The proposal was initially put forward in public record via interviews and a presentation made by the president himself in national television. Three weeks later the official proposed amendments have been set forth in Congress, however the public website of Congress, deemed to make public all legislative initiatives, seems to not be working. In the opinion of the author, this 'secrecy' has been done in order to fast-track the proposal in the legislative branch, and avoid as much media attention as possible, a recurrent *modus operandi* of the current administration's form of placing Constitutional reforms in the upper and lower chambers by making the proposed reform public only days before the session where it is to be discussed.

To better understand the changes that the President wishes to enact, it is important to first understand how the INE works and came to be.

The now INE (previously founded as Instituto Federal Electoral, 'Federal Electoral Institute) was created in 1990 under a Constitutional Reform that ordered the creation of an independent and constitutionally-independent body that would oversee the electoral process. The law quoted the "need to have an impartial institution that provides certainty, transparency and legality of elections".[2] The reform not only created the Institution that would, for the first time oversee national elections previously run by the Federal government in office, but also created a dedicated Tribunal for electoral disputes, the *Tribunal Electoral del Poder Judicial de la Federación* ('Electoral Tribunal of the Judicial Power of the Federation').

For the creation of these institutions, three things were pivotal: (i) their apolitical nature, (ii) their independence, and (iii) for the INE to regulate and oversee the public funds that political parties could use in the electoral process. To accomplish these points the *Ley General de Instituciones y Procediminentos Electorales* ('General Law of Electoral Institutions and Procedures') provided the legal framework to conceal the INE as much as possible from the Executive Power, and ensure its constitutional autonomy and political independence to transition Mexico into a Democracy.

1.- https://www.economist.com/graphic-detail/2022/02/09/a-new-low-for-global-democracy
2.- Diario Oficial de La Federación, 1990, CÓDIGO FEDERAL DE INSTITUCIONES Y PROCEDIMIENTOS ELECTORALES, as ammended 2008. https://www.diputados.gob.mx/LeyesBiblio/abro/cofipe/COFIPE_abro_14ene08.pdf

A transition that has been analyzed and praised by political experts worldwide:

"The IFE has played a major role in Mexico's transition to democracy. As the Institutional Revolutionary Party (PRI) gradually lost power to opposition groups, the IFE was the key arbiter in ensuring the transparency and legitimacy of elections. The IFE helped usher in Mexico's first alternation of power in 71 years when the PRI lost the presidency in 2000. Since then, the institute has received international acclaim for assuring the quality of Mexican elections at the federal level."[3]

This electoral process and the institution that secures it is now under legislative attack. The constitutional independence of the Institution wants to be undermined, the shield from political intervention of the INE and the Electoral Tribunal wants to be openly detached, and its authority to control the funds used by political parties taken away from it.

The specific changes to the Mexican electoral framework, as publicly acknowledged by the President are:

First, submitting the eleven electoral councilmen that oversee the functions and operations of INE, and the seven electoral magistrates that judge and decide cases at the Electoral Tribunal, to be elected by popular vote.

Currently, under Article 100 of the General Law of Electoral Institutions and Procedures, the electoral councilmen are elected by 2/3 of the Chamber of Deputies, which are proposed through a request for proposal of vacancies issued by the Chamber itself. They may not be proposed by political institutions nor by the executive power. The same regulation explains that the magistrates at the Electoral Tribunal are to be elected by a 2/3 majority in the Senate after being proposed by the Mexican Supreme Court

Whilst the president claims that an electoral process would purge political party-preferences of the councilmen and magistrates, electing them via a political platform would precisely defeat their purpose. Political elections should be in the urns and not elevated to the institution that are deemed to protect their effectiveness and validity. Was it not a coincidence that when elections were regulated and overseen by the Legislative branch, the political party that had majority ruled Mexico for 71 years?

Second, to have the judiciary, executive and legislative branches each nominate 10 men and 10 women, for a total of 60 candidates for the councilmen and magistrate positions. The president claims this would guarantee "democratic and righteous" representatives at INE. However, the mere form of, and process suggested contradicts the own thesis of democratic behavior, let alone compliance with the legal and professional requirements for those holding public office. Worst so, the President quoted that whoever had the majority of the votes, would become the President of INE. Perhaps, if the stars align it could be the very same person suggested and nominated by the current president or the leader of the ruling party. Which, for any democratic system based on checks and balances, would be just as worrisome as if the opposition leader or any political-party-backed person would hold such position.

Finally, the president wishes to include in the proposed reform a substantial reduction of the federal government's financing given to the INE. Cutting financial spendings of such institutions cripples their power, once they are subject to the determination of amounts and money at will.

> *"Political elections should be in the urns and not elevated to the institution that are deemed to protect their effectiveness and validity".*

The exact details of the proposal are yet to be exactly known, however having a president that uses national television to specifically detail such a plan are worrisome enough. Even more, when the proposal was publicly announced after the INE, under its rightful competency sanctioned the president's political party for (i) violating the election period in which parties are not allowed to promote candidates, which prohibits political propaganda during non-electoral times, and (ii) for overspending what was actually allocated to the party in the past electoral round.

The Mexican Constitution requires that for any Constitutional reform, as is the case, for 2/3 of both Chambers, and a simple majority of the 32 States approve it. Regardless of the current composition of the Chambers, for which the president's party has lost absolute majority, the proposal requires undevoted attention. A thorough examination of the still hidden details of the proposals must be made by citizens, senators, deputies, and everyone that is interested in safe keeping the consolidation of Mexican democracy. It is not to be taken lightly when democratic institutions are subject to the will of the powerful, as that is the exact reason for which they were created and built to last.

3.- Rice Univeristy's Baker Institute of Public Policy. Mexico's National Electoral Institute. https://www.bakerinstitute.org/files/7851/, McNally, Research Analyst, Mexico Center.

Mexico Says It Does Not Accept Russian Invasion of Ukraine.

Mexican President Andres Manuel Lopez Obrador said that Mexico does not accept the Russian invasion of Ukraine in a video message released to coincide with a global event in support of Ukrainian victims of the conflict. "We are in favor of a peaceful solution to the conflict." Canadian Prime Minister Justin Trudeau invited the Mexican President to be part of the event with the President of the European Commission Ursula Von der to raise funds in favor of Ukrainian refugees. The Mexican President was unable to attend but took part the video condemning the attacks and invasion, giving his condolences. *www.usnews.com/news/world/articles/2022-04-09/mexico-says-it-does-not-accept-russian-invasion-of-ukraine 09/04/2022.*

Mexican president takes aim at electoral body after winning vote on his rule.

President Andres Manuel Lopez Obrador celebrated a win in a referendum on his leadership. Nearly 92% of voters backed Lopez Obrador to stay in office in Mexico's first-ever recall election also he accused the electoral authorities of trying to undermine the vote amid a very low turnout. Lopez Obrador has used the referendum to fire up supporters and test his strength ahead of gubernatorial elections in June. *www.reuters.com/world/americas/mexican-president-wins-92-support-recall-election-turnout-near-18-electoral-2022-04-11/ 11/04/2022.*

Mexico's new airport still lacking basics despite big opening splash.

The inauguration on March 21, the birthday of 19th century Mexican hero Benito Juarez ceremony of Mexico City's newest airport last month with just one flight arriving from the city of Merida, delayed. The president made the airport a key project of his presidency and giving ammunition to the opposition that have long criticized the new airport as a vanity project. "I think the airport is 100%. It's finished," Lopez Obrador said at the grand opening. The airport still uncompleted on construction work, also suffers from congested roadways linking it to the city and will not have a train connection until next year. *www.reuters.com/world/americas/mexicos-new-airport-still-lacking-basics-despite-big-opening-splash-2022-04-13/ 13/04/2022.*

What does the reformed Mining Law in Mexico say about lithium?

The Senate approved the reform to the Mining Law that nationalizes lithium. It was established that the exploration, exploitation, and use of lithium will be exclusively in charge of the State. The creation of a decentralized public agency that will manage and control the economic value chains of lithium is foreseen, which will be constituted with compensated movements. It will be assisted by the Mexican Geological Service for the recognition of geological areas and to guarantee the health of Mexicans, the environment, and the rights of native peoples. *www.eluniversal.com.mx/nacion/nacionalizacion-del-litio-el-litio-de-mexico-corre-peligro-esto-dice-la-reformada-ley-minera 20/04/2022.*

Exports reach record amount in March of $52 billion dollars.

Mexican merchandise exports registered an historic record in March, shipments abroad registered a 20.9 percent annual rate increase at the end of the first quarter of this year, totaling 52 billion dollars, its highest level since the first time the National Institute of Statistics and Geography (INEGI) made a statistic, Increases were recorded in oil, non-oil, manufacturing and automotive exports. However, analysts warn that trade flows will moderate, mainly due to global factors, such as the war in Ukraine, China's confinements to contain Covid contagions, and a less dynamic U.S. economy. *www.elfinanciero.com.mx/economia/2022/04/27/exportaciones-mexicanas-rompen-record-en-marzo-van-13-meses-de-incrementos-al-hilo/ 28/04/2022.*

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